# ORDINANCE NO. 31255

An ordinance providing for the abandonment of a portion of an alley located adjacent to City Blocks H/6133 and 2/6133 in the City of Dallas and County of Dallas, Texas; subject to a reverter; providing for the quitclaim thereof to 75218 Property Company; 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.

#### 000000

WHEREAS, the City Council of the City of Dallas, acting pursuant to law and upon the request and petition of 75218 Property Company, a Texas nonprofit corporation, hereinafter referred to as **GRANTEE**, deems it advisable to abandon and quitclaim, subject to a reverter, the hereinafter described tract of land to **GRANTEE**, and is of the opinion that, subject to the terms and conditions and reverter herein provided, said portion of an alley is 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, 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 tract 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 reverter and the conditions hereinafter more fully set out.

FIFTY-ONE THOUSAND ONE HUNDRED EIGHTY-ONE AND NO/100 DOLLARS (\$151,181.00) paid by GRANTEE, and the further consideration described in Sections 8, 9, 10 and 11, the City of Dallas does by these presents QUITCLAIM unto the said GRANTEE, subject to the conditions, reservations and exceptions, all of its right, title and interest in and to the certain tract of land hereinabove described in Exhibit A. Provided however, that if GRANTEE, its successors and assigns, fails to file a final replat of the adjoining properties as required in Section 10 of this ordinance but no later than the earlier of (i) the date applicable pursuant to the requirements of the Dallas Development Code Chapter 51A-8.403(a)(4)(D) which provides in pertinent part, as may be amended:

"(D) Except as provided in this subparagraph, a preliminary plat approved by the commission expires five years after the commission action date approving the plat if no progress has been made toward completion of the project in accordance with Texas Local Government Code Section 245.005. An approved minor plat, amending plat (minor), or an administrative plat expires two years after the commission action date approving the plat or within two years after the date of the subdivision administrator's action letter approving the administrative plat if no progress has been made toward completion of the project in accordance with Texas Local Government Code Section 245.005";

or (ii) the date that is the sixth anniversary of the passage of this ordinance; 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 hereby authorized to deposit the sum paid by **GRANTEE** pursuant to Section 2 above in the General Fund, 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, Fund 0001, Department DEV, Unit 1183, Object 5011 and any remaining proceeds shall be transferred to the General Capital Reserve Fund, Fund 0625, Department BMS, Unit 8888, Revenue Code 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, 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**, 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 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 area 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 area set out in Exhibit A; (iii) all corrective actions concerning any discovered Hazardous Substances on or affecting the area 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 area set out in Exhibit A.

**SECTION 8.** (continued)

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 this abandonment and as a part of the consideration for the quitclaim made herein, **GRANTEE** shall:

- (a) ensure that 100 feet of right-of-way (M-6-D [a]) is maintained on Lake Highlands Drive as required by Section 51A-9 of the City of Dallas Thoroughfare Plan.
- (b) not allow parking in the front yard setback for lots 16 through 23 located in city block H/6133 along Lake Highlands Drive. GRANTEE shall screen any future surface parking lots facing Lake Highlands Drive with a minimum four-foot screen wall, hedges and/or landscaping.
- (c) maintain existing public sidewalk along Lake Highlands Drive and preserve as many existing trees as possible.
- (d) ensure turn radius of the remaining alley nearest Peavy Road follows City of Dallas Public Works Standard Construction Detail File 251D.

#### **SECTION 9.** (continued)

(e) allow access at all times to garage of existing single-family residence being Lot 23 in city block H/6133, until such time the garage is demolished.

Failure to comply with any of the conditions in this section shall render this ordinance null and void and of no further effect.

**SECTION 10.** 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 tract 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 area is located after its approval by the City Plan Commission of the City of Dallas.

**SECTION 11.** That as a condition of this abandonment and as a part of the consideration for the quitclaim made herein, **GRANTEE** shall, immediately upon the effectiveness of this ordinance, close, barricade and/or place signs in the area described in Exhibit A 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 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 12. 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, 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

### **SECTION 12.** (continued)

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 13.** That this ordinance is also designated for City purposes as Contract No. DEV-2018-00007815.

**SECTION 14.** 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 J. CASO, Interim City Attorney

KRIS SWECKARD, Director Department of Sustainable Development and Construction

BY: N. S. II. (Assistant City Attorney

ant City Attorney

Passed \_\_\_\_\_ JUN 2 6 2019

31255

ALLEY ABANDONMENT LOTS 17-23, BLOCK H/6133 LAKE TERRACE ADDITION AND

LOT 1, BLOCK 2/6133
SAINT JOHNS EPISCOPAL CHURCH SUBDIVISION
SAMUEL M. HYDE SURVEY, ABSTRACT NO. 547
CITY OF DALLAS, DALLAS COUNTY, TEXAS

Being a 8,893 square foot (0.2041 acres) tract of land or parcel situated in the Samuel M. Hyde Survey, Abstract No. 547 City of Dallas, Dallas County, Texas, being a portion of a 14.05-foot alley created by Lots 17-23, Block H/6133, Lake Terrace Addition, an addition to the City of Dallas according to the plat recorded in Volume 21, Page 77, Map Records, Dallas County, Texas (M.R.D.C.T.), being a portion of a 0.95-foot alley dedicated by Lot 1, Block 2/6133, Saint Johns Episcopal Church Subdivision, an addition to the City of Dallas according to the plat recorded in Volume 48, Page 93, M.R.D.C.T. and being a part of a tract of land described in a Warranty Deed to Corporation of Episcopal Diocese of Dallas recorded in Volume 5353, Page 516, Deed Records, Dallas County, Texas and being more particularly described as follows:

**COMMENCING** at a 5/8" iron rod found at the intersection of the southerly right-of-way line of Peavy Road, (60' right-of-way as created by Volume 21, Page 77, M.R.D.C.T) and the northwest right-of-way line of Lake Highlands Drive, (variable width right-of-way as created by use and occupation), for the northeasterly corner of Lot 16 of said Lake Terrace Addition;

THENCE South 27° 06'00" West, along the northwest right-of-way line of said Lake Highlands Drive, passing a 1/2" iron rod found at a distance of 99.70 feet for the southeasterly corner of said Lot 16 and the northeasterly corner of said Lot 17, passing a 1/2" iron rod with yellow plastic cap stamped "TXNS" found at a distance of 169.70 feet for the southeasterly corner of said Lot 17 and the northeasterly corner of aid Lot 18, passing a 1/2" iron rod with yellow plastic cap stamped "TXNS" found at a distance of 239.70 feet for the southeasterly corner of said Lot 18 and the northeasterly corner of said Lot 19, passing a 60D nail found at a distance of 509.70 feet for the southeasterly corner of said Lot 22 and the northeasterly corner of said Lot 23, and continuing a total distance of 610.29 feet to a 1/2" iron rod with a yellow plastic cap stamped "RLG INC" set on the common line between said Lot 23 and a 15-foot alley as created by said Lake Terrace Addition, for the southeasterly corner of said Lot 23 and the POINT OF BEGINNING, from which a 5/8" iron rod found bears South 21° 05' 19" East, a distance of 0.75 feet;

**THENCE** South 27° 06' 00" West, along the northwest right-of-way line of said Lake Highlands Drive and the easterly line of said 15-foot alley, a distance of 15.75 feet to a 1/2" iron rod with a yellow plastic cap stamped "RLG INC" set for the most south corner of said15-foot alley;

**THENCE** North 45° 11' 00" West, along the southerly line of said 15-foot alley, a distance of 162.72 feet to a 1/2" iron rod with a yellow plastic cap stamped "RLG INC" set on the southeasterly line of said Saint Johns Episcopal Church Subdivision;

**THENCE** North 27°.06' 00" East, along the common line between said Saint Johns Episcopal Church Subdivision and northwesterly line of said 0.95-foot alley dedication, a distance of 409.25 feet to a 1/2" iron rod with a yellow plastic cap stamped "RLG INC" set at the beginning of a corner clip dedicated by said Saint Johns Episcopal Church Subdivision;

(For SPRG use only)

Reviewed By: \_\_\_G.\_S.

Date: <u>9-12-18</u> SPRG NO.: 4635 ALLEY ABANDONMENT LOTS 17-23, BLOCK H/6133 LAKE TERRACE ADDITION AND

LOT 1, BLOCK 2/6133
SAINT JOHNS EPISCOPAL CHURCH SUBDIVISION
SAMUEL M. HYDE SURVEY, ABSTRACT NO. 547
CITY OF DALLAS, DALLAS COUNTY, TEXAS

**THENCE** North 09° 09' 05" West, along said corner clip, a distance of 23.08 feet to a 1/2" iron rod with a yellow plastic cap stamped "RLG INC" set at the end of said corner clip;

**THENCE** South 62° 54' 00" East, over and across said 0.95-foot alley and said 14.05-foot alley, a distance of 28.65 feet to a 1/2" iron rod with a yellow plastic cap stamped "RLG INC" set on the northwesterly line of Lot 17 of said Lake Terrace Addition and the southeasterly line of said 14.05-foot alley, from which a 1/2" iron rod with a yellow plastic cap stamped "RPLS 8963" found bears North 27° 06' 00" East, a distance of 48.44 feet, for the northwesterly corner of said Lot 17 and the southwesterly corner of Lot 16 of said Lake Terrace Addition;

**THENCE** South 27° 06' 00" West, a long the common line between said 14.05-foot alley and said Lake Terrace Addition, passing at a distance of 291.56 feet to a 3/8" iron rod found for the southwesterly corner of said Lot 21 and the northwesterly corner of said Lot 22, passing at a distance 361.56 feet a 3/8" iron rod found for the southwesterly corner of said Lot 22 and the northwesterly corner of said Lot 23, and continuing a total distance of 401.92 feet to a 1/2" iron rod with a yellow plastic cap stamped "RLG INC" set for the beginning of a corner clip dedicated by said Lake Terrace Addition and the north ell corner of said Lot 23;

**THENCE** South 09° 02' 55" East, along said corner clip, a distance of 24.22 feet to a 1/2" iron rod with a yellow plastic cap stamped "RLG INC" set for the end of said corner clip and the south ell corner of said Lot 23:

**THENCE** South 45° 11' 00" East, along the common line between said 15-foot alley and said Lot 23, a distance of 131.97 feet to the **POINT OF BEGINNING** and containing 8,893 square feet or 0.2041 acres, more or less.

Basis of Bearings: The southeast line of Lot 1, Block 2/6133, Saint Johns Episcopal Church Subdivision (being North 27° 06' 00" East) as recorded in Volume 48, Page 93, M.R.D.C.T.

BRIAN R. WADE

6098

OFESSION OF SERVICE SURVIVE SURVI

Brian R. Wade

R.P.L.S No. 6098

08-20-2018

REVISED: 09-10-2018

(For SPRG use only)

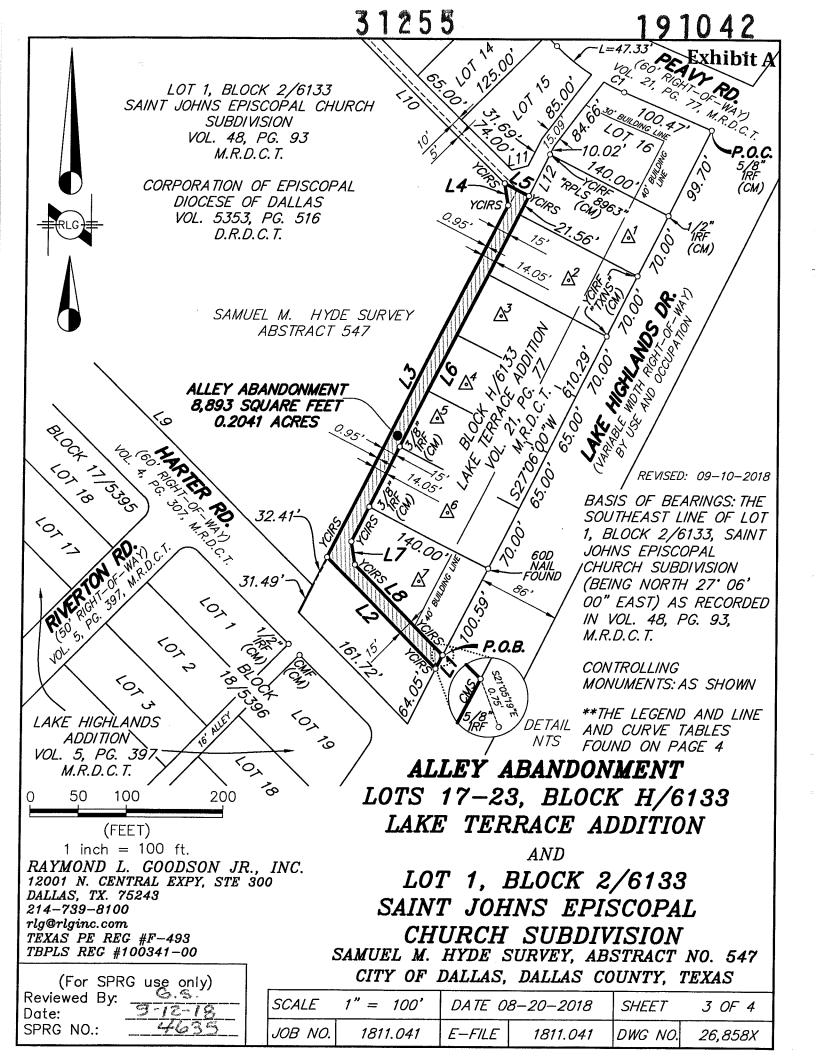
Reviewed By:

Date: 9-1

SPRG NO.:

46035

Sheet 2 of 4 26,858X



CURVE TABLE								
CURVE	<i>DELTA</i>	RADIUS	TANGENT	LENGTH	CH. BRG.	CHORD		
C1	5*57'27"	230.00'	11.97'	23.92'	S63'44'16"E	23.90'		

LINE TABLE					
LINE	BEARING	LENGTH			
L1	S27'06'00"W	15.75'			
L2	N4511'00"W	162.72'			
L3	N27'06'00"E	409.25			
L4	N09'09'05"W	23.08'			
L5	S62'54'00"E	28.65'			
L6	S27'06'00"W	401.92'			
<i>L7</i>	S09°02'55"E	24.22'			
L8	S45°11'00"E	131.97'			
L9	N45'11'00"W	1026.58			
L10	N45'11'30"W	790.80'			
L11	N75°06'11"E	17.69'			
L12	N27'06'00"E	48.44'			
		,			

75218 PROPERTY COMPANY, A TEXAS CORPORATION LOT 17, BLOCK H/6133 INST. NO. 201600255328 O.P.R.D.C.T.

75218 PROPERTY COMPANY. A TEXAS CORPORATION LOT 18, BLOCK H/6133 INST. NO. 201300307037 O.P.R.D.C. T.

75218 PROPERTY COMPANY, A TEXAS CORPORATION LOT 19, BLOCK H/6133 INST. NO. 200900184805 O.P.R.D.C.T.

75218 PROPERTY COMPANY. A TEXAS CORPORATION LOT 20, BLOCK H/6133 INST. NO. 201000098108 O.P.R.D.C.T.

EDWARD C. LOFLIN and wife, EVELYN LOFLIN LOT 21, BLOCK H/6133 VOL. 660, PG. 2053 D.R.D.C. T.

75218 PROPERTY COMPANY. A TEXAS CORPORATION LOT 22, BLOCK H/6133 INST. NO. 201300203971 O.P.R.D.C.T.

75218 PROPERTY COMPANY. A TEXAS CORPORATION LOT 23, BLOCK H/6133 INST. NO. 201100192705 O.P.R.D.C.T.



LEGEND

...... ALLEY ABANDONMENT ...... LOT LINE

IPF ...... IRON PIPE FOUND INST. NO. ..... INSTRUMENT NUMBER

O.P.R.D.C.T. ....... OFFICIAL PUBLIC RECORDS, DALLAS COUNTY, TX
D.R.D.C.T. ....... DEED RECORDS, DALLAS COUNTY, TX

M.R.D.C.T. ..... MAP RECORDS, DALLAS COUNTY, TX

VOL. PG. ..... VOLUME PAGE ///// ...... ALLEY ABANDONMENT

CMS / CMF ...... CHISELED "X" SET / FOUND

NTS ...... NOT TO SCALE CM ...... CONTROLLING MONUMENT P.O.C. ..... POINT OF COMMENCING

P.O.B. ...... POINT OF BEGINNING

REVISED: 09-10-2018

08-20-2018

Wade

R.P.L.S. No. 6098

ALLEY ABANDONMENT LOTS 17-23, BLOCK H/6133 LAKE TERRACE ADDITION

AND

LOT 1, BLOCK 2/6133 SAINT JOHNS EPISCOPAL CHURCH SUBDIVISION SAMUEL M. HYDE SURVEY, ABSTRACT NO. 547 CITY OF DALLAS, DALLAS COUNTY, TEXAS

SCALE 1" = 100'DATE 08-20-2018 SHEET 4 OF 4 JOB NO. E-FILE 1811.041 1811.041 DWG NO. 26,858X

RAYMOND L. GOODSON JR.. INC. 12001 N. CENTRAL EXPY, STE 300 DALLAS, TX. 75243 214-739-8100 rlg@rlginc.com TEXAS PE REG #F-493 TBPLS REG #100341-00

(For SPRG use only) Reviewed By:

Date: SPRG NO.:

# **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 CO	JUN 2 6 2019 DUNCIL	
ORDINANCE NUMBER	31255	
DATE PURLISHED	<b>JUN 2 9</b> 7019	

ATTESTED BY:

to