

RECEIVED

2019 SEP 11 AM 11:32

CITY SECRETARY
DALLAS, TEXAS



Memorandum

DATE September 9, 2019

CITY OF DALLAS

TO City Secretary

SUBJECT Correction on CR No. 19-1231

This is the first (Y/N) correction to the subject Council Resolution. If no, attach copies of any previous approved correction memos.

The subject Council Resolution was approved on August 28, 2019 authorizing acquisition from Independent Bank McKinney, Texas of approximately 148,829 square feet of land, located near the intersection of Executive and Data Drive and for the Dallas Water Utilities Water Storage Tank 205 Executive Drive Project - Not to exceed \$485,000.00 (\$480,000.00, plus closing costs and title expenses not to exceed \$5,000.00)

Change(s) is/are needed to correct (select all applicable):

- Typo
- Obvious error from Council Resolution context
- Financial/funding information

SECTION 6. should read as follows:

SECTION 6. That in the event this acquisition closes, the Chief Financial Officer is hereby authorized and directed to draw a warrant in favor of the OWNER, or the then current owner of record, or the title company closing the transaction described herein in the PURCHASE AMOUNT and CLOSING AND TITLE EXPENSES payable out of Water Construction Fund, Fund 0102, Department DWU, Unit CW40, Program 714235, Object 4210, Encumbrance/Contract No. ~~CX-DWU-2019-00003503~~ CX-DWU-2019-00011566, The PURCHASE AMOUNT, CLOSING COSTS and TITLE EXPENSES together shall not exceed the AUTHORIZED AMOUNT.

Department: Sustainable Development and Construction

Director (or designee):

Ashley Eubanks
Signature

9/9/19
Date

Ashley Eubanks
Print Name

Attachment: Council Resolution [17-0699]

Ra/19

OFS: Approved Denied Is ATT Approval Needed? Y N

OFS: _____
Signature Date

Matthew Amend
Print Name

ATT: Approved Denied

Assistant City Attorney: _____
Signature Date

Print Name

August 28, 2019

A RESOLUTION DETERMINING UPON THE NECESSITY OF ACQUIRING REAL PROPERTY AND AUTHORIZING ITS PURCHASE FOR PUBLIC USE.

DEFINITIONS: For the purposes of this resolution, the following definitions of terms shall apply:

"CITY": The City of Dallas

"PROPERTY": Approximately 148,829 square feet of land located in Dallas County, Texas, and being the same property more particularly described in Exhibit "A", attached hereto and made a part hereof for all purposes, and any and all improvements, rights and appurtenances appertaining thereto.

"PROJECT": Dallas Water Utilities Storage Tank 205 Executive Drive Project

"USE": The construction, use, and maintenance of an above ground water storage tank for the transmission of treated water together with such appurtenant facilities as may be necessary provided, however, to the extent fee title to the PROPERTY is acquired, such title and the PROPERTY shall not be limited to or otherwise deemed restricted to the USE herein provided.

"PROPERTY INTEREST": Fee Simple Title subject to the exceptions, reservations, covenants, conditions and/or interests, if any, provided in the form instrument more particularly described in Exhibit "B" attached hereto and made a part hereof for all purposes.

"OWNER": Independent Bank McKinney, Texas, provided, however, that the term "OWNER" as used in this resolution means all persons having an ownership interest, regardless of whether those persons are actually named herein.

"PURCHASE AMOUNT": \$480,000.00

"CLOSING COSTS AND TITLE EXPENSES": Not to exceed \$5,000.00

"AUTHORIZED AMOUNT": Not to exceed \$485,000.00

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That the USE of the PROPERTY for the PROJECT is a public use.

SECTION 2. That public necessity requires that CITY acquire the PROPERTY INTEREST in the PROPERTY for the PROJECT.

August 28, 2019

SECTION 3. That the City Manager, and/or the City Manager's designees, is hereby authorized and directed to consummate and accept the purchase, grant, and conveyance to CITY of the PROPERTY INTEREST in and to the PROPERTY pursuant to the conveyancing instrument substantially in the form described in Exhibit "B", attached hereto and made a part hereof for all purposes, and approved as to form by the City Attorney and to execute, deliver and receive such other usual and customary documents necessary, appropriate and convenient to consummating this transaction.

SECTION 4. That to the extent the PROPERTY is being purchased wholly or partly with bond proceeds CITY has obtained an independent appraisal of the PROPERTY'S market value.

SECTION 5. That OWNER has been provided with a copy of the Landowner's Bill of Rights as contemplated by applicable state statute.

SECTION 6. That in the event this acquisition closes, the Chief Financial Officer is hereby authorized and directed to draw a warrant in favor of the OWNER, or the then current owner of record, or the title company closing the transaction described herein in the PURCHASE AMOUNT and CLOSING COSTS AND TITLE EXPENSES payable out of Water Construction Fund, Fund 0102, Department DWU, Unit CW40, Program 714235, Object 4210, Encumbrance/Contract No. CX-DWU-2019-00003503. The PURCHASE AMOUNT, CLOSING COSTS and TITLE EXPENSES together shall not exceed the AUTHORIZED AMOUNT.

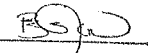
SECTION 7. That CITY is to have possession and/or use, as applicable, of the PROPERTY at closing; and CITY will pay any title expenses and closing costs. All costs and expenses described in this section shall be paid from the previously described funds.

SECTION 8. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so resolved.

APPROVED AS TO FORM:
CHRISTOPHER J. CASO, Interim City Attorney

BY: 
Assistant City Attorney

APPROVED BY
CITY COUNCIL

AUG 28 2019

CITY SECRETARY

**Field Notes Describing a 148,829 Square Foot (3.4166 Acre)
Tract of Land To Be Acquired
in City Block 8043
From Tony R. Clark**

Being a 148,829 Square Foot (3.4166 Acre) Unplatted Tract of land situated in the Hinson C. Davis Survey, Abstract No. 410, City of Dallas, Dallas County, Texas, and being a portion of Block 8043 (Official City of Dallas Block Numbers), and being all of the property conveyed to Tony R. Clark by Substitute Trustee's Deed recorded in Instrument number 201100320359 of the Official Public Records of Dallas County, Texas, and being more particularly described as follows:

Note: Listed coordinates are State Plane (grid) values. Distances and areas are surface values, using TXDOT scale factor of 1.000136506.

BEGINNING at (N=7002734.67, E=2527644.38) the Northwest corner (not monumented) of the herein described tract of land lying on the East line of Executive Drive (a 60-foot wide Right-of-Way dedicated by the Greenbriar Business Center Addition, Section One, an addition to the City of Dallas recorded in Volume 77238, Page 1802 of the Deed Records of Dallas County, Texas (D.R.D.C.T.)), same being the South line of the remainder of a tract of land conveyed to Wal-Mart Stores, Inc. by Special Warranty Deed recorded in Volume 91205, Page 2045 of the above said Deed Records, from which a ½ -inch iron rod found bears North 79°49'30" West, a distance of 0.58 feet;

THENCE North 89°00'13" East, departing the said East line of Executive Drive, with the said common line of the Clark and Wal-Mart tracts a distance of 649.08 feet to a ½-inch iron rod (N=7002745.96, E=2528293.36, controlling monument) found at the Northeast corner of the herein described tract of land;

THENCE South 0°59'47" East, continuing with said common line between Clark and Wal-Mart Stores tracts a distance of 241.23 feet to the Southeast corner of the herein described tract of land, (not monumented; N=7002504.77, E=2528297.56) same being the Northeast corner of a remainder of an unplatted tract of land conveyed to Sam's East, Inc. by Warranty Deed recorded in Volume 98030, Page 68 of said Deed Records, from which a brass disc monument found with cap stamped "STRIPES NW HWY RPLS 5101" bears South 85°17'19" East, a distance of 0.54 feet, and a ¾-inch iron rod found bears South 34°26'55" East, a distance of 6.77 feet;

THENCE South 89°14'25" West, departing the last said common line and continuing with the common line of the Clark and Sam's tracts pass at a distance of 236.67 feet an aluminum disc found (N=7002501.71, E=2528061.00, controlling monument) at the Northeast corner of a tract of land conveyed to G. C. Dallas - NW Highway 2015, Ltd. by Special Warranty Deed with Vendor's Lien recorded in Instrument number 201600323534 of the said Official Public Records, and

DWU Water Tank Site acquisition (041D-84)

**Field Notes Describing a 148,829 Square Foot (3.4166 Acre)
Tract of Land To Be Acquired
in City Block 8043
From Tony R. Clark**

continuing with the common line of said Clark and NW Highway tracts for a total distance of 366.69 feet to an aluminum disc found (N=7002499.97, E=2527931.03, controlling monument) at an outside corner of the herein described tract of land, same being the Northwest corner of said NW Highway tract, lying on the East line of Lot 6, Block D/8043 of Whataburger of Mesquite – Northwest Highway Addition, an addition to the City of Dallas, recorded in Volume 97112, Page 1097 of said Deed Records;

THENCE North 0°45'35" West with the common line of said Clark and Whataburger tracts and the East line of said Lot 6, Block D/8043, a distance of 25.00 feet to a 5/8-inch iron rod with cap marked "CITY OF DALLAS" at an inside corner of the herein described tract of land, being also the Northeast corner of said Whataburger of Mesquite Addition (N=7002524.90, E=2527930.57);

THENCE South 89°14'25" West, continuing with the said common line, same being the North line of said Whataburger of Mesquite Addition, a distance of 284.21 feet to the Southwest corner of the herein described tract lying on the said East line of Executive Drive, same being the Northwest corner of said Lot, Block and addition, from which an "X" cut found bears North 79°49'30" West, a distance of 0.58 feet (N=7002521.24, E=2527645.82);

THENCE North 0°32'13" West, along said common line of said Clark tract and Executive Drive a distance of 213.55 feet to the **POINT OF BEGINNING**, containing 148,829 Square Feet, or 3.4166 Acres of land.

BASIS OF BEARINGS: Bearings are based on the State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983.



Ilona E. Rossato
3/26/2018

Unplatted

BLOCK 8043

Exhibit A

7.5' x 60' sanitary sewer easement

Lot 1

BLOCK D/8043

Old Garland Airfield Addition
Vol. 93017, Pg. 3488

"X" cut found

remainder of
Wal-Mart Stores, Inc. tract
Vol. 91205, Pg. 2045

Waterline easement - Vol. 92176, Pg. 3751

Ingress-Egress & Access Easement
(about 50' wide)
referenced in Vol. 93046, Pg. 5083

649.08', N 89°00'13" E

1/2" IR found
Brs. 0.58"
N 79°49'30" W

POINT OF
BEGINNING
N=7002734.67
E=2527644.38

BLOCK 8043

1/2" IR found
CONTROLLING
MONUMENT
N=7002745.96
E=2528293.36

wastewater easement
Instr. #20080044324

20' X 12.78'
wastewater easement
Instr. #200503585532

Brass disc found w/cap
stamped "STRIPES
NW HWY RPLS 5101"
Brs. 0.54", S 85°17'19" E

1/2" IR found

Christian
Brothers
Addition
Instr.
#200600131889

Christian Brothers
Automotive Corporation
Vol. 2005093, Pg. 5306

20' drainage
easement

24' private
access easement

XU electric easmt
Vol. 2002137, Pg. 5175

1/2" IR found
CONTROLLING
MONUMENT

BLOCK 8043

Unplatted

NWH &
McCree, Ltd.
Vol. 2003233,
Pg. 1549

1/2" IR found
CONTROLLING
MONUMENT
N=7002486.79
E=2528452.66

1/2" IR found

Lot 3
BLOCK D/8043

Commercial Net Lease Realty LP
Vol. 2005068, Pg. 700

Golden Corral
Addition
Vol. 94018, Pg. 2333

1/2" IR found
CONTROLLING
MONUMENT
N=7002281.77
E=2528371.48

1/2" IR found
CONTROLLING
MONUMENT
N=7002225.81
E=2528372.17

Wastewater easement - Vol. 92176, Pg. 3751

Wastewater easement - Vol. 92176, Pg. 3751

148,829 sq ft = 3.4166 acres
to be acquired from Tony R. Clark
Instr. #201100320359

5/8" IR set w/cap
marked "COD"
N=7002524.90
E=2527930.57

25.00'
N 0°45'35" W

15' drainage easement - Vol. 97210, Pg. 4467

366.69', S 89°14'25" W

130.02' 236.67'

Aluminum disc found
CONTROLLING
MONUMENT
N=7002499.97
E=2527931.03

Aluminum disc found
CONTROLLING
MONUMENT
N=7002501.71
E=2528061.00

3/4" IR found
Brs. 6.77"
S 34°26'55" E

1/2" IR found
CONTROLLING
MONUMENT
N=7002475.39
E=2528343.10

Sam's East, Inc.
Vol. 98030, Pg. 68

G. C. Dallas -
NW Highway 2015, Ltd
Instr. #201600323534

Aluminum disc found
CONTROLLING
MONUMENT
N=7002223.57
E=2527934.75

Aluminum
disc found

Whataburger of
Mesquite, Inc.
Vol. 97115, Pg. 3354

Reciprocal
Access Easement
Vol. 94017, Pg. 3658

15' Water Easement

Lot 1
BLOCK 1
Wendy's Northwest
Addition No1
Vol. 94003, Pg. 5766
Wendy's Properties, LLC
Instr. #201500283381

Lot 6
BLOCK D/8043
Whataburger of
Mesquite -
Northwest Highway
Addition
Vol. 97112, Pg. 1097

Lot 2B
Block A/8043
Kwik Multi Site
Addition
Vol. 2002200,
Pg. 34

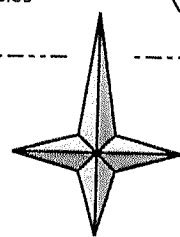
5/8" IR found
CONTROLLING
MONUMENT
N=7002307.35
E=2527588.36

5/8" IR found
CONTROLLING
MONUMENT
N=7002267.02
E=2527548.89

1/2" IR found

Executive Drive
(60' Right-of-Way)
by Greenbriar Business Center Addn, Section One

N




Hinson C. Davis Survey, Abstract 410
B.F. Davis Survey, Abstract 412

Northwest Highway

(Variable Width Right-of-Way)

Sheet 3 of 3

				Property Acquisition			
				Water Storage Tank Site			
				PUBLIC WORKS DEPARTMENT			
SURVEY DIVISION CITY OF DALLAS, TEXAS							
OPER. NAME	DESIGN FILE NAME			SCALE	DATE		
Rossato	N:\ENGR\SURVEY\Non\PROJECTS\DWU Storage Tank Storage Tank Fieldnotes.dgn			As shown	3/26/2018		
PARTY CHIEF	CALCULATIONS	FOLDER		FILE NO.			
E. Prunty	I. Rossato	DWU Storage Tank		041D-84			

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

WARRANTY DEED

THE STATE OF TEXAS §
 § KNOW ALL PERSONS BY THESE PRESENTS:
COUNTY OF DALLAS §

That Independent Bank McKinney, Texas, a Texas banking association (hereinafter called "Grantor" whether one or more natural persons or legal entities) of the County of Dallas, State of Texas, for and in consideration of the sum of FOUR HUNDRED EIGHTY THOUSAND AND NO/100 DOLLARS (\$480,000.00) to the undersigned in hand paid by the **City of Dallas, 1500 Marilla Street, Dallas, Texas, 75201**, a Texas municipal corporation (hereinafter called "City"), the receipt of which is hereby acknowledged and confessed, has granted, sold and conveyed and does hereby grant, sell and convey unto City, its successors and assigns, all of the property described in Exhibit "A", attached hereto and made a part hereof by reference for all purposes.

SPECIAL PROVISIONS: "None".

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto City, its successors and assigns forever, and Grantor binds Grantor and Grantor's heirs, executors, administrators or successors, to Warrant and Forever Defend all and singular the said premises unto City, its successors and assigns, against every person whomsoever lawfully claiming, or to claim the same or any part thereof.

EXECUTED this _____ day of _____, 2019.

GRANTOR

INDEPENDENT BANK MCKINNEY, TEXAS,
a Texas banking association

By: _____
Mike Phillips, Executive Vice President Special Assets Manager

* * * * *

STATE OF TEXAS '
COUNTY OF DALLAS '

This instrument was acknowledged before me on _____
by Mike Phillips, Executive Vice President Special Assets Manager of Independent
Bank McKinney, Texas, a Texas banking association, on behalf of said banking
association.

Notary Public, State of TEXAS

* * * * *

After recording return to:
City of Dallas
Department of Sustainable Development and Construction
Real Estate Division
320 East Jefferson Boulevard, Room 203
Dallas, Texas 75203
attn: Mark A. Proctor

Warranty Deed Log No. 45900 / Block No. 8043

**Field Notes Describing a 148,829 Square Foot (3.4166 Acre)
Tract of Land To Be Acquired
in City Block 8043
From Tony R. Clark**

Exhibit A

Being a 148,829 Square Foot (3.4166 Acre) Unplatted Tract of land situated in the Hinson C. Davis Survey, Abstract No. 410, City of Dallas, Dallas County, Texas, and being a portion of Block 8043 (Official City of Dallas Block Numbers), and being all of the property conveyed to Tony R. Clark by Substitute Trustee's Deed recorded in Instrument number 201100320359 of the Official Public Records of Dallas County, Texas, and being more particularly described as follows:

Note: Listed coordinates are State Plane (grid) values. Distances and areas are surface values, using TXDOT scale factor of 1.000136506.

BEGINNING at (N=7002734.67, E=2527644.38) the Northwest corner (not monumented) of the herein described tract of land lying on the East line of Executive Drive (a 60-foot wide Right-of-Way dedicated by the Greenbriar Business Center Addition, Section One, an addition to the City of Dallas recorded in Volume 77238, Page 1802 of the Deed Records of Dallas County, Texas (D.R.D.C.T.)), same being the South line of the remainder of a tract of land conveyed to Wal-Mart Stores, Inc. by Special Warranty Deed recorded in Volume 91205, Page 2045 of the above said Deed Records, from which a ½ -inch iron rod found bears North 79°49'30" West, a distance of 0.58 feet;

THENCE North 89°00'13" East, departing the said East line of Executive Drive, with the said common line of the Clark and Wal-Mart tracts a distance of 649.08 feet to a ½-inch iron rod (N=7002745.96, E=2528293.36, controlling monument) found at the Northeast corner of the herein described tract of land;

THENCE South 0°59'47" East, continuing with said common line between Clark and Wal-Mart Stores tracts a distance of 241.23 feet to the Southeast corner of the herein described tract of land, (not monumented; N=7002504.77, E=2528297.56) same being the Northeast corner of a remainder of an unplatted tract of land conveyed to Sam's East, Inc. by Warranty Deed recorded in Volume 98030, Page 68 of said Deed Records, from which a brass disc monument found with cap stamped "STRIPES NW HWY RPLS 5101" bears South 85°17'19" East, a distance of 0.54 feet, and a ¾-inch iron rod found bears South 34°26'55" East, a distance of 6.77 feet;

THENCE South 89°14'25" West, departing the last said common line and continuing with the common line of the Clark and Sam's tracts pass at a distance of 236.67 feet an aluminum disc found (N=7002501.71, E=2528061.00, controlling monument) at the Northeast corner of a tract of land conveyed to G. C. Dallas – NW Highway 2015, Ltd. by Special Warranty Deed with Vendor's Lien recorded in Instrument number 201600323534 of the said Official Public Records, and

**Field Notes Describing a 148,829 Square Foot (3.4166 Acre)
Tract of Land To Be Acquired
in City Block 8043
From Tony R. Clark**

Exhibit A

continuing with the common line of said Clark and NW Highway tracts for a total distance of 366.69 feet to an aluminum disc found (N=7002499.97, E=2527931.03, controlling monument) at an outside corner of the herein described tract of land, same being the Northwest corner of said NW Highway tract, lying on the East line of Lot 6, Block D/8043 of Whataburger of Mesquite – Northwest Highway Addition, an addition to the City of Dallas, recorded in Volume 97112, Page 1097 of said Deed Records;

THENCE North 0°45'35" West with the common line of said Clark and Whataburger tracts and the East line of said Lot 6, Block D/8043, a distance of 25.00 feet to a 5/8-inch iron rod with cap marked "CITY OF DALLAS" at an inside corner of the herein described tract of land, being also the Northeast corner of said Whataburger of Mesquite Addition (N=7002524.90, E=2527930.57);

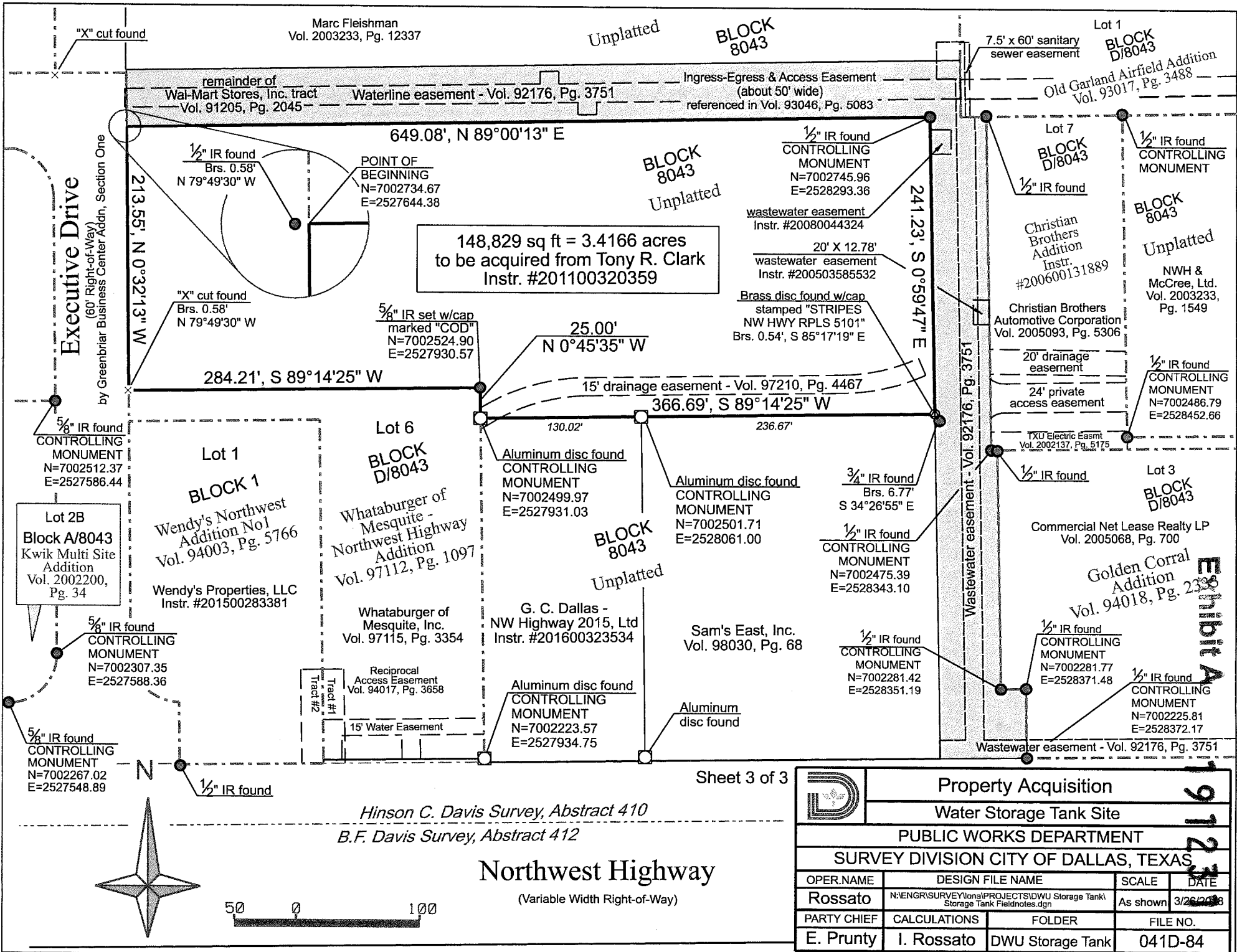
THENCE South 89°14'25" West, continuing with the said common line, same being the North line of said Whataburger of Mesquite Addition, a distance of 284.21 feet to the Southwest corner of the herein described tract lying on the said East line of Executive Drive, same being the Northwest corner of said Lot, Block and addition, from which an "X" cut found bears North 79°49'30" West, a distance of 0.58 feet (N=7002521.24, E=2527645.82);

THENCE North 0°32'13" West, along said common line of said Clark tract and Executive Drive a distance of 213.55 feet to the **POINT OF BEGINNING**, containing 148,829 Square Feet, or 3.4166 Acres of land.

BASIS OF BEARINGS: Bearings are based on the State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983.



Ilona E. Rossato
3/26/2018



148,829 sq ft = 3.4166 acres
to be acquired from Tony R. Clark
Instr. #201100320359

Lot 2B
Block A/8043
Kwik Multi Site
Addition
Vol. 2002200,
Pg. 34

Lot 1
BLOCK 1
Wendy's Northwest
Addition No 1
Vol. 94003, Pg. 5766
Wendy's Properties, LLC
Instr. #201500283381

Lot 6
BLOCK D/8043
Whataburger of
Mesquite -
Northwest Highway
Addition
Vol. 97112, Pg. 1097

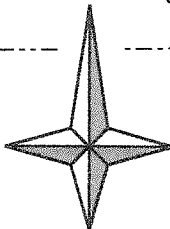
Whataburger of
Mesquite, Inc.
Vol. 97115, Pg. 3354

G. C. Dallas -
NW Highway 2015, Ltd
Instr. #201600323534

Sam's East, Inc.
Vol. 98030, Pg. 68

Commercial Net Lease Realty LP
Vol. 2005068, Pg. 700

Golden Corral
Addition
Vol. 94018, Pg. 2300



Sheet 3 of 3

Hinson C. Davis Survey, Abstract 410
B.F. Davis Survey, Abstract 412

Northwest Highway

(Variable Width Right-of-Way)

Property Acquisition Water Storage Tank Site PUBLIC WORKS DEPARTMENT SURVEY DIVISION CITY OF DALLAS, TEXAS				191233			
				OPER. NAME	DESIGN FILE NAME	SCALE	DATE
				Rossato	N:\ENGR\SURVEY\10\1\PROJECTS\DWU Storage Tank\ Storage Tank Fieldnotes.dgn	As shown	3/26/2018
PARTY CHIEF	CALCULATIONS	FOLDER	FILE NO.				
E. Prunty	I. Rossato	DWU Storage Tank	041D-84				