

ORDINANCE NO. 27555

An ordinance providing for the abandonment of a portion of Treehouse Lane adjacent to City Blocks C/6138, D/6138, E/6138 and A/7518 in the City of Dallas and County of Dallas, Texas; providing for the quitclaim thereof to Next Block-Dallas I, L.P.; 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; providing a future effective date for this abandonment and providing an effective date for this ordinance.

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WHEREAS, the City Council of the City of Dallas, acting pursuant to law and upon the request and petition of Next Block-Dallas I, L.P., a Delaware limited partnership, hereinafter referred to as **GRANTEE**, deems it advisable to abandon and quitclaim the hereinafter described tract of land to **GRANTEE**, and is of the opinion that, subject to the terms and conditions herein provided, said portion of Treehouse Lane 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 and conditions hereinafter more fully set forth; **Now, Therefore,**

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

SECTION 1. That the tract of land described in Exhibit A, which is attached hereto and made a part hereof, be and the same is abandoned, vacated and closed insofar as the right, title and interest of the public are concerned; subject, however, to the conditions and future effective date hereinafter more fully set out.

SECTION 2. That for and in monetary consideration of the sum of **FIVE THOUSAND FOUR HUNDRED AND NO/100 (\$5,400.00) DOLLARS** paid by **GRANTEE**, and the further consideration described in Sections 8, 9, and 10, the City of Dallas does by these presents **FOREVER QUITCLAIM** unto the said **GRANTEE**, subject to the conditions, reservations, future effective date and exceptions hereinafter made and with the restrictions and upon the covenants below stated, all of its right, title and interest in and to that certain tract or parcel of land hereinabove described in Exhibit A. **TO HAVE AND TO HOLD** all of such right, title and interest in and to the property and premises, subject aforesaid, together with all and singular the rights, privileges, hereditaments and appurtenances thereto in any manner belonging unto the said **GRANTEE** forever.

SECTION 3. That upon payment of the monetary consideration set forth in Section 2, **GRANTEE** accepts the terms, provisions, future effective date and conditions of this ordinance.

SECTION 4. That the City Controller 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 Development Services - Real Estate Division shall be reimbursed for the cost of obtaining the legal description, appraisal and other administrative costs incurred. The reimbursement proceeds shall be deposited in General Fund 0001, Department DEV, Unit 1183, Object 5011 and any remaining proceeds shall be transferred to the General Capital Reserve Fund 0625, Department BMS, Unit 8888, Revenue Source 8416.

SECTION 5. That the abandonment and quitclaim provided for herein are made subject to all present zoning and deed restrictions, if the latter exist, and are subject to all existing easement rights of others, if any, whether apparent or non-apparent, aerial, surface, underground or otherwise, and are further subject to the conditions contained in Exhibit B, which is attached hereto and for all intents and purposes made a part hereof.

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 the City of Dallas whole and harmless against 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 property described in Exhibit A by **GRANTEE**, its successors and assigns; (ii) the presence, generation, spillage, discharge, release, treatment or disposition of any Hazardous Substance on or affecting the 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. **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 part of the consideration for the quitclaim made herein, **GRANTEE** shall record a final replat of the adjoining properties within one year after passage of this ordinance showing the fee simple dedication of not less than 98,108 square feet of needed street right-of-way from its abutting properties in City Blocks C/6138, D/6138, E/6138 and A/7518. This final replat shall be recorded by **GRANTEE** in the Deed Records of Dallas County, Texas after its approval by the City Plan Commission of the City of Dallas. This abandonment shall not be effective unless and until this dedication is completed and failure to record a final replat in accordance with the term of this section shall render this ordinance null and void, and of no further effect. Further, the final replat shall be recorded in the Deed Records of Dallas County, Texas before a certified copy of this ordinance shall be delivered to **GRANTEE**.

SECTION 10. That as a condition of this abandonment and as a part of the consideration for the quitclaim made herein, **GRANTEE** shall, immediately upon the passage of this ordinance, close, barricade and/or place signs in the area described in Exhibit A in accordance with detailed plans approved by the Director of Development Services. **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 Development Services.

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 Development Services, 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, and the filing of the final replat set forth in Section 9, the Director of Development Services, or

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designee: (i) shall deliver to **GRANTEE** a certified copy of this ordinance, and (ii) is authorized to and shall prepare and deliver a **QUITCLAIM DEED** with regard to the area abandoned herein, to **GRANTEE** hereunder, same to be executed by the City Manager on behalf of the City of Dallas, attested by the City Secretary and approved as to form by the City Attorney. The Director of Development Services, 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:
THOMAS P. PERKINS, JR.
City Attorney

THERESA O'DONNELL
Director of Development Services

BY James K. Jones
Assistant City Attorney

BY Theresa O'Donnell
Assistant Director

Passed JUN 10 2009.

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EXHIBIT A

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**ABANDONMENT OF TREEHOUSE LANE
SITUATED BETWEEN BLOCKS C/6138 OF MEADOW ROAD APARTMENTS,
D/6138 OF MEADOW ROAD NO. 2 AND BLOCKS A/7518 AND E/6138 OF
MEADOW ROAD NO. 3
CITY OF DALLAS, DALLAS COUNTY, TEXAS**

BEING a 2.237 acre tract of land situated in the David Barrow Survey, Abstract No. 177, Dallas County, Texas, and being all of Treehouse Lane situated between of City Block A/7518, and Block E/6138 of the Meadow Road No. 3, an addition to the City of Dallas, as recorded in Volume 77044, Page 0671 of the Deed Records of Dallas County, Texas, and between Block C/6138 of Meadow Road Apartments, an addition to the City of Dallas, as recorded in Volume 74076, Page 2239 of the Deed Records of Dallas County, Texas and Block D/6138 of Meadow Road No. 3, an addition to the City of Dallas, as recorded in Volume 76021, Page 0004 of the Deed Records of Dallas County, Texas, same being situated between a called 11.6463 acre tract of land conveyed to Next Block - Dallas I, L.P., as evidenced in a Special Warranty Deed recorded in Instrument No. 200600220362 and called 9.6314 acre tract, called 2.2313 acre tract and a called 7.2124 acre tract, all conveyed to Next Block - Dallas I, L.P., as evidenced in a Special Warranty Deed recorded in Instrument No. 200600220363, both of the Deed Records of Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a "X" cut found in the northwest right of way line of Treehouse Lane, a called 60 foot wide right of way, and being a southerly corner of Block C/6138 and the northerly right of way line of Meadow Road;

THENCE North 24°17'10" East, along the westerly line of said Treehouse Lane and the easterly line of Block C/6138, a distance of 567.33 feet to a 5/8-inch "KHA" capped iron rod set for corner at the beginning of a curve to the left;

THENCE northerly, along the westerly line of said Treehouse Lane and with said curve to the left, through a central angle of 71°32'50", having a radius of 270.00 feet, and a chord bearing and distance of North 11°29'15" West, 315.67 feet, an arc distance of 337.16 feet to a 5/8-inch "KHA" capped iron rod set for corner;

THENCE North 47°15'40" West, along the westerly line of said Treehouse Lane and the easterly line of Block C/6138, passing the north line of said Block C/6138, at a distance of 145.96 feet, and continuing for a total distance of 315.56 feet to a 5/8-inch "KHA" capped iron rod set for corner in the northerly line of Block E/6138 at the beginning of a curve to the left;

THENCE northwesterly, along the westerly line, becoming southerly line of said Treehouse Lane and with said curve to the left, through a central angle of 42°44'21", having a radius of 296.11 feet, and a chord bearing and distance of North 68°37'50" West, 215.79 feet, an arc distance of 220.88 feet to a 5/8-inch "KHA" capped iron rod set for corner;

THENCE West, along the southerly line of said Treehouse Lane, a distance of 4.79 feet to a 3/4-inch iron rod found for the beginning of a curve to the left;

THENCE westerly, along the southerly line of said Treehouse Lane and with said curve to the left, through a central angle of 106°15'37", having a radius of 50.00 feet, and a chord bearing and distance of West, 80.00 feet, an arc distance of 92.72 feet to a 5/8-inch "KHA" capped iron rod set for corner;

THENCE West, along said Treehouse Lane, a distance of 2.00 feet to a 5/8-inch "KHA" capped iron rod set for the intersection of said southerly line with the east line of a Dallas Area Rapid Transit (a 100 foot wide right-of-way) as recorded in Volume 88083, Page 4905 of the Deed Records of Dallas County, Texas,

THENCE North, along said a west line of said Treehouse Lane and the east line of said Dallas Area Rapid Transit tract, a distance of 60.00 feet to a 5/8-inch "KHA" capped iron rod set for corner;

THENCE East, leaving the east line of said Dallas Area Rapid Transit tract and along the northerly line of said Treehouse Lane and the south line of Block A/7518, a distance of 2.00 to a 5/8-inch "KHA" capped iron rod set for the beginning of a curve to the right;

THENCE easterly, along the northerly line of said Treehouse Lane and with said curve to the right, through a central angle of 106°15'37", having a radius of 50.00 feet, and a chord bearing and distance of West, 80.00 feet, an arc distance of 92.72 feet to a 5/8-inch "KHA" capped iron rod set for corner;

(for SPRG use only)

Reviewed By: Rmc

Date: 12/24/08

SPRG NO: 1560

Date of Survey: July 18, 2008

By: Kimley-Horn and Associates, Inc.
12700 Park Central Drive, Suite 1800
Dallas, Texas 75251
(972) 770-1300

12/27/2008 10:00 AM
C:\Users\j\Documents\Treehouse\Treehouse.dwg

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EXHIBIT A

ABANDONMENT OF TREEHOUSE LANE
SITUATED BETWEEN BLOCKS C/6138 OF MEADOW ROAD APARTMENTS,
D/6138 OF MEADOW ROAD NO. 2 AND BLOCKS A/7518 AND E/6138 OF
MEADOW ROAD NO. 3
CITY OF DALLAS, DALLAS COUNTY, TEXAS

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THENCE East, along the northerly line of said Treehouse Lane and the south line of Block A/7518, a distance of 4.79 feet to a 5/8-inch "KHA" capped iron rod set for the beginning of a curve to the right;

THENCE southeasterly, along the northerly line, becoming easterly line of said Treehouse Lane with said curve to the right, through a central angle of 42°44'21", having a radius of 356.11 feet, and a chord bearing and distance of South 68°37'50" East, 259.52 feet, an arc distance of 265.64 feet to a 5/8-inch "KHA" capped iron rod set for corner;

THENCE South 47°15'40" East, along the easterly line of said Treehouse Lane and the westerly line of Block A/7518, passing the north line of said Block D/6138 at a distance of 169.60 feet, of Meadow Road No. 2, and continuing for a total distance of 315.56 feet to a 5/8-inch "KHA" capped iron rod set for corner in the westerly line of Block D/6138 at the beginning of a curve to the right;

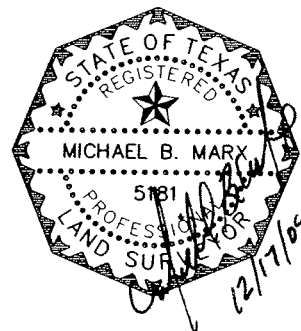
THENCE southeasterly, along the easterly line of said Treehouse Lane and with said curve to the right, through a central angle of 71°32'50", having a radius of 330.00 feet, and a chord bearing and distance of South 11°29'15" East, 385.83 feet, an arc distance of 412.08 feet to a 5/8-inch "KHA" capped iron rod set for corner;

THENCE South 24°17'10" West, along the easterly line of said Treehouse Lane and the westerly line of Block D/6138, a distance of 566.50 feet to a 5/8-inch "KHA" capped iron rod set for corner at the intersection of the easterly line of said Treehouse Lane with the northerly right of way line of aforementioned Meadow Road;

THENCE North 65°42'50" West, along the northerly right of way line of said Meadow Road, a distance of 30.00 feet to an "X" cut set for the beginning of a curve to the left;

THENCE westerly, with said curve to the left, through a central angle of 03°11'05", having a radius of 540.00 feet, and a chord bearing and distance of North 67°18'23" West, 30.01 feet, an arc distance of 30.02 feet to the POINT OF BEGINNING and Containing 2.237 acres (97,449 sq. ft.), of land more or less.

Bearing system for this survey is based upon a bearing of North 89°55'20" East, being the north line of Block A/7518 of Meadow Road No. 3, an addition to the City of Dallas, Dallas County, Texas, according to the plat thereof recorded in Volume 77044, Page 0671 of the Map Records of Dallas County, Texas.



(for SPRG use only)

Reviewed By: Rmc

Date: 12/17/08

SPRG NO: 1560

Date of Survey: July 18, 2008

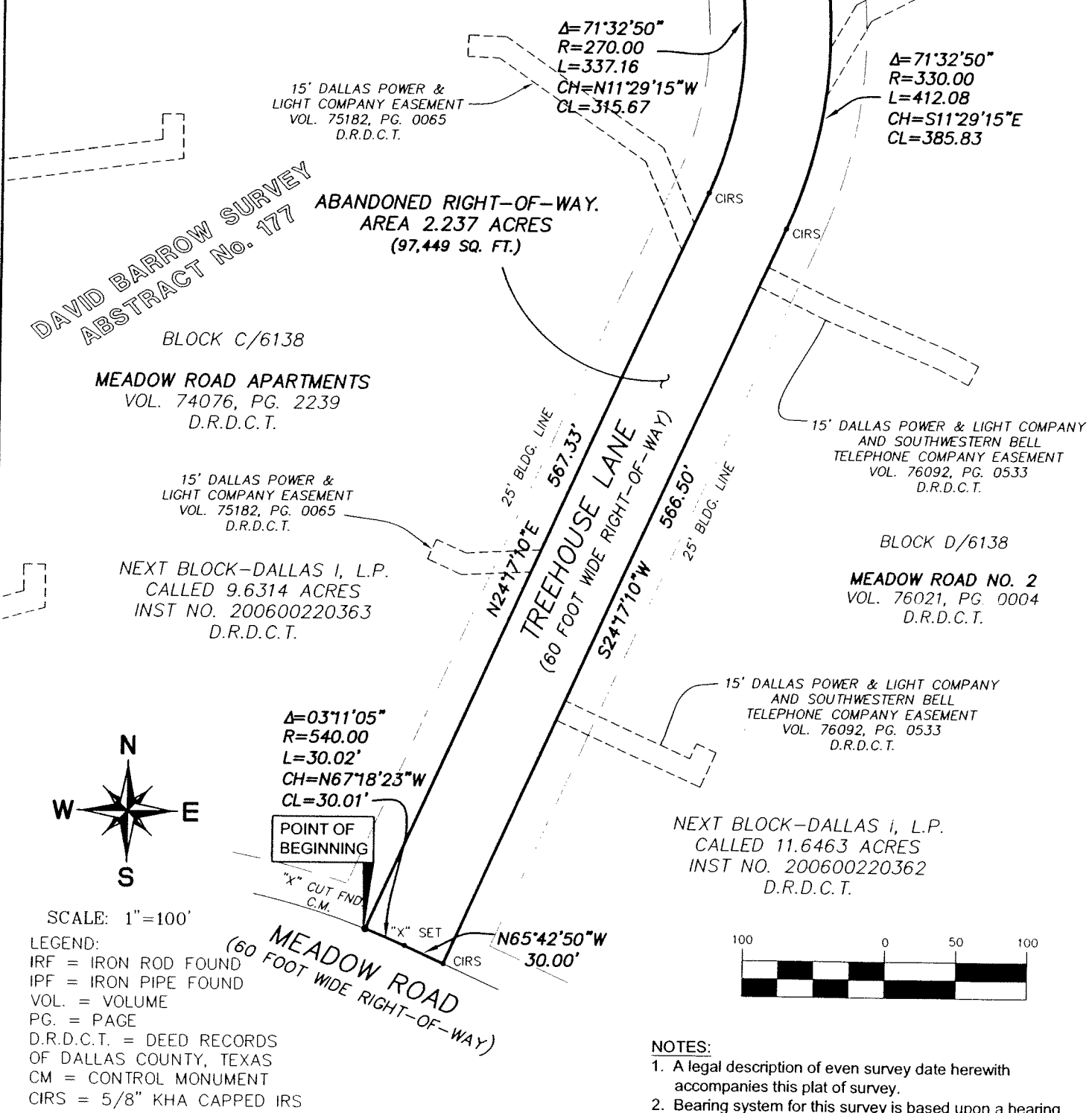
By: Kimley-Horn and Associates, Inc.
 12700 Park Central Drive, Suite 1800
 Dallas, Texas 75251
 (972) 770-1300

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ABANDONMENT OF TREEHOUSE LANE
SITUATED BETWEEN BLOCKS C/6138 OF MEADOW ROAD APARTMENTS,
D/6138 OF MEADOW ROAD NO. 2 AND BLOCKS A/7518 AND E/6138 OF
MEADOW ROAD NO. 3
CITY OF DALLAS, DALLAS COUNTY, TEXAS

MATCHLINE SEE SHT. 4 OF 4



DAVID BARROW SURVEY
 ABSTRACT No. 177

BLOCK C/6138
 MEADOW ROAD APARTMENTS
 VOL. 74076, PG. 2239
 D.R.D.C.T.

15' DALLAS POWER & LIGHT COMPANY EASEMENT
 VOL. 75182, PG. 0065
 D.R.D.C.T.

NEXT BLOCK-DALLAS I, L.P.
 CALLED 9.6314 ACRES
 INST NO. 200600220363
 D.R.D.C.T.

ABANDONED RIGHT-OF-WAY.
 AREA 2.237 ACRES
 (97,449 SQ. FT.)

$\Delta=71^{\circ}32'50''$
 $R=270.00$
 $L=337.16$
 $CH=N11^{\circ}29'15''W$
 $CL=315.67$

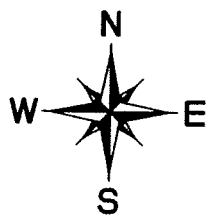
$\Delta=71^{\circ}32'50''$
 $R=330.00$
 $L=412.08$
 $CH=S11^{\circ}29'15''E$
 $CL=385.83$

15' DALLAS POWER & LIGHT COMPANY AND SOUTHWESTERN BELL TELEPHONE COMPANY EASEMENT
 VOL. 76092, PG. 0533
 D.R.D.C.T.

BLOCK D/6138
 MEADOW ROAD NO. 2
 VOL. 76021, PG. 0004
 D.R.D.C.T.

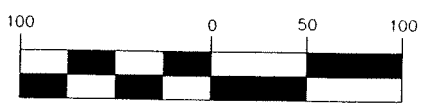
15' DALLAS POWER & LIGHT COMPANY AND SOUTHWESTERN BELL TELEPHONE COMPANY EASEMENT
 VOL. 76092, PG. 0533
 D.R.D.C.T.

NEXT BLOCK-DALLAS I, L.P.
 CALLED 11.6463 ACRES
 INST NO. 200600220362
 D.R.D.C.T.



SCALE: 1"=100'

LEGEND:
 IRF = IRON ROD FOUND
 IPF = IRON PIPE FOUND
 VOL. = VOLUME
 PG. = PAGE
 D.R.D.C.T. = DEED RECORDS OF DALLAS COUNTY, TEXAS
 CM = CONTROL MONUMENT
 CIRS = 5/8" KHA CAPPED IRS



NOTES:
 1. A legal description of even survey date herewith accompanies this plat of survey.
 2. Bearing system for this survey is based upon a bearing of North 89°55'20" East, being the north line of Block A/7518 of Meadow Road No. 3, an addition to the City of Dallas, Dallas County, Texas, according to the plat thereof recorded in Volume 77044, Page 0671 of the Map Records of Dallas County, Texas.

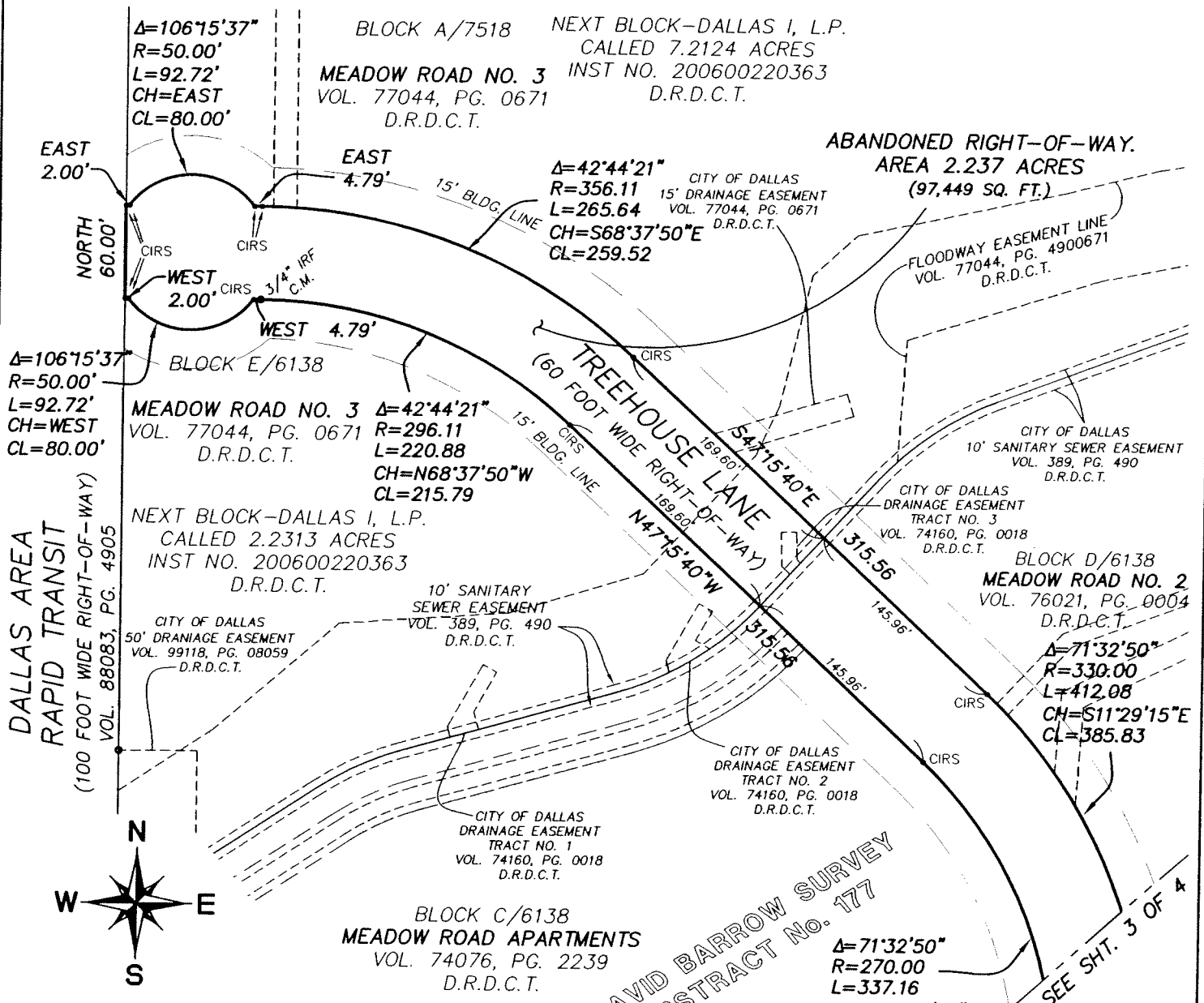
(for SPRG use only)
 Reviewed By: Rae
 Date: 12/24/08
 SPRG NO: 1560

Date of Survey: July 18, 2008
 By: Kimley-Horn and Associates, Inc.
 12700 Park Central Drive, Suite 1800
 Dallas, Texas 75251
 (972) 770-1300

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EXHIBIT A

ABANDONMENT OF TREEHOUSE LANE 091443
SITUATED BETWEEN BLOCKS C/6138 OF MEADOW ROAD APARTMENTS,
D/6138 OF MEADOW ROAD NO. 2 AND BLOCKS A/7518 AND E/6138 OF
MEADOW ROAD NO. 3
CITY OF DALLAS, DALLAS COUNTY, TEXAS



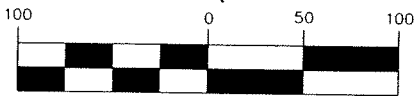
DALLAS AREA
 RAPID TRANSIT
 (100 FOOT WIDE RIGHT-OF-WAY)
 VOL. 88083, PG. 4905

SCALE: 1"=100'
 LEGEND:
 IRF = IRON ROD FOUND
 IPF = IRON PIPE FOUND
 VOL. = VOLUME
 PG. = PAGE
 D.R.D.C.T. = DEED RECORDS
 OF DALLAS COUNTY, TEXAS
 CM = CONTROL MONUMENT
 CIRS = 5/8" KHA CAPPED IRS



Date of Survey: July 18, 2008
 By: Kimley-Horn and Associates, Inc.
 12700 Park Central Drive, Suite 1800
 Dallas, Texas 75251
 (972) 770-1300

(for SPRG use only)
 Reviewed By: RMS
 Date: 12/24/08
 SPRG NO: 1560



NOTES:
 1. A legal description of even survey date herewith accompanies this plat of survey.
 2. Bearing system for this survey is based upon a bearing of North 89°55'20" East, being the north line of Block A/7518 of Meadow Road No. 3, in addition to the City of Dallas, Dallas County, Texas, according to the plat thereof recorded in Volume 77044, Page 0671 of the Map Records of Dallas County, Texas.

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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.