

ORDINANCE NO. 28283

An ordinance providing for the abandonment of a portion of Progressive Drive located adjacent to City Blocks I/7171 and P/7171 in the City of Dallas and County of Dallas, Texas; providing for the quitclaim thereof to Foxhall International, LLC; providing for barricading; providing for the terms and conditions of the abandonment and quitclaim made herein; providing for the conveyance of needed land to the City of Dallas; 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 Foxhall International, LLC, a Limited Liability Company, 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 Progressive Drive 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 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 conditions and future effective date hereinafter more fully set out.

**SECTION 2.** That for and in monetary consideration of the sum of **SEVEN THOUSAND SIX HUNDRED SIXTY-FOUR AND NO/100 DOLLARS (\$7,664.00)** paid by **GRANTEE**, and the further consideration described in Sections 8, 9, 10, and 11, 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 the certain tract 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 Sustainable Development and Construction-Real Estate Division shall be reimbursed for the cost of obtaining the legal description, appraisal and other administrative costs incurred. The reimbursement proceeds shall be deposited in General Fund 0001, Department DEV, Unit 1183, Object 5011 and any remaining proceeds shall be transferred to the General Capital Reserve Fund 0625, Department BMS, Unit 8888, Revenue Source 8416.

**SECTION 5.** That the abandonment and quitclaim provided for herein 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 whole and harmless the City of Dallas from and 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 a part of the consideration for the quitclaim made herein, **GRANTEE** shall record a final replat of the adjoining properties within one year of the effective date of this ordinance showing the fee simple dedication of not less than 21,552 square feet of needed street right-of-way in City Blocks I/7171 and P/7171. This final replat shall be recorded by **GRANTEE** in the official real property records of the county in which the abandoned area and the dedicated property are located, 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 official real property records of the county in which the abandoned area is located 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 at **GRANTEE's** cost:

- (a) submit plans for the design and construction of two turnarounds in place of the abandoned street right-of-way to the Dallas Fire Department and the Department of Sustainable Development and Construction, Engineering Division, for review, approval and acceptance; and
- (b) submit engineering plans to the Department of Sustainable Development and Construction, Water Engineering Division, showing the relocation of said water/wastewater facilities, acquire any replacement easements necessary to said relocation, and execute a Private Development Contract approved by the City within one year of the effective date of this ordinance; and

- (c) by plat or separate instrument approved by the City, document easement(s) (25' minimum) for any existing water and/or wastewater facilities remaining in the tract of land described in Exhibit A and for existing water/wastewater lines being relocated.

This abandonment shall not be effective unless and until said actions are taken as herein provided and, failure to fully satisfy said requirements as set forth herein shall render this ordinance null and void and of no further effect.

**SECTION 11.** That as a condition of this abandonment and as a part of the consideration for the quitclaim made herein, **GRANTEE** shall, upon the effectiveness of the abandonment, but not sooner, close, barricade and/or place signs in the area described in Exhibit A in accordance with detailed plans approved by the Director 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 Sustainable Development and Construction.

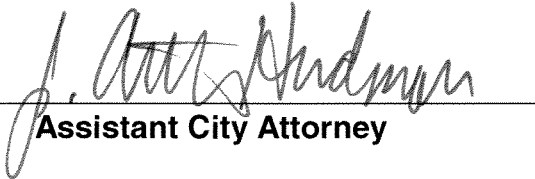
**SECTION 12.** That the City Secretary is hereby authorized and directed to certify a copy of this ordinance for recordation in the official real property records of the county in which the abandonment area is located, which certified copy shall be delivered to the Director of Sustainable Development 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, and the filing of the final replat set forth in Sections 9 and 10, the Director 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, 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 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 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 Sustainable Development  
and Construction

BY

  
Assistant City Attorney

BY

  
Assistant Director

Passed

JUN 22 2011

EXHIBIT A

111815

28283

**STREET RIGHT-OF-WAY ABANDONMENT**

**Part of Progressive Drive**

**Adjacent to Blocks I/7171 and P/7171**

Joe Irwin Addition No. 7,

*City of Dallas, Dallas County, Texas*

BEING, a 26,030 square foot (0.598 acre) tract of land situated in the D. R. Cameron Survey, Abstract No. 296, Dallas County, Texas; said tract being part of Progressive Drive (formerly Mc Daniel Drive, a 50-foot wide right-of-way) recorded in Volume 10, Page 421 of the Map Records of Dallas County, Texas, adjacent to Blocks I/7171 and P/7171 as shown on the plat of Joe Irwin Addition No. 7, an addition to the City of Dallas according to the plat recorded in Volume 10, Page 421 of said Map Records; said 26,030 square foot (0.598 acre) tract being more particularly described as follows (bearing system based on a bearing of North 00 degrees, 24 minutes, 45 seconds West for the west right-of-way line of Progressive Drive according to the General Warranty Deed with Vendors Lien recorded in Instrument No. 20080035140 of the Official Public Records of Dallas County, Texas):

BEGINNING, at a "+" cut in concrete found for corner in the west right-of-way line of said Progressive Drive; said point being the southeast corner of Lot 25 and the northeast corner of Lot 26, both of said Block P/7171;

THENCE, along the said west line of Progressive Drive and the east line of said Block P/7171, the following four (4) calls:

North 23 degrees, 42 minutes, 45 seconds West, a distance of 50.03 feet to a 1/2-inch iron rod with "RPLS 3688" cap found for corner;

North 00 degrees, 24 minutes, 45 seconds West, at a distance of 50.00 feet passing a 1/2-inch iron rod with "RPLS 3688" cap found for the southeast corner of Lot 23 of said Block P/7171, continuing at a distance of 100.58 passing a 1/2-inch iron rod with "RPLS 3688" cap found for the northeast corner of said Lot 23, continuing in all a total distance of 300.58 feet to a 1/2-inch iron rod with "RPLS 3688" cap found for corner;

North 12 degrees, 19 minutes, 15 seconds East, a distance of 174.67 feet to a 1/2-inch iron rod with "RPLS 3688" cap found for corner;

North 43 degrees, 10 minutes, 15 seconds East, a distance of 25.00 feet to a 1/2-inch iron rod with "RPLS 3688" cap found for corner; said point being the northeast corner of Lot 15 of said Block P/7171;

THENCE, South 46 degrees, 49 minutes, 45 seconds East, departing the said west line of Progressive Drive and the said east line of Block P/7171, a distance of 50.00 feet to a point for corner on the east right-of-way line of said Progressive Drive and the west line of said Block I/7171;

(For SPRG use only)

Reviewed By: DBF

Date: 12-08-2009

SPRG NO: 1808

EXHIBIT A

111815

28283

**STREET RIGHT-OF-WAY ABANDONMENT**

**Part of Progressive Drive**

**Adjacent to Blocks I/7171 and P/7171**

Joe Irwin Addition No. 7,

City of Dallas, Dallas County, Texas

(Continued)

THENCE, along the said east line of Progressive Drive and the said west line of Block I/7171, the following four (4) calls;

South 43 degrees, 10 minutes, 15 seconds West, a distance of 11.20 feet to a point for corner;

South 12 degrees, 19 minutes, 15 seconds West, a distance of 155.30 feet to a point for corner;

South 00 degrees, 24 minutes, 45 seconds East, a distance of 284.71 feet to a point for corner;

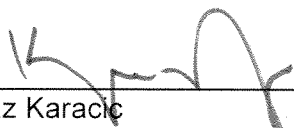
South 23 degrees, 42 minutes, 45 seconds East, a distance of 39.71 feet to a point for corner;

THENCE, South 66 degrees, 17 minutes, 15 seconds West, departing the said east line of Progressive Drive and the said west line of Block I/7171, a distance of 50.00 feet to the POINT OF BEGINNING;

CONTAINING, 26,030 square feet or 0.598 acres of land, more or less.

(A plat of even survey date accompanies this description.)

The undersigned, Registered Professional Land Surveyor, hereby certifies that the foregoing description accurately sets out the metes and bounds of the tract of land described.

  
Nijaz Karacic  
Registered Professional Land Surveyor No. 5526  
Pacheco Koch Consulting Engineers  
8350 N. Central Expwy, #1000, Dallas TX 75206  
(972) 235-3031  
TX Reg. Surveying Firm LS-100080-00

12/4/09

Date



Progressive Drive SA.doc  
2906-09.113 rlm/sbp

(For SPRG use only)	
Reviewed By:	<u>DBF</u>
Date:	<u>12-08-2009</u>
SPRG NO:	_____

28283

111815

1/2-INCH IRON ROD  
W/RPLS-3688" CAP FOUND

TRACT 2  
LONE STAR FOXHALL, L.L.C.  
(INST. NO. 20080035140)  
O.P.R.D.C.T.

BLOCK P/7171  
JOE IRWIN ADDITION NO. 7  
(VOL. 10, PG. 421)  
M.R.D.C.T.

TRACT 2  
LONE STAR FOXHALL, L.L.C.  
(INST. NO. 20080035140)  
O.P.R.D.C.T.

(APPROXIMATE LOCATION)  
CENTERLINE OF TEXAS  
POWER & LIGHT  
COMPANY EASEMENT  
(VOL. 2859, PG. 191)  
D.R.D.C.T.

SULEMAN SOHANI  
(INST. NO. 200900095630)  
O.P.R.D.C.T.

TRACT 1  
LONE STAR FOXHALL, L.L.C.  
(INST. NO. 20080035140)  
O.P.R.D.C.T.

SALVADOR ROSALES  
(INST. NO. 20070256646)  
O.P.R.D.C.T.

LOT 27

LOT 26

LOT 25

**POINT OF  
BEGINNING**

\*+ CUT IN  
CONCRETE FOUND  
(1/2-INCH IRON ROD  
W/ "PRECISE" CAP  
FOUND BEARS  
S 56°53' W - 5.3')

1/2-INCH IRON ROD  
W/RPLS-3688"  
CAP FOUND

LOT 24

LOT 23

1/2-INCH IRON ROD  
W/RPLS-3688"  
CAP FOUND (C.M.)

LOT 22

LOT 21

**PROGRESSIVE  
DRIVE**

N 00°24'45" W 300.58'  
(BEARING BASIS)

26,030 SF  
(0.598 ACRES)

S 00°24'45" E 284.71'

LOT 28

JOE IRWIN  
ADDITION NO. 7  
(VOL. 10, PG. 421)  
M.R.D.C.T.

BLOCK I/7171  
JOE IRWIN ADDITION NO. 7  
(VOL. 10, PG. 421)  
M.R.D.C.T.

FOXHALL INTERNATIONAL, L.L.C.  
(INST. NO. 20080176189)  
O.P.R.D.C.T.

LOT 5

LOT 6

LOT 7

**LINE TABLE**

LINE	BEARING	LENGTH
L1	N 23°42'45" W	50.03'
L2	N 43°10'15" E	25.00'
L3	S 46°49'45" E	50.00'
L4	S 43°10'15" W	11.20'
L5	S 23°42'45" E	39.71'
L6	S 66°17'15" W	50.00'

**NOTES:**

1. A legal description of even survey date herewith accompanies this plat of survey.
2. Bearing system for this survey is based on a bearing on a bearing of North 00 degrees, 24 minutes, 45 seconds West for the west right-of-way line of Progressive Drive according to the General Warranty Deed with Vendor's Lien recorded in Instrument No. 20080035140 of the Official Public Records of Dallas County, Texas.

## STREET RIGHT-OF-WAY ABANDONMENT PART OF PROGRESSIVE DRIVE

ADJACENT TO BLOCKS I/7171 AND P/7171  
JOE IRWIN ADDITION NO. 7  
CITY OF DALLAS, DALLAS COUNTY, TEXAS  
SHEET 3 OF 4

0 30 60 120  
GRAPHIC SCALE IN FEET

(For SPRG use only)

Reviewed By: DBF  
Date: 12-2-2009  
SPRG NO: 1802

**LEGEND**

— PROPERTY LINE  
— ABANDONMENT LINE  
○ POINT FOR CORNER  
(UNLESS OTHERWISE NOTED)  
(C.M.) - CONTROLLING MONUMENT



**Pacheco Koch Consulting Engineers**

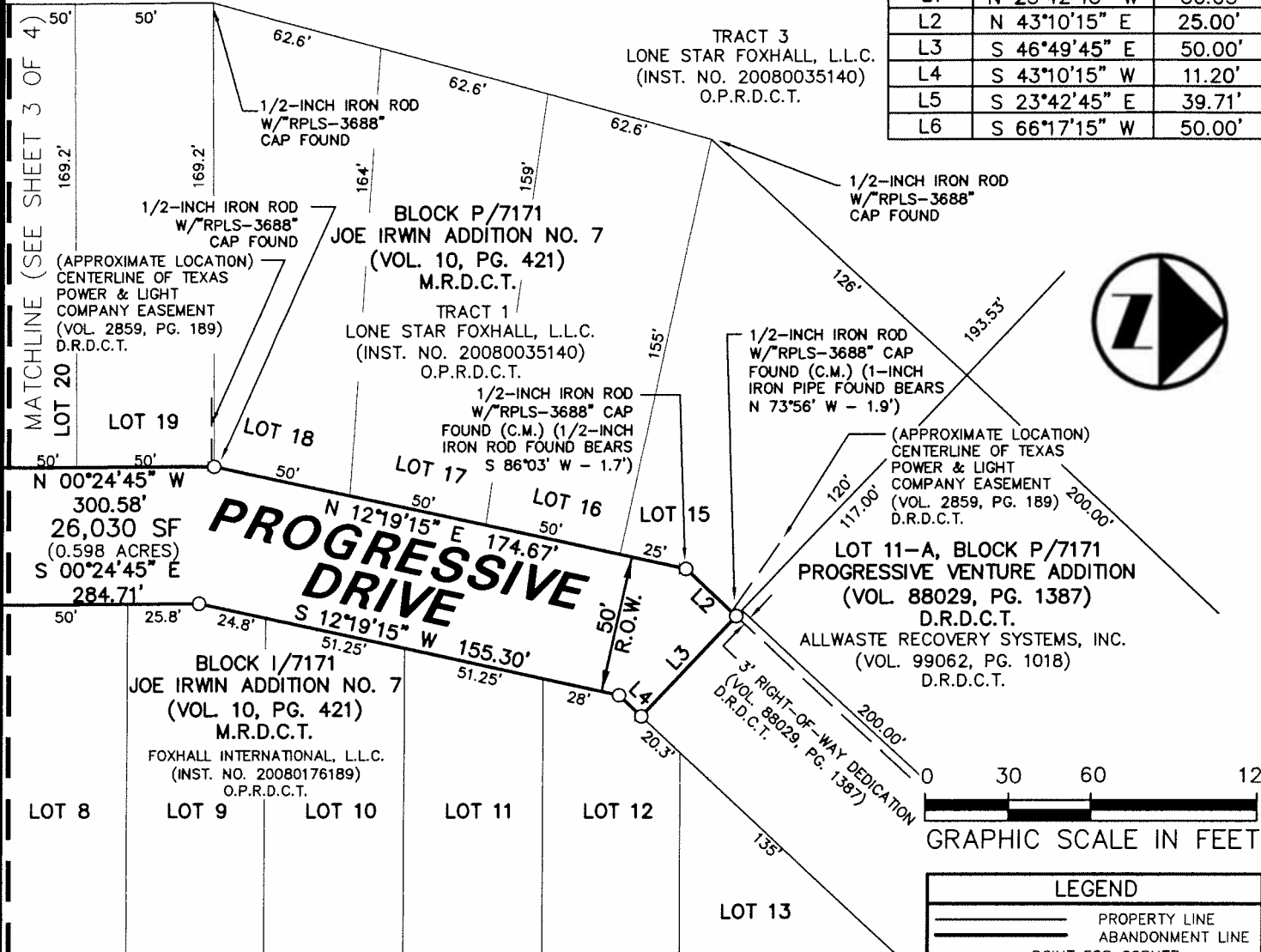
8350 N. CENTRAL EXPWY. SUITE 1000 TX REG. ENGINEERING FIRM F-469  
DALLAS, TX 75206 972.235.3031 TX REG. SURVEYING FIRM LS-100080-00

DRAWN BY	CHECKED BY	SCALE	DATE	JOB NUMBER
RLM/SBP	NK	1"=60'	AUG 2009	2906-09.113

28283

**LINE TABLE**

LINE	BEARING	LENGTH
L1	N 23°42'45" W	50.03'
L2	N 43°10'15" E	25.00'
L3	S 46°49'45" E	50.00'
L4	S 43°10'15" W	11.20'
L5	S 23°42'45" E	39.71'
L6	S 66°17'15" W	50.00'



The undersigned, Registered Professional Land Surveyor, hereby certifies that this plat of survey accurately sets out the metes and bounds of the tract of land described.

*[Signature]* 12/4/09  
 Nijaz Karacic Date  
 Registered Professional  
 Land Surveyor No. 5526



(For SPRG use only)  
 Reviewed By: DBF  
 Date: 12-02-2009  
 SPRG NO: 1808

**NOTES:**

1. A legal description of even survey date herewith accompanies this plat of survey.
2. Bearing system for this survey is based on a bearing on a bearing of North 00 degrees, 24 minutes, 45 seconds West for the west right-of-way line of Progressive Drive according to the General Warranty Deed with Vendor's Lien recorded in Instrument No. 20080035140 of the Official Public Records of Dallas County, Texas.

**STREET RIGHT-OF-WAY  
 ABANDONMENT PART OF  
 PROGRESSIVE DRIVE**

ADJACENT TO BLOCKS I/7171 AND P/7171  
 JOE IRWIN ADDITION NO. 7  
 CITY OF DALLAS, DALLAS COUNTY, TEXAS  
 SHEET 4 OF 4

**Pacheco Koch Consulting Engineers**

8350 N. CENTRAL EXPWY. SUITE 1000  
 DALLAS, TX 75206 972.235.3031

TX REG. ENGINEERING FIRM F-469  
 TX REG. SURVEYING FIRM LS-100080-00

DRAWN BY	CHECKED BY	SCALE	DATE	JOB NUMBER
RLM/SBP	NK	1"=60'	AUG 2009	2906-09.113

## **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.