

ORDINANCE NO. 30709

An ordinance providing for the abandonment of portions of Taylor Street and Pearl Expressway located adjacent to City Block 25/133 in the City of Dallas and County of Dallas, Texas; providing for the quitclaim thereof to FM Harvest, Ltd.; 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 FM Harvest, Ltd., a Texas limited partnership, hereinafter referred to as **GRANTEE**, deems it advisable to abandon and quitclaim the hereinafter described tracts of land to **GRANTEE**, and is of the opinion that, subject to the terms and conditions herein provided, said portions of Taylor Street and Pearl Expressway are 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 tracts 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.

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SECTION 2. That for and in monetary consideration of the sum of **ONE HUNDRED ELEVEN THOUSAND NINE HUNDRED TWENTY AND NO/100 DOLLARS (\$111,920)** 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 tracts 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 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 the 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 areas 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 areas set out in Exhibit A; (iii) all corrective actions concerning any discovered Hazardous Substances on or affecting the areas 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 areas 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

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SECTION 8. (continued)

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 contact the Texas Excavation Safety System (Texas811) to have facilities marked and located within affected easements before any excavations are started.

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 tracts 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 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 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 8, 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

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SECTION 12. (continued)

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 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 contract is designated as Contract No. DEV-2016-00001153.

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:

LARRY E. CASTO, City Attorney

DAVID COSSUM, Director
Department of Sustainable Development and
Construction

BY: B. N. S. #
Assistant City Attorney

BY: Mark Prock
Assistant Director

Passed DEC 13 2017

30709

ABANDONMENT

TAYLOR STREET - FARMERS MARKET
DALLAS, DALLAS COUNTY, TEXAS

PROPERTY DESCRIPTION

BEING a 2,417 square foot tract situated in Taylor Street (a variable width right-of-way), John Grigsby Survey, Abstract No. 495, Dallas Dallas County, Texas and being more particularly described as follows:

BEGINNING at an "X" cut found for corner at the intersection of said Taylor Street and Pearl Expressway (a variable width right-of-way), said "X" also being the north corner of a tract of land described in deed to FM Harvest, Ltd as recorded in Instrument No. 201300190268 Official Public Records of Dallas County, Texas;

THENCE South 54°00'00" West along the common line between said Taylor Street and said FM Harvest tract for a distance of 274.61 feet to an "X" found for corner in the northeast right-of-way line of Harwood Street (a variable width right-of-way), said "X" being the west corner of said FM Harvest tract;

THENCE North 45°01'41" West departing said common line and traveling over and across said Taylor Street for a distance of 8.61 feet to a corner;

THENCE North 54°00'00" East for a distance of 169.44 feet to a corner;

THENCE North 36°00'00" West for a distance of 2.50 feet to a corner;

THENCE North 54°00'00" East for a distance of 30.83 feet to a corner;

THENCE South 36°00'00" East for a distance of 2.50 feet to a corner;

THENCE North 54°00'00" East for a distance of 75.68 feet to a corner;

THENCE South 36°00'00" East for a distance of 8.50 feet to the POINT OF BEGINNING and containing 2,417 square feet or 0.055 acres of land, more or less.

FIELD NOTES APPROVED:

W. L. ...



[Signature]
PROFESSIONAL SURVEYOR
3689
PIBURN & CARSON, JR.
2/14/2017

(For SPRG use only)
Reviewed By: _____
Date: _____
SPRG NO.: _____

REV: February 16, 2017
DATE: February 13, 2017
Project No. 17012

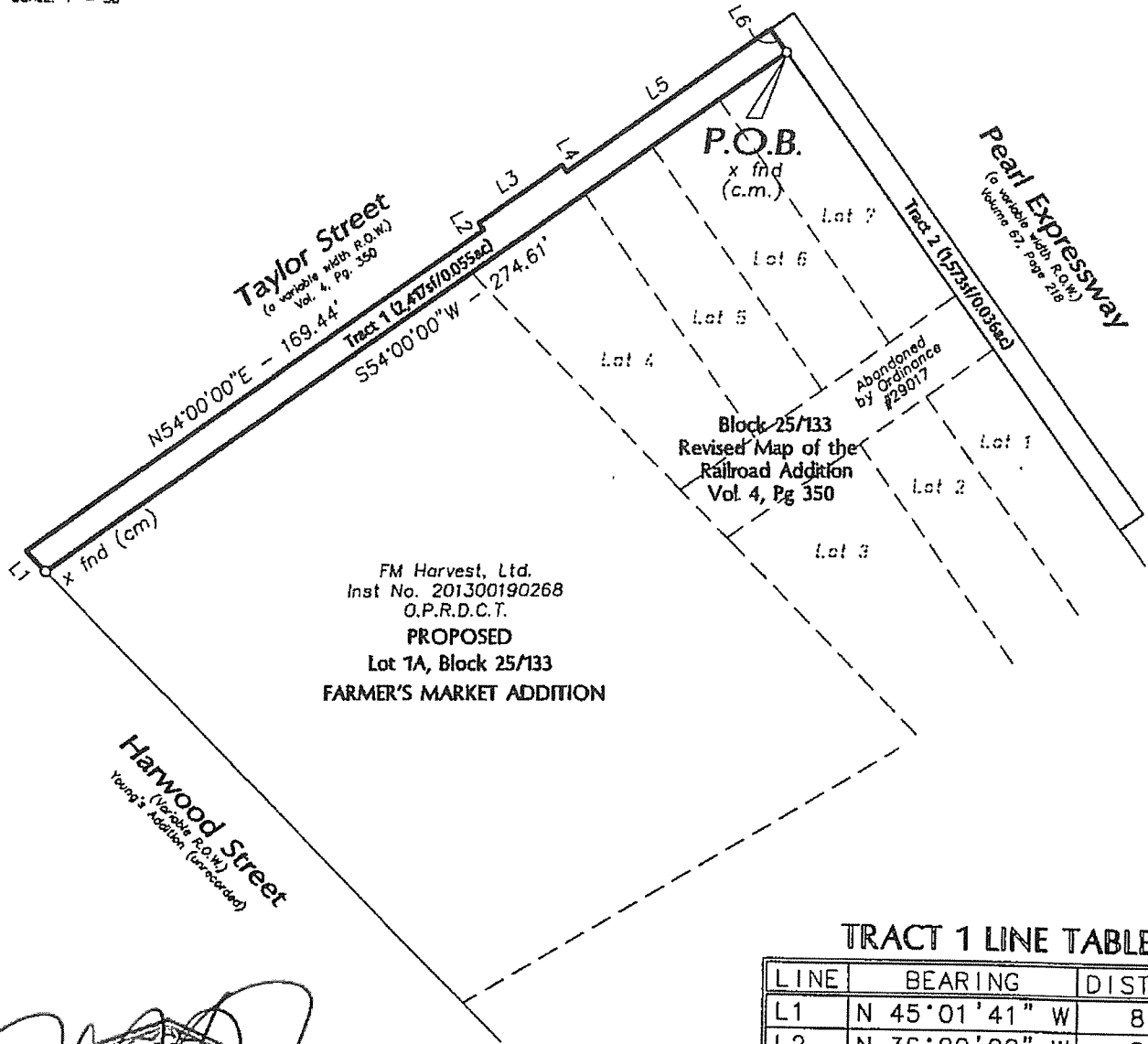
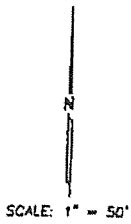


801 East Campbell Road - Suite 575
Richardson, Texas 75081
Ph 214.328.3500 Fax. 214.328.3512
email@piburncarson.com

EXHIBIT A-TRACT 1
30709

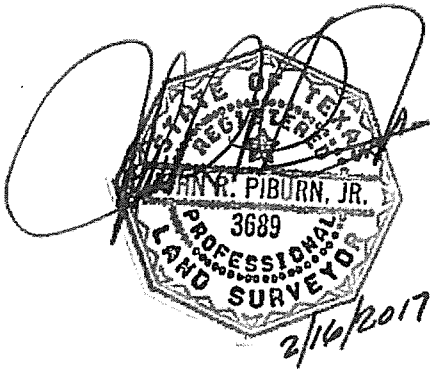
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ABANDONMENT
TAYLOR STREET - FARMERS MARKET
DALLAS, DALLAS COUNTY, TEXAS



TRACT 1 LINE TABLE

LINE	BEARING	DISTANCE
L1	N 45°01'41" W	8.61'
L2	N 36°00'00" W	2.50'
L3	N 54°00'00" E	30.83'
L4	S 36°00'00" E	2.50'
L5	N 54°00'00" E	75.68'
L6	S 36°00'00" E	8.50'



(For SPRG use only)

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ABANDONMENT
PEARL EXPRESSWAY - FARMERS MARKET
DALLAS, DALLAS COUNTY, TEXAS

PROPERTY DESCRIPTION

BEING a 1,573 square foot tract situated in Pearl Expressway (a variable width right-of-way), John Grigsby Survey, Abstract No. 495, Dallas Dallas County, Texas and being more particularly described as follows:

BEGINNING at an "X" cut found for corner at the intersection of said Pearl Expressway and Taylor Street (a variable width right-of-way), said "X" also being the north corner of a tract of land described in deed to FM Harvest, Ltd. as recorded in Instrument No. 201300190268 Official Public Records of Dallas County, Texas;

THENCE North 36°00'00" West departing said right-of-way lines and traveling over and across said Pearl Expressway for a distance of 8.50 feet to a corner;

THENCE North 54°00'00" East for a distance of 8.50 feet to a corner;

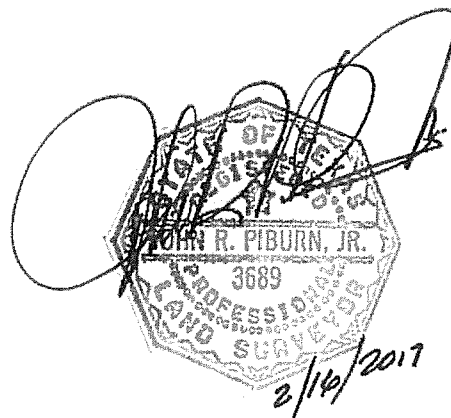
THENCE South 36°00'00" East for a distance of 185.00 feet to a corner;

THENCE South 54°00'00" West for a distance of 8.50 feet to a corner in the common line of aforementioned Pearl Expressway and FM Harvest, Ltd. tract;

THENCE North 36°00'00" West along said common line for a distance of 176.50 feet to the POINT OF BEGINNING and containing 1,573 square feet or 0.036 acres of land, more or less.

FIELD NOTES APPROVED:

Handwritten signature and date: 5/17/17



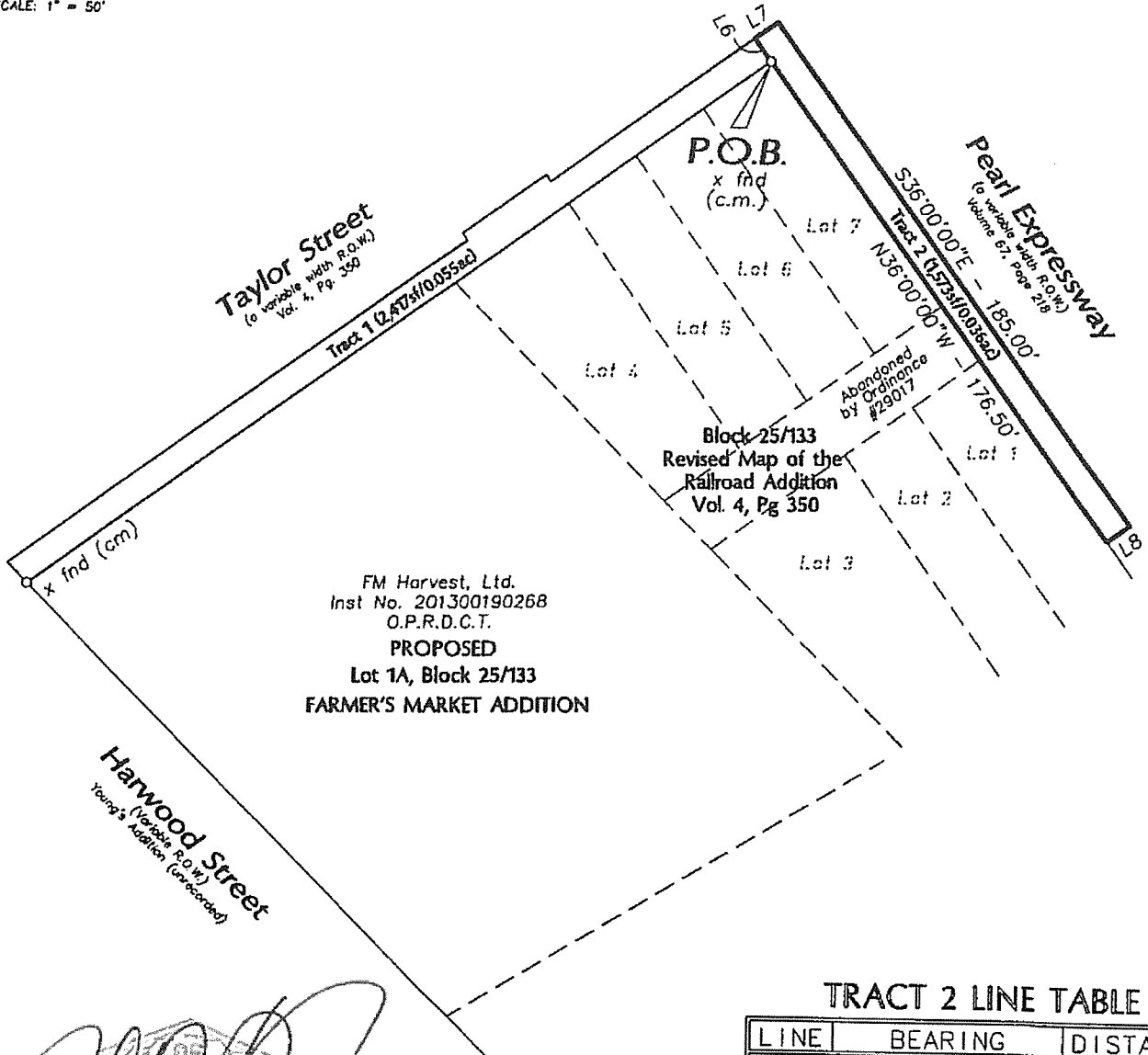
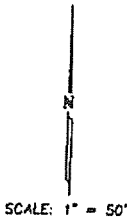
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ABANDONMENT
PEARL EXPRESSWAY - FARMERS MARKET
DALLAS, DALLAS COUNTY, TEXAS



TRACT 2 LINE TABLE

LINE	BEARING	DISTANCE
L6	N 36° 00' 00" W	8.50'
L7	N 54° 00' 00" E	8.50'
L8	S 54° 00' 00" W	8.50'

[Signature]

 2/16/2017

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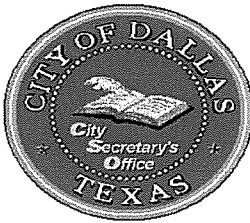


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EXHIBIT B

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.



PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL DEC 13 2017

ORDINANCE NUMBER 30709

DATE PUBLISHED DEC 16 2017

ATTESTED BY: