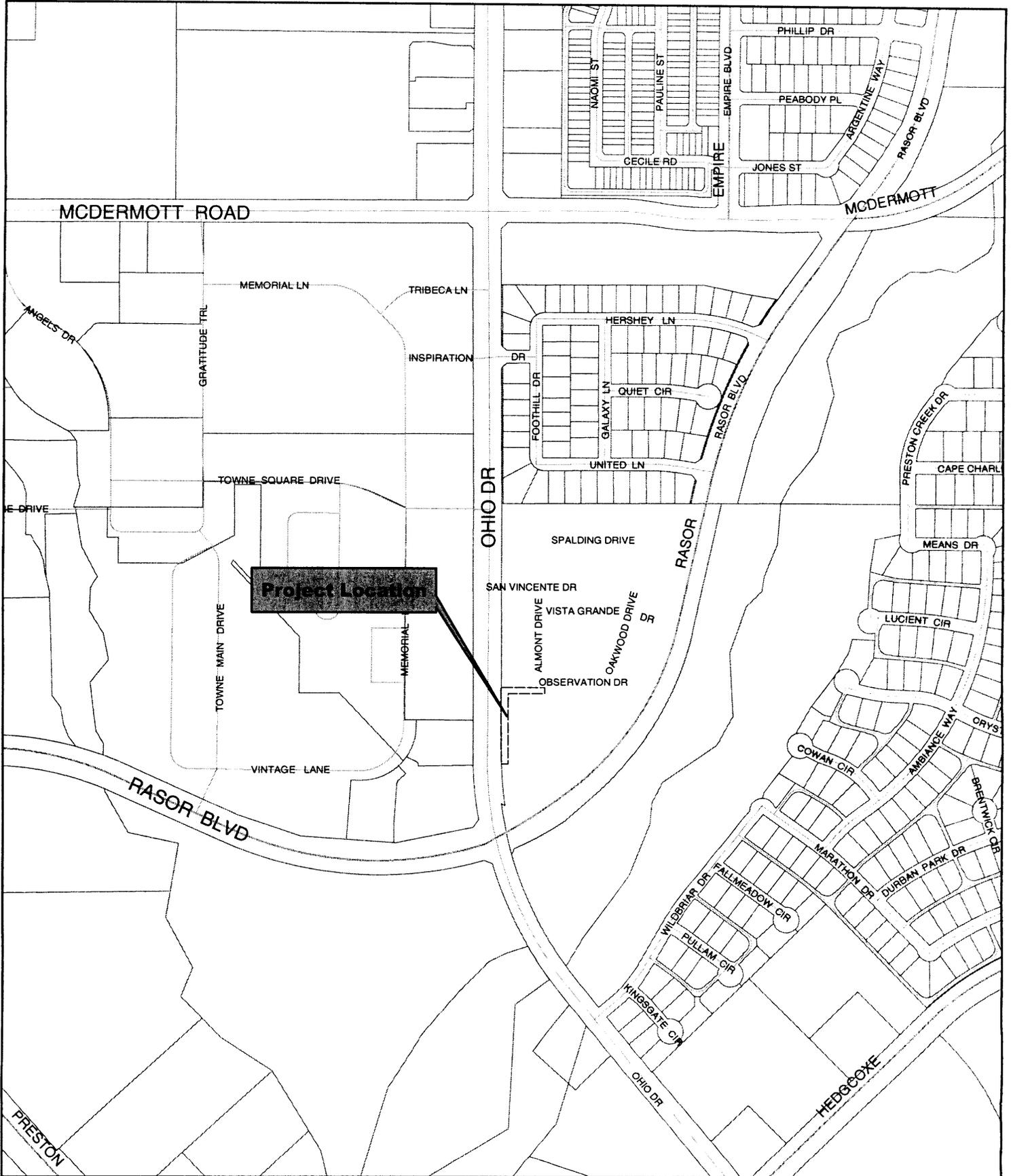




**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>					
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory					
Council Meeting Date:		2/13/12			
Department:		Public Works			
Department Head		Gerald Cosgrove			
Agenda Coordinator (include phone #):		Irene Pegues (X-7152)		Proj. #6135	
<b>CAPTION</b>					
<p>An ordinance of the City of Plano, Texas, abandoning all right, title and interest of the City, in that certain 15-foot wide Sanitary Sewer Easement recorded in Instrument No. 20111026001150700, Official Public Records of Collin County, Texas, and being situated in the Collin County School Survey, Abstract No. 153, which is located within the city limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such easement to the abutting property owner, Florida Etoile, Inc., to the extent of its interest; authorizing the City Manager or his authorized designee, to execute any documents deemed necessary; and providing an effective date.</p>					
<b>FINANCIAL SUMMARY</b>					
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	<b>2011-2012</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget		0	0	0	0
Encumbered/Expended Amount		0	0	0	0
This Item		0	0	0	0
<b>BALANCE</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
FUND(S):    N/A					
<b>COMMENTS:</b> This item has no fiscal impact.					
<b>STRATEGIC PLAN GOAL:</b> Abandoning all right, title and interest of the City to the easement relates to the City's Goal of Financially Strong City with Service Excellence.					
<b>SUMMARY OF ITEM</b>					
<p>This easement is abandoned and replaced by a new 15' Sanitary Sewer Easement recorded in Instrument No. 20120120000069400, Official Public Records of Collin County, Texas, to avoid conflict with existing Oncor power poles and guy wires.</p>					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
Location Map			N/A		

# Easement Abandonment Project # 6135



**Location Map**

**An ordinance of the City of Plano, Texas, abandoning all right, title and interest of the City, in that certain 15-foot wide Sanitary Sewer Easement recorded in Instrument No. 20111026001150700, Official Public Records of Collin County, Texas, and being situated in the Collin County School Survey, Abstract No. 153, which is located within the city limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such easement to the abutting property owner, Florida Etoile, Inc., to the extent of its interest; authorizing the City Manager or his authorized designee, to execute any documents deemed necessary; and providing an effective date.**

**WHEREAS**, the City Council of the City of Plano has been requested to abandon all right, title and interest of the City in that certain 15-foot wide Sanitary Sewer Easement recorded in Instrument No. 20111026001150700, Official Public Records of Collin County, Texas (hereinafter called "Easement") being situated in the Collin County School Land Survey, Abstract No. 153, which is located within the city limits of Plano, Collin County, Texas, and which is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference; and

**WHEREAS**, the Property Owner has filed with the City a Petition for Abandonment, a copy of which is attached hereto as Exhibit "B" and made a part hereof by reference; and

**WHEREAS**, the Public Works Department has determined that there will be no detrimental effect on the City if the Easement is abandoned and quitclaimed to the abutting Property Owner; and has advised that the Easement should be abandoned;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** All the right, title and interest of the City of Plano, Texas, in and to the Easement is hereby abandoned, and all right, title and interest of the City in and to the Easement is hereby quitclaimed to the abutting Property Owner in accordance with its respective interest. A certified copy of this Ordinance may be recorded in the Collin County Land Records to reflect this abandonment and quitclaim. The City Manager or his authorized designee, is hereby authorized to execute on behalf of the City of Plano, Texas, any instruments necessary to complete the abandonment and quitclaim of the Easement by the City of Plano.

**Section II.** The abandonment and quitclaim is without prejudice to any and all improvements, facilities, equipment or lines of any public utility, municipal or otherwise, if any, which are presently located within any portion of the Easement. Any such utility shall have the continued right to locate, maintain, repair, reconstruct, preserve or relocate improvements, facilities, equipment or lines in such portion of the Easement.

**Section III.** The City Council hereby finds and determines that the abandonment of the Easement is in the public interest of the City of Plano, Texas, and its citizens, and will inure to the benefit of the public generally.

**Section IV.** This Ordinance shall become effective immediately upon its passage as set forth below.

**DULY PASSED AND APPROVED** this the 13<sup>th</sup> day of February, 2012.

\_\_\_\_\_  
Phil Dyer, MAYOR

ATTEST:

\_\_\_\_\_  
Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY

**15' SANITARY SEWER EASEMENT DESCRIPTION**

BEING a 0.154 acre tract or parcel of land situated in the Collin County School Land Survey, Abstract No. 153 in the City of Plano, Collin County, Texas and being a portion of that certain 14.929 acre tract conveyed to Florida Etoile, Inc. by deed recorded in Volume 5670, Page 2509 of the Deed Records of Collin County, Texas, said 0.154 acre tract being more particularly described by metes and bounds as follows:

COMMENCING at a 1/2 inch iron rod with red plastic cap stamped "WAI" set for corner at the intersection of the east right-of-way line of Ohio Drive (variable width R.O.W.) and the Northwesterly right-of-way line of Rasor Boulevard (variable width R.O.W.), said iron rod being the northwesterly end of a corner clip at said intersection and the beginning of a non-tangent curve to the right having a radius of 1345.00 feet, a central angle of 07 deg 34 min 07 sec, and a chord which bears North 03 deg 26 min 07 sec West, 177.54 feet;

THENCE departing said corner clip and along the East right-of-way line of said Ohio Drive and said non-tangent curve to the right, an arc distance of 177.67 feet to the POINT OF BEGINNING, said point also being the beginning of a curve to the right having a radius of 1,345.00 feet, a central angle of 00 deg 27 min 05 sec, a chord bearing of North 00 deg 34 min 29 sec East, and a chord length of 10.60 feet;

THENCE continuing along the East right-of-way line of said Ohio Drive and said curve to the right, an arc distance of 10.60 feet to a 5/8-inch iron rod with a plastic cap stamped "JDJR" found for corner;

THENCE North 00 deg 48 min 02 sec East, continuing along the east line of said Ohio Drive, a distance of 281.81 feet to a point for corner;

THENCE South 89 deg 23 min 12 sec East, departing the east right-of-way line of said Ohio Drive, a distance of 170.16 feet to a point for corner;

THENCE South 00 deg 36 min 48 sec West, a distance of 15.00 feet to a point for corner;

THENCE North 89 deg 23 min 12 sec West, a distance of 155.21 feet to a point for corner;

THENCE South 00 deg 48 min 02 sec West, a distance of 266.86 feet to a point for corner and the beginning of a curve to the left having a radius of 1330.00 feet and a chord which bears South 00 deg 34 min 23 sec West, 10.56 feet;

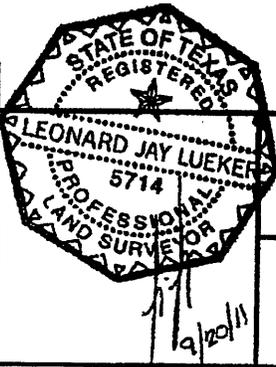
THENCE along said curve to the left, an arc distance of 10.56 feet through a central angle of 00 deg 27 min 18 sec to a point for corner;

THENCE North 89 deg 19 min 54 sec West, a distance of 15.00 feet to the POINT OF BEGINNING.

CONTAINING within these metes and bounds 0.154 acres or 6,714 square feet of land more or less.

Bearings contained herein are based upon an on the ground survey performed in the field on the 14th day of February, 2011 utilizing a GPS measurement of S89°21'37"E (WGS84) (plat S89°51'27"E, along the southerly line of Regency Park Addition, an addition to the City of Plano according to the plat thereof recorded in Cabinet 2006, Page 402, Plat Records, Collin County, Texas).

	<b>Winkelmann &amp; Associates, Inc.</b>
	<small>CONSULTING CIVIL ENGINEERS ■ SURVEYORS 6738 MILLCREST PLAZA DRIVE, SUITE 323 DALLAS, TEXAS 75230 Texas Engineers Registration No. 82 Texas Surveyors No. 100895-00 COPYRIGHT © 2010, Winkelmann &amp; Associates, Inc.</small>
Scale : N/A	
Date : 04.18.2011	
Dwg. File : ESMT-EXHIBITS	
Project No. : 59002	



<b>EXHIBIT A</b> <b>15' SANITARY SEWER EASEMENT</b> <b>0.154 ACRES</b>
<b>HSM DEVELOPMENT</b> <b>5001 SPRING VALLEY ROAD,</b> <b>SUITE 1100-W</b> <b>DALLAS, TX 75244</b>

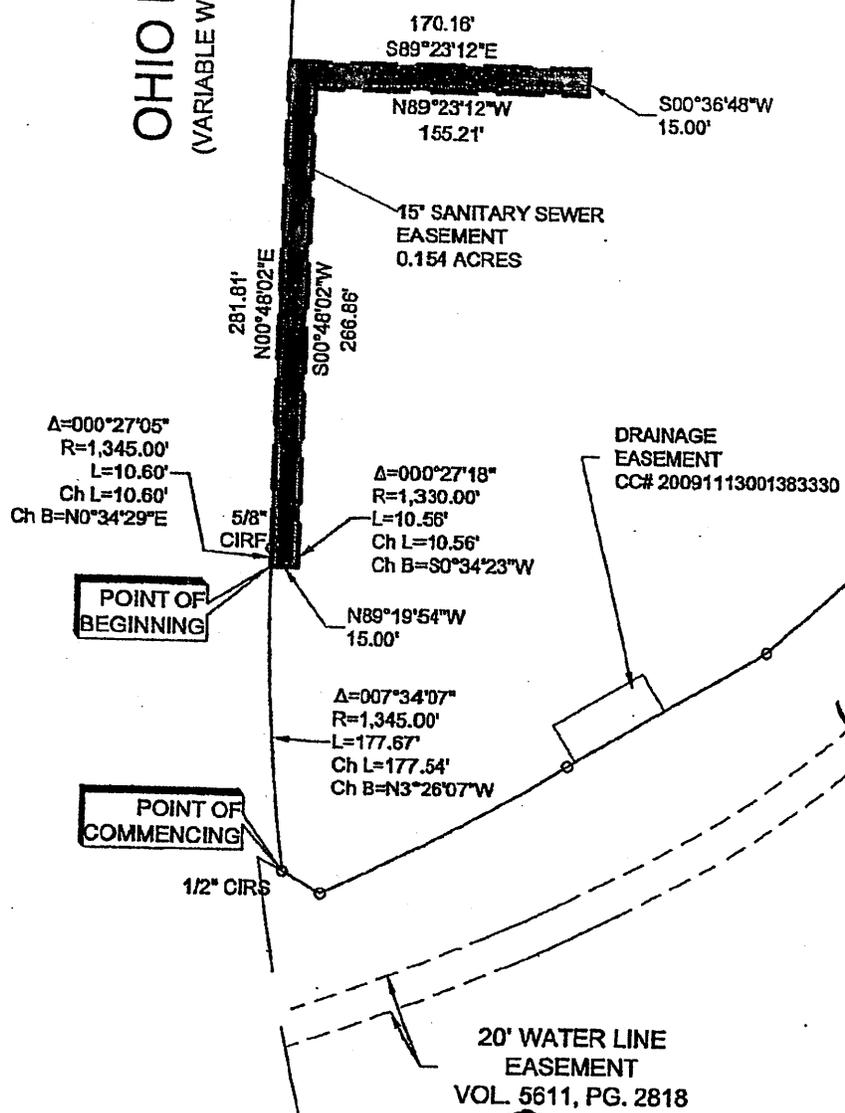
SHEET <b>1</b> OF <b>2</b>
-------------------------------------

14.929 ACRES  
 (650,323 SQ. FT.)  
 PORTION OF FLORIDA ETOILE,  
 INC. TRACT  
 VOL. 5670, PG. 2509

OHIO DRIVE  
 (VARIABLE WIDTH R.O.W.)

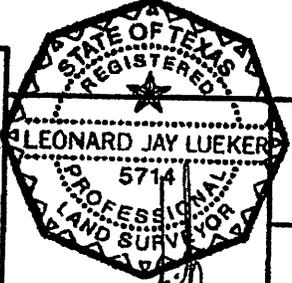
RASOR BLVD.  
 (variable width R.O.W.)

CITY OF PLANO, TEXAS  
 VOL. 5843, PG. 3243



POINT OF BEGINNING

POINT OF COMMENCING



**Winkelmann & Associates, Inc.**  
 CONSULTING CIVIL ENGINEERS SURVEYORS  
 6750 MILLCREST PLAZA DRIVE, SUITE 315 DALLAS, TEXAS 75230  
 Texas Engineers Registration No. 89  
 Texas Surveyors No. 100686-00  
 COPYRIGHT © 2010, Winkelmann & Associates, Inc.

Scale : 1" = 100'  
 Date : 04.18.2011  
 Dwg. File : ESMT-EXHIBITS  
 Project No. : 59002

EXHIBIT A  
 15' SANITARY SEWER EASEMENT  
 0.154 ACRES

HSM DEVELOPMENT  
 5001 SPRING VALLEY ROAD,  
 SUITE 1100-W  
 DALLAS, TX 75244

SHEET  
**2**  
 OF  
**2**

## EXHIBIT "B"

### PETITION FOR ABANDONMENT

[For Easement Abandonment]

We, the undersigned, (hereinafter "Owners"), being all of the owners of real property abutting Florida Etoile, Inc. hereinafter called "Easement"), more particularly described by metes and bounds in the field note description attached hereto and incorporated herein as Exhibit "A-1" do hereby request that the City of Plano, Texas (called "City") abandon the Easement.

1. The Owners are requesting the abandonment of the Easement for the following reasons:  
**The easement needs to be relocated approximately 10' east of the existing easement to avoid any conflicts with an existing Oncor power pole and guy wire.**
2. The following public interest will be served as a result of the abandonment:  
**The proposed relocation of the sanitary sewer easement will allow for there to be no conflicts with the existing Oncor power pole and guy wire.**
3. Unless the City determines that this abandonment is exempt from payment of fair market value, the Owners agree to pay to the City the fair market value of the Easement as determined by an appraisal obtained by the City (called "Price"). The appraisal shall be conclusive as to the fair market value. The Owners shall reimburse the City for the cost of the appraisal and other costs incident to the abandonment (called "Costs"). The Price and Costs shall be paid to the City prior to the abandonment. Should the Plano City Council decide not to abandon the Easement, the Price shall be returned to the Owners, but the Costs shall be retained by the City. Each Owner's share of the Price and Costs shall be in the same proportion as their abutting ownership as hereinafter defined.
4. If the Owners are providing a replacement easement for the Easement requested to be abandoned herein, Owners will attach a metes and bounds description or plat identifying the replacement easement and attach same to this Petition as Exhibit "B-1".
5. The Owners hereby represent and affirm to the City that no other property owner, lessee, tenant or easement or license holder uses the Easement to access or to serve their property.
6. The Owners further agree to release, defend, indemnify and hold the City, its officers, agents and employees harmless from and against any and all claims, losses, demands, suits, judgments and costs, including reasonable and necessary attorney's fees and expenses, arising out of, related to or resulting from the abandonment of the Easement by City.

7. The Owners understand and agree that the abandonment is in the sole discretion of the Plano City Council. The Owners also understand and agree that the Easement will be abandoned to them in proportion to their abutting ownership. The abutting ownership will be determined by the number of linear feet of frontage adjacent to the Easement owned by each property owner. Based on the foregoing, the Owners hereby represent and affirm that they have searched the public land records and determined that the abutting ownership is in the following proportions:  
**100% of the easement abandonment will be to Florida Etoile, Inc.**
8. Owners shall also prepare a map or drawing showing the Easement to be abandoned along with a designation of all abutting property owners. This map or drawing shall be attached hereto and incorporated herein as **Exhibit "C-1"**.
9. Owners shall also prepare a separate field note description for each portion of the Easement to be released to each abutting property owner. This description shall be attached hereto and incorporated herein as **Exhibit "D-1"**.  
**Exhibit "D-1" is not applicable since 100% of the easement abandonment will be to Florida Etoile, Inc.**

[Remainder of page blank]

10. The undersigned officers and/or agents of the Owners hereby represent and affirm that they have the necessary authority to execute this Petition for Abandonment on behalf of the Owners.

Pablo Flaifel  
Name of Owner

13876 SW 56 ST #292  
Address

Miami, FL 33175  
City, State and Zip

Dated: 1/5/12

Pablo Flaifel  
Signature of Owner

**Contact Person for Property Owners:**

Name:

Pablo Flaifel

Phone No:

(305) 213-5195

---

**FOR DEPARTMENTAL USE ONLY**

The Easement to be abandoned is to one or more abutting property owners and is exempt from the requirement that fair market value be paid for the following reason(s):

- The Easement consists of narrow strips of land, or land that because of its shape, lack of access to public roads, or small area cannot be used independently under its current zoning or under applicable subdivision or other development code ordinances;
- The Easement consists of streets or alleys, owned in fee or used by easement;
- The Easement consists of land or a real property interest originally acquired for streets, rights-of-way, or easements that the City of Plano has decided to exchange with Owner for other land to be dedicated and used for streets, rights of way, easements, or other public purposes, including transactions partly for cash;
- The Easement contains land that the City wants to have developed by an independent foundation;
- The Easement is located within a reinvestment zone designated by law that the City desires to have developed under a project plan adopted by the municipality for the zone.

  
\_\_\_\_\_  
Public Works Department  
City of Plano, Texas