



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		May 29, 2012		
Department:		Office of Policy and Government Relations		
Department Head		Mark Israelson		
Agenda Coordinator (include phone #): Nancy Rodriguez X7510				
CAPTION				
<p>A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of a Public Right-of-Way Use Agreement by and between the City of Plano, Texas and HP Enterprise Services, LLC, a Delaware limited liability company, to locate, place, attach, install, operate, and maintain a 2' x 3' concrete duct bank consisting of six (6) electrical conduits in certain specific portions of the public rights-of-way in the City of Plano; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.</p>				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input checked="" type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	2011-12 thru 2021-22	Prior Year (CIP Only)	Current Year	Future Years
		TOTALS		
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	13,342	0	13,342
BALANCE	0	13,342	0	13,342
FUND(S): GENERAL FUND				
<p>COMMENTS: Approval of this item will result in additional revenue in the amount of \$13,342 for the entire term of this 10-year Agreement.</p> <p>STRATEGIC PLANO GOAL: Approval of this Public Right-of-Way Agreement relates to the City's Goals of Financially Strong City with Service Excellence and Partnering for Community Benefit.</p>				
SUMMARY OF ITEM				
<p>This Resolution enters into another ten (10) year Public Right-of-Way Use Agreement with HP Enterprise Services, LLC. The previous agreement was with Electronic Data Systems.</p>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	

A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of a Public Right-of-Way Use Agreement by and between the City of Plano, Texas and HP Enterprise Services, LLC, a Delaware limited liability company, to locate, place, attach, install, operate, and maintain a 2' x 3' concrete duct bank consisting of six (6) electrical conduits in certain specific portions of the public rights-of-way in the City of Plano; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.

WHEREAS, the City Council has been presented a proposed Public Right-of-Way Use Agreement by and between the City of Plano, Texas and HP Enterprise Services, LLC, (hereinafter called "Agreement"), a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference; and

WHEREAS, upon full review and consideration of the Agreement and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager or his authorized designee should be authorized to execute the Agreement on behalf of the City of Plano.

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

Section I. The terms and conditions of the Agreement, having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interests of the City of Plano and its citizens, are hereby in all things approved.

Section II. The City Manager or his authorized designee is hereby authorized to execute the Agreement and all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Agreement.

Section III. This Resolution shall become effective immediately upon its passage.

DULY PASSED AND APPROVED on this the 29th day of May, 2012.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

Exhibit "A"

PUBLIC RIGHT-OF-WAY USE AGREEMENT

This Agreement is made this the _____ day of _____, 2012, by and between the **City of Plano, Texas** ("City"), a Texas home rule municipal corporation, and **HP ENTERPRISE SERVICES, LLC**, a limited liability company duly organized and existing under the laws of the State of Delaware ("Company").

RECITALS:

WHEREAS, Company desires to locate, place, attach, install, operate and maintain, subject to the terms of this Public Right-of-Way Use Agreement, a 2' x 3' concrete duct bank consisting of six (6) electrical conduits (hereinafter called "Structure") under Windcrest Parkway located in Plano, Collin County, Texas, as shown on the attached Exhibit "A," for the purpose of extending an existing concrete duct bank and electrical conduits used to supply electricity to Company; and

NOW, THEREFORE, the City and Company agree as follows:

1. Definitions.

Capitalized terms used in this Agreement and not otherwise defined within this Agreement shall have the following meanings:

- (a) *Affiliate* shall mean any individual, partnership, association, joint stock company, limited liability company, trust, corporation, or other person or entity who owns or controls, or is owned or controlled by, or is under common ownership or control with, the entity in question.
- (b) *Company* shall mean HP Enterprise Services, LLC, a limited liability company duly organized and existing under the laws of the State of Delaware, only and shall not include any Affiliate or third party.
- (c) *City* shall mean the area within the corporate limits of the City of Plano, Texas, and the governing and administrative body thereof.
- (d) *Effective Date* shall mean the date of execution by the City.
- (e) *Person* shall mean an individual, corporation, a limited liability company, a general or limited partnership, a sole proprietorship, a joint venture, a business trust or any other form or business entity or association.
- (f) *Public Rights-of-Way* shall mean only those portions of the public rights-of-way and street crossings in the City identified in Exhibit "A" of this Agreement, which is attached hereto and hereby made a part of this Agreement for all purposes.

- (g) *Structure* shall mean Company's 2' x 3' concrete duct bank consisting of 6 electrical conduits located under Windcrest Parkway in Plano, Collin County, Texas.

2. **Grant of Rights.**

2.1 **General Use of Public Rights-of-Way.**

Subject to the terms and conditions set forth in this Agreement, the City Charter, and the ordinances of the City, the City hereby grants Company a non-exclusive license to locate, place, attach, install, operate and maintain its Structure in the Public Rights-of-Way, as defined in Section 1 hereof. Company hereby acknowledges and agrees that the location, attachment, installation, operation, maintenance, removal, reattachment, reinstallation, relocation and/or replacement of Structure or any other structure or equipment constitutes an actual use of the Public Rights-of-Way, that the City has the right to manage and regulate the use of such Public Rights-of-Way, and that the City is entitled to recover reasonable compensation from Company on account of such use of the Public Rights-of-Way.

Both the City and Company ("Parties") hereby acknowledge and agree that this Agreement addresses only the use of the Public Rights-of-Way by Company to locate, place, attach, install, operate and maintain its Structure and does not grant Company or any Affiliate or contractor of the Company the use of the Public Rights-of-Way for any other reason. If Company, an Affiliate of Company, or any assignee, successor in interest or contractor of Company contends that Company, an Affiliate of Company, or any assignee, successor in interest or contractor of Company wishes to construct and/or install additional facilities in any of the City's public rights-of-way other than the Public Rights-of-Way defined in Section 1, Company shall first notify the City in writing and shall obtain a written permit or agreement for the use of the Public Rights-of-Way in that respect.

2.2 **Scope.** Any and all rights granted to Company under this Agreement, which shall be exercised at Company's sole cost and expense, shall be subject and subordinate to the prior and continuing right of City, its successors and assigns, to use any and all parts of the Public Rights-of-Way exclusively or concurrently with any other Person or Persons having the legal right to use such Public Rights-of-Way. In addition, any and all rights granted to Company under this Agreement shall be subject to all deeds, easements, dedications, conditions, covenants, restrictions, encumbrances, and claims of title of record that may affect the Public Rights-of-Way. Nothing in this Agreement shall be deemed to grant, convey, create, or vest in Company a real property interest in land, including, but not limited to, any fee, leasehold interest, or easement. Any work performed by or on behalf of Company shall be subject to the prior and customary review and regulation by the City. Company shall not allow any liens, including, but not limited to, mechanic's or materialman's liens, to be enforced against City's premises by reason of any such work.

2.3 Non-exclusive. This Agreement and all rights granted to Company herein are strictly non-exclusive. The City reserves the right to grant other and future agreements, consents and franchises for the use of public rights-of-way in the City, including the Public Rights-of-Way used by Company pursuant to this Agreement, to other Persons as the City deems appropriate. This Agreement does not establish any priority for the use of the Public Rights-of-Way by Company or by any present or future franchisees, users or other permit holders. In the event of any dispute as to the priority of use of the Public Rights-of-Way, the first priority shall be to the public generally, the second priority to the City in the performance of its various functions, and thereafter, as between franchisees, users and other permit holders, as determined by the City in the exercise of its powers, including the police power and other powers reserved to and conferred on it by the State of Texas.

2.4 Other Permits. This Agreement does not relieve Company of any obligation to obtain permits, licenses, and other approvals from the City necessary for the construction, repair, or maintenance of the Structure.

3. Term.

This License shall continue in force for a period of ten (10) years from the Effective Date and may thereafter be renewed for such time and upon such terms as the parties may then agree. If any law or agency rule or regulation is adopted that affects the City's ability or right to manage the Public Rights-of-Way, Company agrees to meet with the City and to negotiate with diligence and in good faith an agreement or amendment to this Agreement that reasonably resolves the City's and Company's concerns regarding such law or agency rule or regulation.

4. Fees and Payments.

4.1 Public Right-of-Way Use Fee. On the Effective Date, Company shall pay the City as compensation for its use of the Public Rights-of-Way for the entire term of this Agreement, the sum of Thirteen Thousand Three Hundred Forty Two Dollars (\$13,342.00), which represents an annual payment of (i) ONE DOLLAR AND FIFTY CENTS (\$1.50) per linear foot of the Public Rights-of-Way plus (ii) ONE THOUSAND DOLLARS (\$1,000.00) per public street crossing for a term of ten (10) years. Company hereby acknowledges and agrees that the amount of this Right-of-Way Use Fee constitutes just and reasonable compensation to the City for Company's use of the Public Rights-of-Way as provided by this Agreement.

4.2 Other Payments. In addition to the Right-of-Way Use Fees, Company shall pay the City all sums that may be due the City for property taxes, license fees, permit fees, or other taxes, charges or fees that the City may from time to time impose.

4.3 Interest. All sums due the City under this Agreement that are not paid when due shall bear interest at the rate of ten percent (10%) per annum, computed monthly.

4.4 Company acknowledges that it understands that this Agreement and the fee charged in Section 4.1 above relate only to the Public Rights-of-Way specifically identified in Exhibit "A." Additional portions of the public rights-of-way and/or street crossings shall require a new license and an additional fee.

5. **Use of Public Rights-of-Way**

5.1 **Construction and Maintenance.** In all matters relating to this Agreement, Company shall comply with the City of Plano Right-of-Way Management Ordinance, as adopted by Ordinance No. 2001-3-20 and as amended from time to time, and all other pertinent laws, rules, and regulations of the City and the State of Texas. Approval by City of this Agreement shall not constitute a warranty by City that Company's plans conform with federal, state and/or local codes and regulations applicable thereto. Company shall comply with all laws or ordinances of the City of Plano, including, but not limited to, those relating to building and excavation permits.

5.2 **Work by Others; Alterations Required if Needed to Conform with Public Improvements.** The City reserves the right, subject to further conditions described in this paragraph, to lay and permit to be laid sanitary sewer, gas, water, electric, telephone and television cable and other pipelines or cables and conduits and to do and permit to be done any underground and overhead installation that may be deemed necessary or proper by the governing body of the City in, across, along, over or under any of Company's Public Rights-of-Way and to change any curb or sidewalk or the grade of any street. In permitting such work to be done, the City shall not be liable to Company, except to the extent provided under the Texas Tort Claims Act. Nothing herein shall relieve any other person or corporation from any liability for damage to the facilities or the Structure.

5.3 **Testing.** Company shall cooperate with City in making any test or tests it requires of any installation or condition that, in its reasonable judgment, may have adverse effects on any of the facilities of the City. All costs incurred by the test(s), or any corrections thereof, shall be borne by Company.

5.4 **Location, Use or Purpose Changes.** No change in the location, use or purpose of the Public Rights-of-Way shall be made by Company without City's written approval.

6. **Miscellaneous Obligations of Company.**

6.1 **Removal of Structure.** Upon the termination or expiration of this Agreement, Company's right to use Public Rights-of-Way under this Agreement shall cease and Company shall immediately discontinue use of the Structure. Within six (6) months following such termination or expiration and in accordance with directions from the City, Company shall remove the Structure, including, but not limited to, all supporting structures, poles, transmission and distribution Structures and other appurtenances, fixtures or property from the Public Rights-of-Way. If Company has not

removed all Structure facilities and equipment from the Public Rights-of-Way within six (6) months following termination or expiration of this Agreement, the City may deem all of the Company's Structure facilities and equipment remaining in the Public Rights-of-Way abandoned and, at the City's sole but reasonable discretion, (i) take possession of and title to such property; and/or (ii) take any and all legal action necessary to compel Company to remove such property.

Within six (6) months following termination or expiration of this Agreement, Company shall also restore any property, public or private, that is disturbed or damaged by removal of the Structure. If Company has not restored all such property within this time, the City, at the City's sole but reasonable discretion, may perform or have performed any necessary restoration work, in which case Company shall, within 10 days following receipt of an itemized invoice, reimburse the City for any and all costs incurred in performing or having performed such restoration work.

7. Indemnification and Insurance.

7.1 Disclaimer of Liability. EXCEPT TO THE EXTENT PROVIDED BY THE TEXAS TORT CLAIMS ACT, THE CITY SHALL NOT AT ANY TIME BE LIABLE FOR ANY INJURY OR DAMAGE OCCURRING TO ANY PERSON OR PROPERTY FROM ANY CAUSE WHATSOEVER THAT ARISES OUT OF THE ATTACHEMENT, INSTALLATION, OPERATION, MAINTENANCE, REMOVAL, REATTACHMENT, REINSTALLATION, RELOCATION AND/OR REPLACEMENT OF THE STRUCTURE OR THE CONSTRUCTION, MAINTENANCE, REPAIR, USE, OPERATION, CONDITION OR DISMANTLING OF THE STRUCTURE.

7.2 Indemnification. COMPANY SHALL PROVIDE TO THE CITY THE INDEMNIFICATION SET OUT IN THE CITY'S RIGHT-OF-WAY MANAGEMENT ORDINANCE, ORDINANCE NO. 2001-3-20, AS AMENDED. COMPANY FURTHER RELEASES AND INDEMNIFIES THE CITY FROM AND AGAINST ANY AND ALL LIABILITY, COST AND EXPENSE, INCLUDING ATTORNEY'S FEES FOR LOSS OF OR DAMAGE TO THE CITY'S PROPERTY AND FOR INJURY TO OR DEATH OF PERSONS (INCLUDING, BUT NOT LIMITED TO, THE PROPERTY AND EMPLOYEES OF EACH OF THE PARTIES HERETO) ARISING OR RESULTING FROM A BREACH OF THIS AGREEMENT BY COMPANY, WHETHER OR NOT CAUSED OR CONTRIBUTED TO BY ANY ACT OR OMISSION, NEGLIGENCE OR OTHERWISE, OF ANY EMPLOYEE OR AGENT OF CITY.

7.3 Assumption of Risk. COMPANY HEREBY UNDERTAKES AND ASSUMES, FOR AND ON BEHALF OF COMPANY, ITS OFFICERS, AGENTS, CONTRACTORS, SUBCONTRACTORS, AGENTS AND EMPLOYEES, ALL RISK OF DANGEROUS CONDITIONS, IF ANY, ON OR ABOUT ANY CITY-OWNED OR CITY-CONTROLLED PROPERTY OR FACILITIES, INCLUDING, BUT NOT LIMITED TO, THE PUBLIC RIGHTS-OF-WAY. IN ADDITION, COMPANY HEREBY AGREES TO AND SHALL INDEMNIFY AND HOLD HARMLESS THE CITY AGAINST AND FROM ANY CLAIM ASSERTED OR LIABILITY IMPOSED UPON THE CITY FOR ANY

PERSONAL INJURY OR PROPERTY DAMAGES INCURRED OR ASSERTED BY COMPANY OR ANY OF ITS EMPLOYEES, AGENTS, CONTRACTORS OR SUBCONTRACTORS, AND ARISING FROM THE ATTACHMENT, INSTALLATION, OPERATION, MAINTENANCE, CONDITION, REMOVAL, REATTACHMENT, REINSTALLATION, RELOCATION AND/OR REPLACEMENT OF THE STRUCTURE.

7.4 Insurance. Company shall comply with the insurance requirements set out in the City's Right-of-Way Management Ordinance, Ordinance No. 2001-3-20, as amended.

8. **Termination**. This Agreement shall terminate:

- A. at the end of the term provided for in Section 3 above;
- B. upon abandonment of the Public Rights-of-Way or discontinuance of use thereof;
- C. upon failure of Company to correct any default under this Agreement after expiration of the applicable cure period as set out in Section 9 and 10 below.

9. **Defaults**.

The occurrence at any time during the term of this Agreement of one or more of the following events shall constitute an "Event of Default" under this Agreement:

9.1 Failure to Pay Right-of-Way Use Fees. An Event of Default shall occur if Company fails to pay any Right-of-Way Use Fee on or before the respective due date.

9.2 Breach. An Event of Default shall occur if Company materially breaches or violates any of the terms, covenants, representations, or warranties set forth in this Agreement or fails to perform any duty or obligation required by this Agreement.

9.3 Violations of the Law. An Event of Default shall occur if Company violates any existing or future federal, state or local laws or any existing or future ordinances, rules and regulations of the City; provided, however, that no Event of Default shall be deemed to occur or exist during the pendency of any legal action which the City or Company may initiate against the other under or in connection with such law, ordinance, rule or regulation.

10. **Uncured Defaults and Remedies**.

10.1 Notice of Default and Opportunity to Cure. If an Event of Default occurs, the City shall provide Company with written notice and shall give Company the opportunity to cure such Event of Default. For an Event of Default which can be cured by the immediate payment of money to the City, Company shall have thirty (30) calendar days from the date it receives written notice from the City to cure the Event of

Default. For any other Event of Default, Company shall have sixty (60) calendar days from the date it receives written notice from the City to cure the Event of Default. If any Event of Default is not cured within the time period specified herein, such Event of Default shall, without further notice from the City, become an "Uncured Default" and the City immediately may exercise the remedies provided in Section 10.2.

10.2 Remedies for Uncured Defaults. Upon the occurrence of an Uncured Default, the City shall be entitled to exercise, at the same time or at different times, any of the following remedies, all of which shall be cumulative and without limitation to any other rights or remedies the City may have:

10.2.1 Termination of Agreement. Upon the occurrence of an Uncured Default, the City may terminate this Agreement immediately upon written notice to Company. Upon such termination, Company shall forfeit all rights granted to it under this Agreement, and, except as to Company's unperformed obligations and existing liabilities as of the date of termination, this Agreement shall automatically be deemed null and void and shall have not further force or effect. Company shall remain obligated to pay, and the City shall retain any, Right-of-Way Use Fees and any other payments due up to the date of termination. In this event, Company shall comply with the provisions of Section 6.1 of this Agreement. The City's right to terminate this Agreement under this Section does not and shall not be construed to constitute any limitation on the City's right to terminate this Agreement for other reasons as provided by and in accordance with this Agreement.

10.2.2. Legal Action Against Company. Upon the occurrence of an Uncured Default, the City may commence against Company an action at law for monetary damages or in equity for injunctive relief or specific performance of any of the provisions of this Agreement that, as a matter of equity, are specifically enforceable.

11. **Assignment of Agreement.**

The rights granted by this Agreement inure to the benefit of Company. Except to an Affiliate of the Company, Company shall not (i) assign, transfer, sell, or otherwise convey any of its rights, privileges, duties or interests as granted to Company by this Agreement; or (ii) lease to any Person or allow use by any Person other than Company all or any portion of its Structure unless (i) Company first notifies the City in writing; (ii) Company obtains the City's advance written consent, which consent shall not unreasonably be withheld; and (iii) such Person enters into a written agreement with the City relating to that Person's use of the Public Rights-of-Way, including terms for any compensation that the City may charge for such use. In the event Company assigns or transfers the Agreement to an Affiliate of Company, Company shall provide City with written notice thereof.

12. **Notices.**

12.1 All notices that shall or may be given pursuant to this Agreement shall be in writing and delivered or transmitted (a) through the United States mail, by registered or certified mail, postage prepaid; (b) by means of prepaid overnight delivery service; or (c) by facsimile transmission, if a hard copy of the same is followed by delivery through the U.S. mail or by overnight delivery service as just described, addressed as follows:

If to the City:

City of Plano

Attn: Franchised Utilities
P.O. Box 860358
1520 Avenue K, Suite 240
Plano, TX 75086-0358
Fax Number (972) 461-9332

With a copy to:

City of Plano

Attn: City Attorney
P.O. Box 860358
1520 Avenue K, Suite 340
Plano, TX 75086-0358
Fax Number (972) 424-0099

If to Company:

HP Enterprise Services, LLC

c/o MacMunnis, Inc.
1840 Oak Ave., Suite 300
Evanston, IL 60201
Fax Number (847) 316-1101

With a copy to:

HP Enterprise Services, LLC

Attn: Mary Ellen Lemm
Office of General Counsel/Real Estate
5400 Legacy Drive
MS: H4-1H-13
Plano, TX 75024-3105
Fax Number (972) 605-5616

12.2 Date of Notices; Changing Notice Address. Notices shall be deemed given three (3) days after deposit in the mail; or the next day in the case of facsimile, or overnight delivery. Either party may from time to time designate any other address for this purpose by written notice to the other party delivered in the manner set forth above.

13. **No Waiver.**

The failure of the City to insist upon the performance of any term or provision of this Agreement or to exercise any rights that the City may have, either under this Agreement or the law, shall not constitute a waiver of the City's right to insist upon appropriate performance or to assert any such right on any future occasion.

14. **Miscellaneous Provisions.**

14.1 **Amendment of Agreement.** This Agreement may not be amended except pursuant to a written instrument signed by both parties.

14.2 **Severability of Provisions.** If any one or more of the Provisions of this Agreement shall be held by court of competent jurisdiction in a final judicial action to be void, voidable, or unenforceable, such Provision(s) shall be deemed severable from the remaining Provision(s) of this Use Agreement and shall not affect the legality, validity, or constitutionality of the remaining portions of this Agreement.

14.3 **Governing Law; Jurisdiction.** This Agreement shall be governed and construed by and in accordance with the laws of the State of Texas, without reference to its conflicts of law principles. If suit is brought by a party to this Agreement, the parties agree that venue for the trial of such action shall be vested exclusively in the state courts of Texas, County of Collin, or in the United States District Court for the Eastern District of Texas.

14.4 **Consent Criteria.** In any case where the approval or consent of one party hereto is required, requested or otherwise to be given under this Agreement, such party shall not unreasonably delay or withhold consent.

14.5 **Waiver of Breach.** The waiver by either party of any breach or violation of any Provision of this Agreement shall not be deemed to be a waiver or a continuing waiver of any subsequent breach or violation of the same or any other Provision of this Agreement.

14.6 **Representations and Warranties.** Each of the parties to this Agreement represent and warrant that at the time of signing of this Agreement it has the full right, power, legal capacity, and authority to enter into and perform the parties' respective obligations hereunder and that such obligations shall be binding upon such party without the requirement of the approval or consent of any other person or entity in connection herewith.

14.7 **Entire Agreement.** This Agreement contains the entire understanding between the parties with respect to the subject matter herein. There are no representations, agreements, or understandings (whether oral or written) between or among the parties relating to the subject matter of this Agreement which are not fully expressed herein.

14.8 No Third Party Beneficiaries. This Agreement is for the benefit of Company, any transferee or assignee in accordance with the provisions contained herein, and the City, and not for the benefit of any third party. No Provision of this Agreement shall be construed as creating any third party beneficiaries.

14.9 Force Majeure. City and Company shall not be required to perform any covenant or obligation in this Agreement, nor be liable to the other in damages, so long as the cause of such failure to perform, or delay in performance, is caused or prevented by an act of God or force majeure.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate the day and year first above written.

**LICENSOR:
CITY OF PLANO, TEXAS,
A Home Rule Municipal Corporation**

By Authority of Resolution
No. _____

By: _____
Bruce D. Glasscock
City Manager

APPROVED AS TO FORM:

Diane Wetherbee, CITY ATTORNEY

**LICENSEE:
HP ENTERPRISE SERVICES, LLC
A Delaware limited liability company**

By: John H. Vestal
Assistant Secretary

ATTEST:

DATE: _____

ACKNOWLEDGMENTS

STATE OF TEXAS §

§

COUNTY OF COLLIN §

This instrument was acknowledged before me on the ____ day of _____, 2012, by **Bruce D. Glasscock**, City Manager of the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, on behalf of said corporation.

Notary Public in and for the State of Texas

STATE OF _____ §

§

COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 2012, by **John H. Vestal**, Assistant Secretary of **HP Enterprise Services, LLC**, a Delaware limited liability company, on behalf of said company.

Notary Public in and for the State of _____

Exhibit "A"

LEGAL DESCRIPTION ELECTRICIAL DUCTBANK EASEMENT 0.652 ACRES

BEING a tract of land out of the OBEDIAH EPPS SURVEY, Abstract No. 297 and the MARIA C. VELA SURVEY, Abstract No. 935 in the City of Plano, Collin County, Texas, being part of the REPLAT OF EDS VEHICLE SERVICE CENTER ADDITION, an addition to the City of Plano according to the plat thereof recorded in Cabinet L, Page 725 of the Map Records of Collin County, Texas, being part of a tract of land described in deed to EDS Information Services, L.L.C., recorded in Volume 4853, Page 2203 of the land Records of Collin County, Texas and being more particularly described as follows:

COMMENCING at a 1" iron rod found in the west line of EDS HEALTH AND FITNESS CENTER ADDITION, an addition to the City of Plano according to the plat thereof recorded in Cabinet L, Page 728 of the Map Records of Collin County, Texas, for the northeast corner of said REPLAT OF EDS VEHICLE SERVICE CENTER ADDITION; **THENCE** with the north line of said REPLAT OF EDS VEHICLE SERVICE CENTER ADDITION, North 89°54'38" West, a distance of 9.61 feet to the **POINT OF BEGINNING**;

THENCE leaving said north line, the following courses and distances to wit;

South, a distance of 247.08 feet to a point for the beginning of a tangent curve to the right, having a central angle of 43°56'38", a radius of 645.00 feet and a chord bearing and distance of South 21°58'19" West, 482.66 feet;
Southwesterly, with said curve, an arc distance of 494.69 feet to a point for corner at the beginning of a non-tangent curve to the right on the north right-of-way line of Tennyson Parkway;
Northwesterly, along the north right-of-way line of said Tennyson Parkway and along the arc of said non-tangent curve to the right, through a central angle of 00°41'12", having a radius of 1261.71 feet, a chord bearing of North 53°09'28" West, a chord distance of 15.12 feet and an arc length of 15.12 feet to a point for corner at the beginning of a non-tangent curve to the left;
Northwesterly, departing said north right-of-way line and along the arc of said curve to the left, through a central angle of 44°06'50", having a radius of 630.00 feet, a chord bearing of North 22°03'25" East, a chord distance of 473.16 feet and an arc length of 485.06 feet to a point for corner;
North, a distance of 247.08 feet to a 1" iron rod found for the beginning of a tangent curve to the left on the future southeast right-of-way line of Windcrest Parkway (future 60' ROW) said point also being the beginning of a tangent curve to the left and having a central angle of 25°43'38", a radius of 530.00 feet and a chord bearing and distance of North 12°51'49" West, 235.99 feet;

THENCE with said future right-of-way line, the following courses and distances to wit;

Northwesterly, with said curve, an arc distance of 237.98 feet to a point for corner;
North 25°43'38" West, a distance of 169.49 feet to a 1" iron rod found for the beginning of a tangent curve to the right, having a central angle of 12°26'43", a radius of 470.00 feet and a chord bearing and distance of North 19°30'16" West, 101.89 feet;
Northwesterly, with said curve, an arc distance of 102.09 feet to a 1" iron rod found for corner;

THENCE leaving the future east right-of-way line of Windcrest Parkway, the following courses and distances to wit;

North 76°43'05" East, a distance of 15.00 feet to a point for the beginning of a non-tangent curve to the right, having a central angle of 21°18'58", a radius of 455.00 feet and a chord bearing and distance of North 02°37'26" West, 168.30 feet;
Northerly, with said curve, an arc distance of 169.28 feet to a point for corner;
North 08°02'03" East, a distance of 19.42 feet to a point for corner;
North 81°57'57" West, a distance of 15.00 feet to a point in the said future east right-of-way line of Windcrest Parkway;

THENCE with said future east right-of-way line, the following courses and distances to wit;

North 08°02'03" East, a distance of 135.63 feet to a 1" iron rod found for the beginning of a tangent curve to the left, having a central angle of 04°19'40", a radius of 1030.00 feet and a chord bearing and distance of North 05°52'13" East, 77.78 feet;
Northeasterly, with said curve, an arc distance of 77.80 feet to a point in the south line of Lot 1R, Block R of EDS COMMAND CENTER ADDITION, an addition to the City of Plano according to the plat thereof recorded in Volume L, Page 721 of the Map Records of Collin County, Texas;

THENCE with said south line, South 30°34'55" East, a distance of 26.23 feet to a point for the beginning of a non-tangent curve to the right, having a central angle of 03°08'23", a radius of 1045.00 feet and a chord bearing and distance of South 06°27'52" West, 57.26 feet;

THENCE leaving said south line, the following courses and distances to wit:

Southwesterly, an arc distance of 57.26 feet to a point for corner;
South 08°02'03" West, a distance of 111.52 feet to a point for corner;
South 81°57'57" East, a distance of 35.00 feet to a point for corner;
South 08°02'03" West, a distance of 43.54 feet to a point for the beginning of a tangent curve to the left, having a central angle of 05°22'26", a radius of 420.00 feet and a chord bearing and distance of South 05°20'46" West, 39.40 feet;
Southwesterly, with said curve an arc distance of 39.41 feet to a point for corner;
North 87°20'33" West, a distance of 20.00 feet to a point for the beginning of a non-tangent curve to the left, having a central angle of 30°20'19", a radius of 440.00 feet and a chord bearing distance of South 12°30'42" East, 230.27 feet;
Southeasterly, with said curve, an arc distance of 232.98 feet;
South 64°16'22" West, a distance of 15.26 feet to a point for corner;
South 25°43'38" East, a distance of 161.99 feet to a point for the beginning of a tangent curve to the right, having a central angle of 25°43'38", a radius of 545.00 feet and a chord bearing and distance of South 12°51'49" East, 242.67 feet;
Southeasterly, with said curve, an arc distance of 244.72 feet to the **POINT OF BEGINNING** and containing 0.652 acres of land, more or less.

Bearing system based on the east line of REPLAT OF EDS VEHICLE SERVICE CENTER ADDITION, an addition to the City of Plano according to the plat thereof recorded in Cabinet L, Page 725 of the Map Records of Collin County, Texas.



(IN FEET)
1 inch = 120 ft.

EDS Vehicle Service
Center Addition
Cab. L, Pg. 725

S89°54'38"E
9.61'

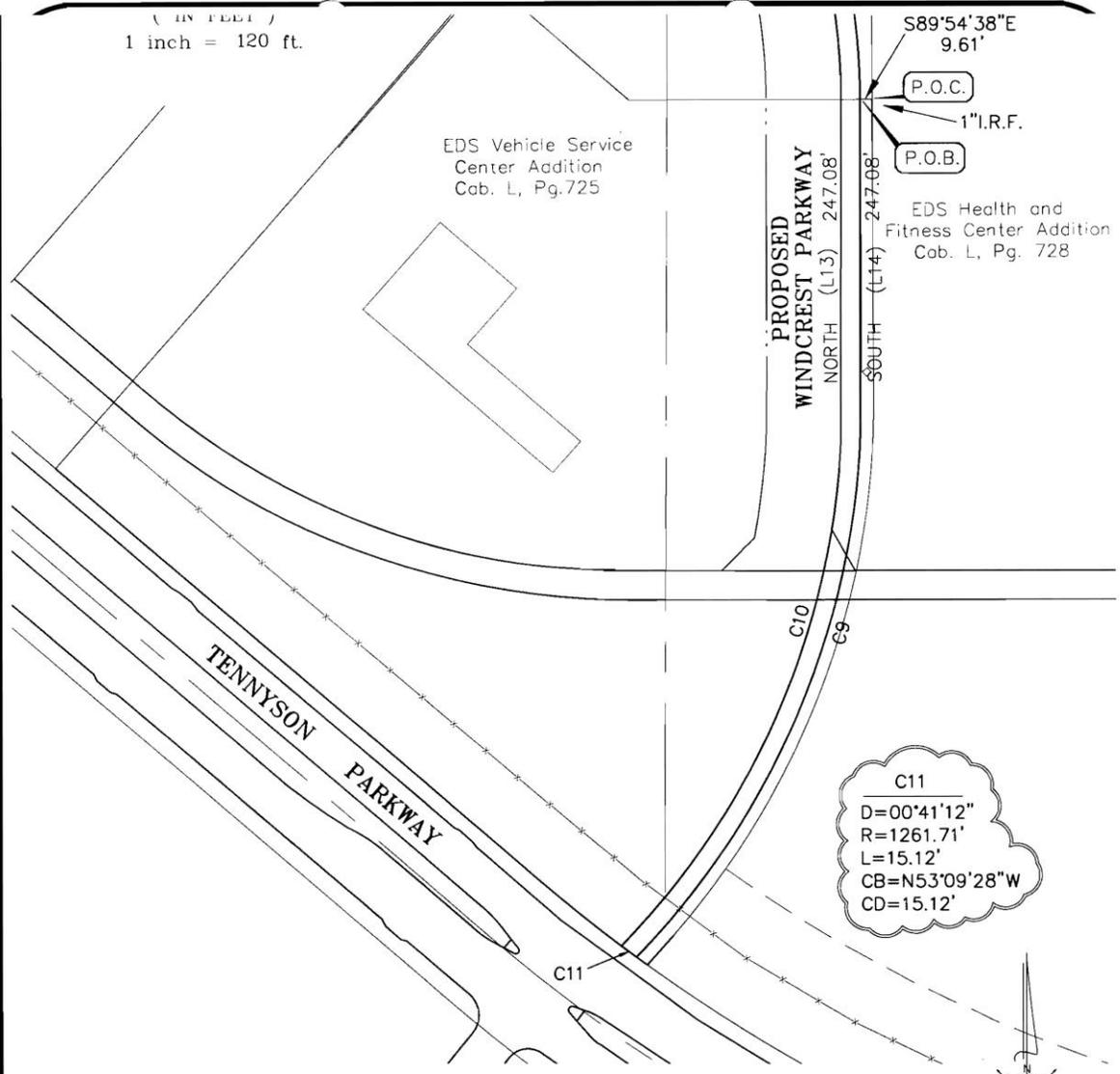
P.O.C.

1" I.R.F.

P.O.B.

EDS Health and
Fitness Center Addition
Cab. L, Pg. 728

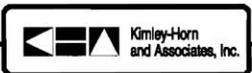
PROPOSED
WINDCREST PARKWAY
NORTH (L13) 247.08'
SOUTH (L14) 247.08'

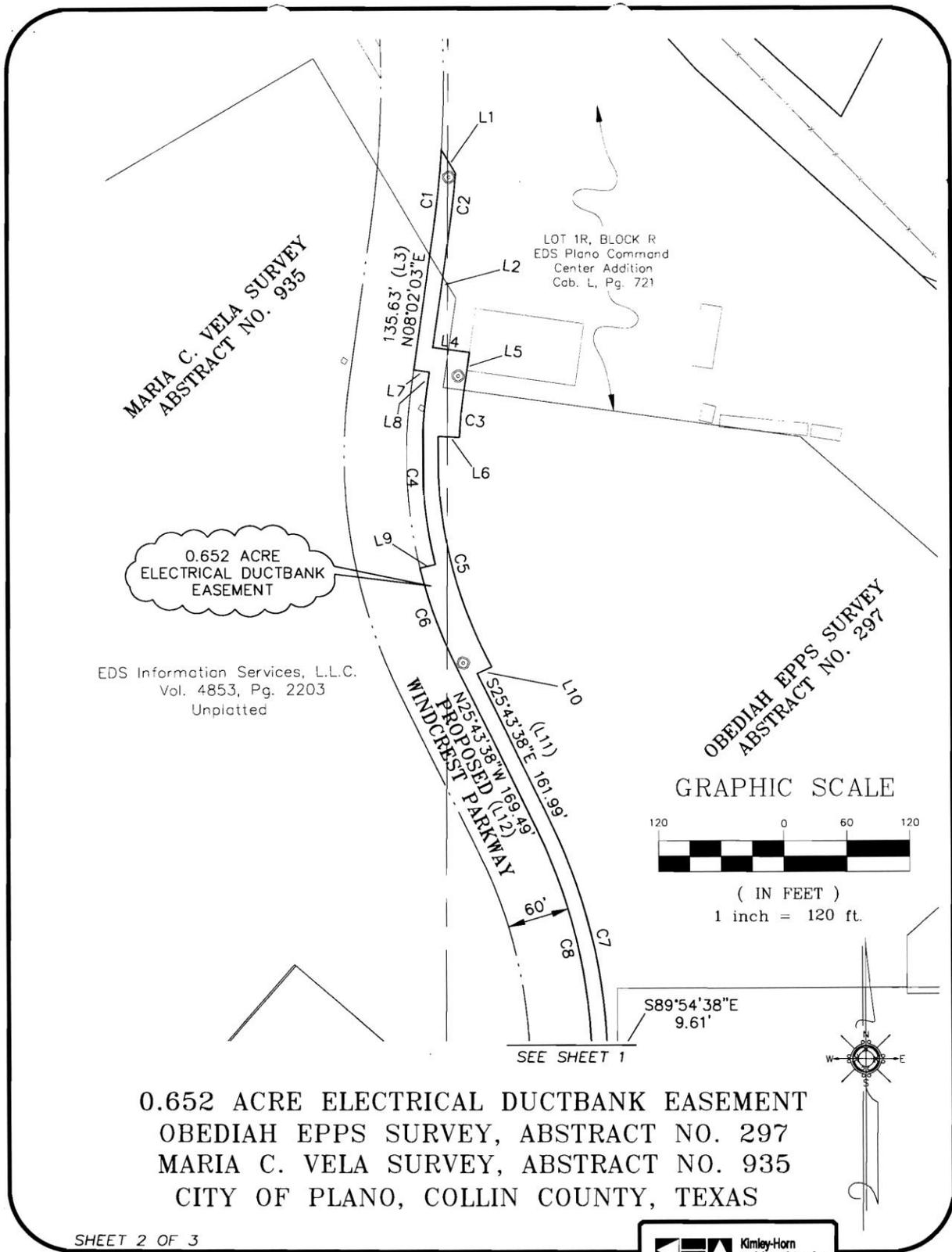


0.652 ACRE ELECTRICAL DUCTBANK EASEMENT
OBEDIAH EPPS SURVEY, ABSTRACT NO. 297
MARIA C. VELA SURVEY, ABSTRACT NO. 935
CITY OF PLANO, COLLIN COUNTY, TEXAS

SHEET 1 OF 3

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MARIA C. VELA SURVEY
ABSTRACT NO. 935

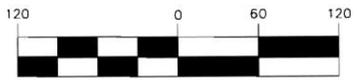
LOT 1R, BLOCK R
EDS Plano Command
Center Addition
Cab. L, Pg. 721

0.652 ACRE
ELECTRICAL DUCTBANK
EASEMENT

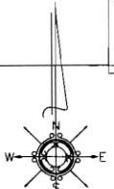
EDS Information Services, L.L.C.
Vol. 4853, Pg. 2203
Unplatted

OBEDIAH EPPS SURVEY
ABSTRACT NO. 297

GRAPHIC SCALE



(IN FEET)
1 inch = 120 ft.



0.652 ACRE ELECTRICAL DUCTBANK EASEMENT
OBEDIAH EPPS SURVEY, ABSTRACT NO. 297
MARIA C. VELA SURVEY, ABSTRACT NO. 935
CITY OF PLANO, COLLIN COUNTY, TEXAS

SHEET 2 OF 3

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