



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:		11/28/11			
Department:		City Manager			
Department Head		Frank F. Turner			
Agenda Coordinator (include phone #): Sherry Jackson - Ext 7122					
CAPTION					
A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of a Restated and Amended Development Agreement between the City of Plano and Southern Land Company, LLC for development of Eastside Station – Plano; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.					
FINANCIAL SUMMARY					
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	2011-2012	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	0	0	0
Encumbered/Expended Amount		0	0	0	0
This Item		0	0	0	0
BALANCE		0	0	0	0
FUND(S): N/A					
COMMENTS: Any revenue generated from the development of Eastside Station - Plano is undeterminable at this time.					
STRATEGIC PLAN GOAL: Passage of this Resolution relates to the City's Goal of Partnering for Community Benefit.					
SUMMARY OF ITEM					
Resolution approves the terms and conditions of a Restated and Amended Development Agreement between the City of Plano and Southern Land Company, LLC for development of Eastside Station – Plano.					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
Exhibit "A": Restated & Amended Development Agreement					

A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of a Restated and Amended Development Agreement between the City of Plano and Southern Land Company, LLC for development of Eastside Station – Plano; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.

WHEREAS, the City is authorized pursuant to the laws of Texas and its Home Rule Charter to enter into agreements with persons or entities intending to undertake any development on real property for the purposes of providing supporting public facilities and services; and

WHEREAS, Southern Land Company, LLC desires to develop approximately 3.0 acres located at the southeast corner of 15th Street and I Avenue of which 1.5 acres is owned by the City of Plano (“the Property”); and

WHEREAS, on May 27, 2008, the City Council adopted Resolution No. 2008-5-34(R) approving an Agreement between the City and Southern Land Company, LLC, formerly Pinnacle, as assigned by Resolution No. 2008-12-20(R) for the development of Eastside Station-Plano and as further amended by Resolution Nos. 2008-12-24(R), 2009-5-5(R), and 2010-9-15(R); and

WHEREAS, in order to consolidate all the prior amendments of the Agreement into one document and to further amend the terms, the City Council has been presented a proposed Restated and Amended Development Agreement for development of Eastside Station – Plano, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference; and

WHEREAS, upon full review and consideration of the Restated and Amended Development 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 designee shall be authorized to execute it 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 Restated and Amended Development Agreement between Southern Land Company, LLC and the City of Plano, 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 Restated and Amended Development Agreement between Southern Land Company, LLC and the City of Plano 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 this the 28th day of November, 2011.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

RESTATED AND AMENDED DEVELOPMENT AGREEMENT BETWEEN THE CITY OF PLANO, TEXAS AND SOUTHERN LAND COMPANY, LLC. FOR DEVELOPMENT OF EASTSIDE STATION - PLANO

THIS DEVELOPMENT AGREEMENT (“Agreement”) is entered into by and between the City of Plano, a Texas home rule municipal corporation of Collin County, Texas (the “City”), acting by and through its duly authorized officers, and Southern Land Company, LLC a Tennessee limited liability company (“Southern”);

RECITALS:

WHEREAS, the City is authorized pursuant to the laws of Texas and its Home Rule Charter to enter into agreements with persons or entities intending to undertake any development on real property for the purposes of providing supporting public facilities and services; and

WHEREAS, Southern desires to develop approximately 3.0 acres located at the southeast corner of 15th Street and I Avenue of which 1.5 acres is owned by the City of Plano and as shown in Exhibit “A” attached hereto (“the Property”); and

WHEREAS, Southern has proposed a development on the Property in substantial compliance with a preliminary project design and concept plan prepared by Southern attached hereto as Exhibit “B” (which design and concept plan, together with all additions, changes and amendments thereto approved by Southern and the City, is referred to in this Agreement as the “Development”) ; and

WHEREAS, the Development is located in Tax Increment Financing District No. 2 (TIF 2) and a portion of the proposed public improvements at the Development are to be funded through the revenue derived by TIF 2 in accordance with the Tax Increment Financing Act, Texas Tax Code, Chapter 311, as amended, to promote development and redevelopment in the area through the use of tax increment financing; and

WHEREAS, the Development is consistent with the goals and objectives as set forth in Downtown Plano, A Vision and Strategy for Creating a Transit Village which was adopted by the City Council by Resolution No. 99-5-14, dated May 10, 1999, and

WHEREAS, the Development will contribute important direct and indirect economic and social benefits to the City including, but not limited to, the creation of a mixed-use, pedestrian-oriented, residential development in close proximity to the DART railway station, and

WHEREAS, the City is authorized by Tex. Loc. Gov’t Code §380.001 et seq. to provide economic development grants to promote local economic development and to stimulate business and commercial activity in the City; and

WHEREAS, the City has determined that making an economic development grant to Southern in accordance with the terms and conditions set forth in this Agreement will further the objectives of the City, will benefit the City and the City's inhabitants and will promote local economic development and stimulate business and commercial activity in the City;

WHEREAS, it is essential to the City's public health, safety and general welfare to assure that the Development is supported by adequate levels of public facilities and services; and

WHEREAS, on May 27, 2008, the City Council adopted Resolution No 2008 -5-34(R) approving an Agreement between the City and Southern, formerly Pinnacle, as assigned by Resolution No. 2008-12-20(R) for the development of Eastside Station-Plano and as further amended by Resolution Nos. 2008-12-24(R), 2009-5-5(R), and 2010-9-15(R) collectively "the Original Agreement"); and

WHEREAS, the Agreement herein restating and further amending the terms and conditions between the parties are in all things approved by the City Council pursuant to Resolution No. _____ adopted on November 28, 2011 consolidating the Agreement into one document and superseding and replacing the documents referenced in the preceding paragraph; and

WHEREAS, Southern assumes all rights, responsibilities, and obligations (as hereby amended, restated and superseded) of Pinnacle AMS Development Co, LLC and Southern/Pinnacle AMS Development, Co. pursuant to this Agreement;

NOW THEREFORE, in consideration of the mutual covenants and obligations herein, the parties agree that this Agreement restates, amends, supersedes and replaces all prior agreements signed by the parties (including, without limitation, the Original Agreement) as follows:

SECTION 1. SOUTHERN'S OBLIGATIONS

A. Prior to closing on the Property, Southern shall perform the following obligations:

1. Acquire fee title to the real property located 930 15th Street , Plano, Texas 75074 ("Eisenberg Property") by no later than January 15, 2012;

2. Complete and obtain approval of a preliminary site plan as required by the city's Zoning Ordinance; and

3. Provide documentation to the reasonable satisfaction of the City of financial ability to complete the obligations under this Agreement in the form of a detailed financial statement, an external audit report, a commitment for debt and/or equity financing, or other form acceptable to the City.

B. After closing on the Property, Southern shall perform the following obligations:

1. Obtain all necessary permits from the City, which shall not be unreasonably withheld, conditioned or delayed by the City and begin construction of the

Development no later than May 1, 2012. Construction shall be deemed to have begun when Southern actually commences site work (i.e., demolition, grading or clearing) on the Property;

2. Complete the design, construction, and installation of the private improvements at the Property at its sole cost and expense and in conformity with the requirements in Exhibit "B" attached hereto, and which when completed (and when the Public Improvements have also been completed) shall have a net private investment value of not less than Twenty Seven Million Dollars (\$27,000,000). The parking garage at the Development shall be completed on or before November 1, 2013 and the remainder of the Development shall be completed on or before March 1, 2014. Southern shall retain ownership of the the Property through June 1, 2014;

3. Complete the design, construction, and installation of all Public Improvements at the Property in conformity with Exhibit "B" attached hereto including storm sewer, drainage, utility, paving, lighting, landscape, hardscape and other improvements required by the City, both on-site and off-site, that are described or referred to in Exhibit "B" attached to this Agreement. The cost of construction of the streetscape and sidewalks along 15th Street, I Avenue, and 14th Street shall be reimbursed by the City as described in Section 2 below. Public Improvements shall be designed, constructed and installed in a good and workmanlike manner in accordance with all applicable laws, statutes and ordinances, rules and regulations of the City and any other governmental authority having jurisdiction, including, without limitation, the City Right-of-Way Management Ordinance, the City Code of Ordinances and the City Zoning and Subdivision Ordinances. The Public Improvements shall be completed on or before March 1, 2014.

4. On or before April 1, 2014, convey the Public Improvements to the City free and clear of all liens. A conveyance to the City shall be evidenced by the plat filed for the Development, and any other instrument which City may reasonably request, and shall include, to the extent assignable, an assignment of all contractors' warranties, if any, and all performance, payment and maintenance bonds. Prior to acceptance of such conveyance to the City, Southern shall provide the City with releases from the general contractor for the design, construction and installation of all Public Improvements on the form attached hereto as Exhibit "C".

5. On or before April 1, 2014 and subject to the terms and conditions of the DART easement attached hereto as Exhibit "D", construct and maintain a walkway between the DART Light Railway and the east face of the Development which shall be conditioned on the City's approval of the plans for such walkway and other public improvements. The walkway shall be named "The Douglass Walk".

6. Convey to the City by easement, attached hereto as Exhibit "E" and incorporated herein, ninety-two (92) of the spaces in the parking garage at the Property at or below grade for the exclusive use of the City without charge. The easement shall be subject and subordinate to the lien of any deed of trust in favor of Southern's lender subject to the City's right to compensation in Section 4 of this Agreement in the event of damage, destruction or failure of performance. City may use the parking spaces for police vehicle parking and any other lawful uses consistent with the activities of the City, so long as such uses are not inconsistent with, or detract from the attractive residential community atmosphere of the Development (for

example, noise, odors or noxious activities). Notwithstanding the foregoing, the City may not lease or assign the parking spaces for a commercial enterprise. Southern shall execute the Parking Space Easement with the City on or before October 1, 2013. In the event of casualty, Southern shall have the opportunity to restore the improvements on the Property, as more particularly set forth in (among other documents) the Parking Space Easement and the lease agreement described below.

7. Convey 700 square feet of lease space for the exclusive use of the City at the Development by separate lease agreement to be negotiated between the parties after completion of construction of the Development. Southern agrees to lease the space for a 10 year term to the City at a cost of ten dollars (\$10) annually with two ten year lease renewal options with no increase in the amount of cost to the City on renewal. The City shall not be responsible for taxes, common area insurance or common area maintenance at the Property. City shall use the lease space for a police post, public safety use, or any other lawful use consistent with these activities of the City. The lease shall be subject and subordinate to the lien of any deed of trust in favor of Southern. Southern shall execute a lease agreement for the 700 square feet of lease space with the City on or before April 1, 2014.

8. Maintain, repair and replace as needed all common areas, open spaces and landscaping improvements on the Property including all hardscape and landscaping, sidewalks, curbing, paving and related improvements on public property (14th Street, 15th Street and I Avenue) adjacent to the Property, including the Public Improvements) and extending to the nearest curb of such public rights-of-way and to the east boundary of the DART Easement on the east side of the Property (collectively, the "Public Property") in accordance with the City's Right-of-Way Management Ordinance. Landscaping and streetscaping in the Public Property shall also be in accordance with the specifications and standards set forth in "Exhibit B" attached hereto and incorporated herein. Southern shall be responsible for all maintenance and operation expenses associated with the Development, including the Public Improvements.

SECTION 2. CITY'S OBLIGATIONS

The City shall perform the following obligations:

A. Grant to Southern the Property described in Exhibit "A" in "As Is" condition by Special Warranty Deed.

The City shall be responsible for obtaining title insurance on the Property, at its expense, based on the value listed by the Collin County Central Appraisal District of three hundred seventy thousand and six hundred forty seven dollars (\$370,647.00). Any additional title insurance coverage shall be paid by Southern. The title insurance commitment (and resulting policy) shall insure title to be free and clear of liens, marketable, and not subject to any encumbrances which could interfere with Southern's development of the Development.

B. Reimburse Southern for one hundred percent (100%) of eligible expenses for "Project Costs" (as defined hereinafter) for any public improvements or such other work in an amount not to exceed One Million Seven Hundred Thousand Dollars (\$1,700,000) provided,

however, that such reimbursement shall exclude “Overhead Costs” (as defined hereinafter). Except as may be approved by the City, not less than \$900,000 of reimbursable costs shall be directly related to the construction of the public pedestrian walkway (the Douglass Walk) to be located in the DART easement on the east side of the building. The remaining \$800,000 is available for reimbursing any eligible reimbursable expenses including the Douglass Walk.

1. “Project Costs” means actual construction and/or installation costs, and design costs for public improvements, including but not limited to:

i. surface and subsurface demolition of the improvements on the Eisenberg property and the City of Plano Police Department parking lot improvements adjacent thereto, including but not limited to environmental remediation and grading in preparation for construction of the project;

ii. civil engineering, architecture and landscape architecture fees associated with the public improvements specified in this paragraph;

iii. underground relocation of electrical and communication lines and facilities on the property or adjacent public rights of way, including without limitation, any payments made to entities affiliated with or related to Southern, to the extent that such payments do not exceed what is reasonable and customary for such services;

iv. design and construction of storm sewer, drainage, water utilities, paving, lighting, landscape, hardscape and other improvements required by the City, both on-site and off-site, that are described or specified on the project plans approved by the City; and

v. costs associated with land conveyance.

2. “Overhead Costs” means:

i. overhead and management fees of Southern,

ii. financing charges,

iii. marketing costs,

iv. legal fees, and

v. payments made to entities affiliated with or related to Southern to the extent such payments made to entities affiliated with or related to Southern exceed what is reasonable and customary for such services.

All payments for Public Improvement reimbursement to Southern under this subsection shall be payable solely from Tax Increment Financing District No. 2 funds as provided by law and shall not be obligated for payment from the City’s general fund or any other City fund unrelated to the Tax Increment Financing District No. 2 fund;

SECTION 3. DESIGN AND CONSTRUCTION

A. In addition to any other approvals required by the City of Plano Code of Ordinances and Zoning Ordinance, Southern shall submit building plans and a site plan for the proposed Public and Private Improvements at the Property to the City Manager or his designee for written approval of the general design, arrangement, landscaping, materials to be used, and other exterior features and appurtenances that will be used or constructed at the Property. Approval by the City Manager or his designee shall not be unreasonably withheld. Southern shall obtain approval from the City Manager or his designee as required by this section of the Agreement prior to commencing construction of any Improvements at the Property.

B. Design management for the Public Improvements and the Development will be provided by a licensed architect for the Development or such other party as shall be mutually agreed to by the parties to this Agreement.

C. Southern shall obtain any and all required local, state and federal governmental approvals and permits required for construction of the Improvements at the Property.

D. Southern shall require its general contractor to procure and maintain insurance coverage as set forth in Exhibit "F" for the duration of the construction project at the Property. Southern shall provide their general contractor's signed insurance certificate to the CITY verifying that they have obtained the required insurance coverage prior to the commencement of construction at the Property and naming the City of Plano as additional insured.

E. Southern, shall procure and maintain insurance coverage as set forth in Exhibit "G" for the duration of the Agreement. Southern shall provide their signed insurance certificate to the CITY verifying that they have obtained the required insurance coverage prior to the commencement of construction at the Property and naming the City of Plano as additional insured.

F. Prior to commencement of any work on the Public Improvements, Southern shall require its general contractor to furnish a payment bond and performance bond to the CITY by surety companies authorized to do business in the State of Texas, which bonds shall be in the form provided on attached Exhibits "H" and "I". The purpose of such bonds is to insure that construction of the facility is completed and that all bills for material and labor are paid in full upon completion of construction with no cost to the CITY except as otherwise required herein.

G. Prior to commencement of any work on the Public Improvements, Southern shall provide a maintenance bond as provided in the form on attached Exhibit "J".

H. In accordance with the City's Subdivision Ordinance, Article 5.10c as amended, all electric utility lines and wires, terminals and other facilities and equipment shall be constructed, placed or located underground.

I. All project designs, drawings, site plans and other documents produced by Southern in connection with the Private Improvements at the Property, including those attached to this Agreement, and shall remain the property of Southern. However, in exchange for Southern's acceptance of the above-described reimbursement from the City, the portion of the

plans created for the Public Improvements and infrastructure, and all assignable rights in the boundary survey and environmental site assessment of the Property obtained by Southern shall become the property of the City upon dedication as required by Section 1(B)(4) of this Agreement.

SECTION 4. DAMAGE, DESTRUCTION, OR FAILURE OF PERFORMANCE

A. Subject to applicable lender notice and cure rights, and any Southern notice and cure rights, in the event the Agreement is terminated for default by Southern prior to the Public and Private Improvements at the Property being fully constructed and dedicated or conveyed in accordance with Sections 1(B)(1),(2),(3),(4),(5),(6) and(7) of this Agreement, then Southern shall pay to the City the following sums, or take the following actions, within thirty (30) days:

1. pay an amount equal to all monies paid by the City for reimbursement to Southern pursuant to Section 2(B) of the Agreement, plus interest at the Wall Street Journal prime rate plus one percent (1%), from the date of termination until paid; and

2. pay an amount equal to the appraised value of the real property described in Exhibit "A" of this Agreement and granted to Southern pursuant to the this Agreement as valued at the time of termination of the Agreement plus interest at the Wall Street Journal prime rate plus one percent (1%), from the date of termination until paid. In lieu of reimbursement of the appraised value of the real property pursuant to this subsection, Southern shall have the option of conveying the title to the real property described in Exhibit "A" of this Agreement to the City provided that it is free and clear of all liens and encumbrances and returned to (or remains in) the condition it was in at the time the City conveyed it to Southern.

B. Subject to applicable lender notice and cure rights, and any Southern notice and cure rights, in the event of partial or total destruction of the Improvements at the Property subsequent to the Public and Private Improvements being fully constructed in accordance with Sections 1(B)(1),(2),(3),(4),(5),(6) and(7) that impairs the use of the parking spaces or lease space pursuant to Sections 1(B)(6)and (7) of the Agreement, the following shall be required of Southern:

1. If Southern reconstructs or repairs the Improvements at the Property, the Improvements shall be reconstructed or repaired to substantially the same condition as existed immediately before the damage or destruction and otherwise in accordance with the terms of the Agreement. Provided, however, Southern may alter the plan of the replacement Improvements to meet then current building methods and specific development needs and uses, and even change the configuration and access to the Improvements, so long as the City's practical utilization of the Parking Space Easement is not unreasonably impaired. Subject to availability of casualty insurance proceeds and the approval of the applicable lender, Southern shall commence reconstruction or repair of the Improvements at the Property within twelve (12) months of the destruction and shall complete the Improvements at the Property and obtain a Certificate of Occupancy within twenty-four (24) months of the date of commencement of the reconstruction or repair, unless an extension of time is requested by Southern for good cause and agreed to by the City in writing, such agreement not to be unreasonably withheld. Beginning from the date of destruction and until the date of restoration of full and complete use of the parking spaces and

lease space pursuant to Sections 1(B)(6) and (7) of this Agreement or until Southern makes payment or dedicates the Property to the City pursuant to Section 4(B)(2) below, Southern shall pay to the City a monthly fee equal to one percent (1%) of the appraised value of the real property as described in Exhibit "A" of this Agreement (minus the real property dedicated to the City as part of the Public Improvements pursuant to Section 1(B)(4) of the Agreement) as valued on the date of destruction to compensate the City for loss or impairment of use of its parking and/or lease space at the Property. Provision of ninety-two (92) surface parking spaces shall alleviate the requirement to pay a monthly one percent (1%) fee but only on an interim basis, not to exceed thirty six 36 months to allow time for the parking garage to be reconstructed or repaired.

2. If Southern decides against reconstruction or repair of the Improvements at the Property, or is unable to reconstruct the Improvements due to lack of insurance proceeds or lender consent, Southern shall pay the City, within 30 days of such determination, an amount equal to the appraised value of the real property described in Exhibit A to this Agreement as valued at the time of destruction of the Improvements (minus the real property dedicated to the City as part of the Public Improvements pursuant to Section 1(B)(4) of the Agreement) plus interest at the Wall Street Journal prime rate plus one percent (1%) from the date of the decision until paid. In lieu of reimbursement of the appraised value of the real property pursuant to this subsection, Southern shall have the option of conveying the title to the real property described in Exhibit A to the City provided that it is free and clear of all liens and encumbrances and returned (or remains in) to the condition it was in at the time the City conveyed it to Southern.

C. Any appraised values to be determined pursuant to Section 4 of the Agreement shall be determined by an Independent MAI Appraiser selected by agreement of Southern and by the City. The parties shall bear the cost of the appraisal equally.

D. Any obligations required of Southern pursuant to this Section 4 of the Agreement are binding on any successors or assigns of Southern pursuant to Section 21 of the Agreement.

SECTION 5. FORCE MAJEURE

It is expressly understood and agreed by the parties to this Agreement that if the substantial completion of the construction of any the Development and Public Improvements contemplated hereunder is delayed by reason by war, civil commotion, acts of God, inclement weather, governmental restrictions, regulations, or interferences, delays caused by the franchise utilities, fire or other casualty, court injunction, necessary condemnation proceedings, or acts of the other party, its affiliates/related entities and/or their contractors, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such design or construction requirement shall be extended for a period of time equal to the period such party was delayed.

SECTION 6. TERM

The term of this Agreement shall begin on the date of execution and end upon the complete performance of all obligations and conditions precedent by parties to this Agreement.

SECTION 7. AUTHORITY OF SOUTHERN

Southern represents and warrants to the City that Southern is duly formed, validly existing and in good standing under the laws of the State of Tennessee and that Southern Land Company, LLC, has validly authorized the assumption of all rights, responsibilities, and obligations of Pinnacle AMS Development Co, LLC and Southern/Pinnacle AMS Development, Co. regarding the terms of this Agreement. Southern represents that it has full power, authority and legal right to execute and deliver this Agreement. This Agreement constitutes a legal, valid, and binding obligation of Southern and the City, enforceable in accordance with its terms.

SECTION 8. EVENTS OF DEFAULT

A default shall exist if any of the following occurs:

1. Either party fails to perform or observe any material covenant contained in this Agreement.
2. Southern becomes delinquent on ad valorem taxes owed to the City, or any other Collin County taxing unit, provided that Southern retains the right to timely and properly protest and/or contest any such taxes and during the pendency of such proceedings such taxes shall not be deemed delinquent.

A party shall immediately notify the defaulting party in writing upon becoming aware of any change in the existence of any condition or event which would constitute a default by the defaulting party under this Agreement. Such notice shall specify the nature and the period of existence thereof and what action, if any, the notifying party requires or proposes to require with respect to curing the default.

SECTION 9. REMEDIES

The defaulting party shall have thirty (30) days to cure after receiving written notice of default from a party. If a default shall continue, after thirty (30) day's notice to cure the default, the non-defaulting party may, at its option, terminate the Agreement and/or pursue any and all remedies it may be entitled to, at law or in equity, in accordance with Texas law, without the necessity of further notice to or demand upon the defaulting party. However, the non-defaulting party may, at its option, provide written extension for additional time to cure if the defaulting party proceeds in good faith and with due diligence to remedy and correct the default, provided that the defaulting party has commenced to cure such default within 30 days following notice.

SECTION 10. BANKRUPTCY

In the event Southern files for bankruptcy, whether involuntarily or voluntary, Southern shall provide written notice to the City within three (3) business days of such event.

SECTION 11. INDEMNIFICATION

SOUTHERN AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY AND ITS RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY

AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY SOUTHERN'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF SOUTHERN, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH SOUTHERN IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF THE CITY, AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS. THE CITY DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY OR OTHER DEFENSES AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

SOUTHERN AT ITS OWN EXPENSE IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ITS OWN ENTIRE DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE CONSTRUED AS A WAIVER OF SOUTHERN'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF SOUTHERN'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. SOUTHERN SHALL RETAIN DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF SOUTHERN FAILS TO RETAIN COUNSEL WITHIN THE REQUIRED TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF AND SOUTHERN SHALL BE LIABLE FOR ALL COSTS INCURRED BY THE CITY.

SECTION 12. AFFIDAVIT OF NO PROHIBITED INTEREST

Southern acknowledges and represents it is aware of all applicable laws, City Charter, and City Code of Conduct regarding prohibited interests and that the existence of a prohibited interest at any time will render the Agreement voidable. Southern has executed the Affidavit of No Prohibited Interest, attached and incorporated herein as Exhibit "K".

SECTION 13. NOTICES

Any notice required by this Agreement shall be deemed to be properly served if deposited in the U.S. mails by certified letter, return receipt requested, addressed to the recipient at the

recipient's address shown below, subject to the right of either party to designate a different address by notice given in the manner just described.

If intended for City, to:

City of Plano, Texas
Attention: City Manager
1520 Avenue K
P. O. Box 860358
Plano, Texas 75086-0358

If intended for Southern, to:

Southern Land Company, LLC
1550 W. McEwen Drive, Suite 200
Franklin, Tennessee 37067

With a required copy to:

Laurence M. Papel
Baker, Donelson, Bearman, Caldwell and
Berkowitz
211 Commerce Center
Suite 800
Nashville, TN 37201

SECTION 14. WRITTEN NOTICES AND APPROVALS REQUIRED

Whenever under the provisions of this Agreement and other related documents and instruments or any supplemental agreements, any request, demand, approval, notice or consent of the City or Southern is required, or whenever the City or Southern is required to agree or to take some action at the request of the other, such request, demand, approval, notice or consent, or agreement shall be in writing. Approval by City, unless otherwise provided herein, shall be by the City Manager or his designated representative and approval by Southern shall be by the CEO, CFO or President or any officer of Southern so authorized (and, in any event, the officers executing this Agreement are so authorized); and either party hereto shall be authorized to act in reliance upon any such request, demand, approval, notice or consent, or agreement.

SECTION 15. GIFT TO PUBLIC SERVANT

A. City may terminate this Agreement immediately if Southern has knowingly offered, conferred, or agreed to confer any benefit upon a City employee or official that the City employee or official is prohibited by law from accepting.

B. For purposes of this section, "benefit" means anything reasonably regarded as economic advantage, including benefit to any other person in whose welfare the beneficiary is interested, but does not include a contribution or expenditure made and reported in accordance with law.

C. Notwithstanding any other legal remedies, City may require Southern to remove any employee of Southern from the development of the Public Improvements who has violated the restrictions of this section or any similar state or federal law, and obtain reimbursement for any expenditures made to Southern as a result of the improper offer, agreement to confer, or conferring of a benefit to a City employee or official.

SECTION 16. APPLICABLE LAWS

This Agreement is made subject to the provisions of the Charter and ordinances of City, as amended, and all applicable laws of the State of Texas and federal laws.

SECTION 17. VENUE AND GOVERNING LAW

This Agreement is performable in Collin County, Texas and venue of any action arising out of this Agreement shall be exclusively in Collin County, Texas. This Agreement shall be governed and construed in accordance with the laws of the State of Texas.

SECTION 18. LEGAL CONSTRUCTION

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

SECTION 19. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

SECTION 20. CAPTIONS

The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.

SECTION 21. SUCCESSORS AND ASSIGNS

A. The terms and conditions of this Agreement are binding upon the successors and assigns of all parties hereto. Provided, however, this Agreement shall not be assigned without the prior consent of Southern and the Plano City Council, which approvals shall not be unreasonably withheld.

B. An assignment or delegation of this Agreement to an Affiliate of Southern shall not require City Council approval and shall not result in a breach of the Agreement if the Affiliate of Southern expressly assumes all of the obligations of Southern under this Agreement for the balance of the term of this Agreement and provides evidence establishing the relationship between Southern and an Affiliate. Southern shall notify the City in writing, however, within 30 days of such assignment. "Affiliates", as used herein, includes any parent, sister, partner, joint venturer, equity investor or subsidiary entity of Southern; any entity in which either of Southern, a major shareholder, owns an equity interest or is a joint venturer or partner (whether general or limited). Upon such assignment, Southern shall be released from all liability hereunder.

SECTION 22. ENTIRE AGREEMENT

This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in this Agreement, including but limited to any of the terms and conditions of the Original Agreement. Nothing in the Original Agreement shall be deemed to be binding upon Southern, it being acknowledged that this Agreement is the complete and final understanding and agreement between Southern and the City. Except as otherwise provided herein cannot be modified without written agreement of the parties to be attached to and made a part of this Agreement.

SECTION 23. INCORPORATION OF RECITALS

The recitals set forth herein are intended, and are hereby deemed to be a part of this Agreement.

EXECUTED on the _____ day of _____, 2011, by City, signing by and through its City Manager, duly authorized to execute same by Resolution No. _____ approved by the City Council on _____, acting through its duly authorized officials.

CITY OF PLANO, TEXAS, a home rule municipal corporation

APPROVED AS TO FORM:

By: _____
Bruce D. Glasscock, City Manager

Diane C. Wetherbee, City Attorney

SOUTHERN LAND COMPANY, LLC, a
Tennessee limited liability company

By: _____
Name: _____
Title: _____

ACKNOWLEDGMENT

STATE OF TEXAS)
)
COUNTY OF COLLIN)

This instrument was acknowledged before me on the ____ day of _____, 2011, by Bruce D. Glasscock, City Manager, of **CITY OF PLANO, TEXAS**, a home rule municipal corporation.

Notary Public, State of Texas

STATE OF TENNESSEE
COUNTY OF _____

Before me, _____, a Notary Public in and for the State and County aforesaid, personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself (or herself) to be the _____ of Southern Land Company, LLC, the within named bargainor, a corporation, and that he as such _____, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by ___self as such _____.

WITNESS my hand and seal at office, on this the ____ day of _____, 2011.

Notary Public

My Commission Expires:

EXHIBIT "A"

BEING a tract of land situated in the Joseph Klepper Survey, Abstract No. 213, in the City of Plano, Collin County, Texas, and being all of a tract of land described as Lot 1, Block 3 of PLANO JUSTICE CENTER, an addition to the City of Plano, Collin County, Texas, according to the plat thereof recorded under Instrument Number 2003-0077340 of the Land Records of Collin County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2-inch iron rod found in the north right-of-way line of 14th Street (a variable width public right-of-way) for the southwest corner of a called 1.4872 acre tract of land described in deed to J & A Family Partners, LTD, recorded in Volume 3888, Page 374 of the Land Records of Collin County, Texas and the southeast corner of the subject tract and the beginning of a curve to the right;

THENCE southwesterly, with the north right-of-way line of 14th Street, with said curve to the right, through a central angle of 16°41'59", having a radius of 370.00 feet, and a chord bearing and distance of South 75°04'29" West, 107.46 feet, an arc distance of 107.84 feet to a 1-inch iron rod found for the end of the curve, same being the southeast corner of a corner clip for the intersection of said 14th Street and Avenue I (a 40-foot wide public right-of-way);

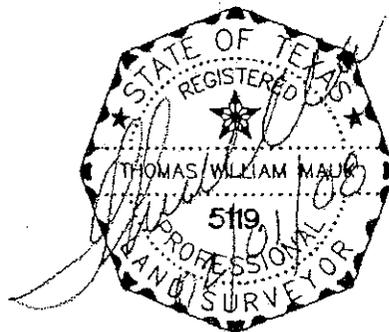
THENCE with said corner clip, North 54°02'32" West, a distance of 27.94 feet to a 1-inch iron rod found for the northwest corner of said corner clip;

THENCE leaving said corner clip and with the east right-of-way line of Avenue I, North 00°14'30" West, a distance of 519.30 feet to a point for the southwest corner of a corner clip for the intersection of said Avenue I and 15th Street;

THENCE with said corner clip, North 44°26'34" East, a distance of 28.44 feet to a point for the northeast corner of said corner clip;

THENCE leaving said corner clip and with the south right-of-way line of 15th Street (a 77-foot wide public right-of-way at this location), North 89°07'38" East, a distance of 104.56 feet to a point in the west line of said 1.4872 acre tract;

THENCE leaving the south right-of-way line of 15th Street and with the common line of said 1.4872 acre tract and the subject tract, South 00°27'07" East, a distance of 564.99 feet to the **POINT OF BEGINNING** and containing 1.5693 acres of land.



LOT 1, BLOCK 3
PLANO JUSTICE CENTER
JOSEPH KLEPPER SURVEY,
ABSTRACT NO. 213
CITY OF PLANO
COLLIN COUNTY, TEXAS

SHEET 2 of 2	Scale:	1" = 100'
	Designed by:	KHA
	Drawn by:	TTW
	Checked by:	TWM
	Date:	JANUARY 31, 2008
	Project No.:	06440.0002

	Kimley-Horn and Associates, Inc.
12700 Park Central Drive, Suite 1800 Dallas, Texas 75261	Tel. No. (972) 770-1300 Fax No. (972) 238-2800

EXHIBIT “B”
Design and Concept Plan

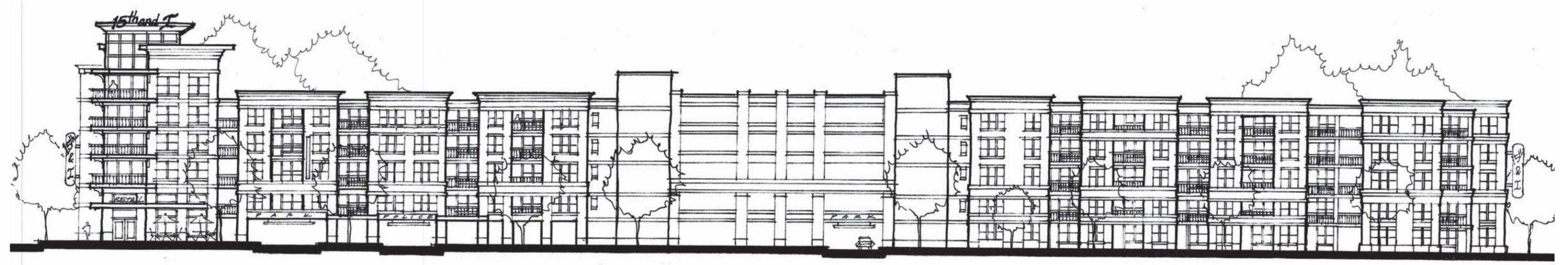
Southern will construct a mixed-use development consisting of approximately 341,700 square feet of gross floor area (including open corridor and common area), including not less than 280 residential units (including flex-space suitable for residential and non-residential occupancy) and a minimum of 10,250 square feet of floor space for non-residential occupancy. The development will include a parking garage containing not less than 92 spaces for city use of which none may be counted in meeting the zoning parking requirements for the project. The project will be four and five stories above grade. The exterior of the building will be masonry, except for doors, windows, and trim, primarily of using brick, stucco, concrete or stone in a manner consistent with the façade illustrations.

Final building plans are to be generally consistent with the illustrations included in this exhibit. Modifications to the plans may be approved by staff provided they are generally consistent with the exhibit.

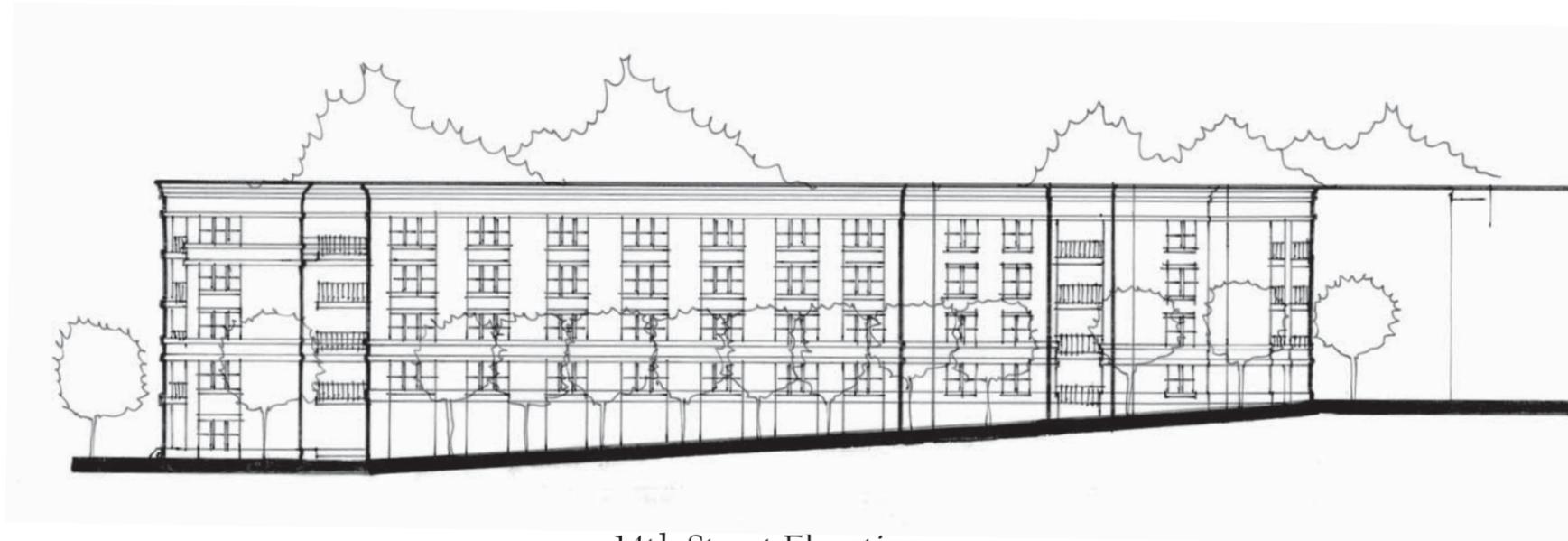
[site plan and elevations appear on following pages]



15th Street Elevation



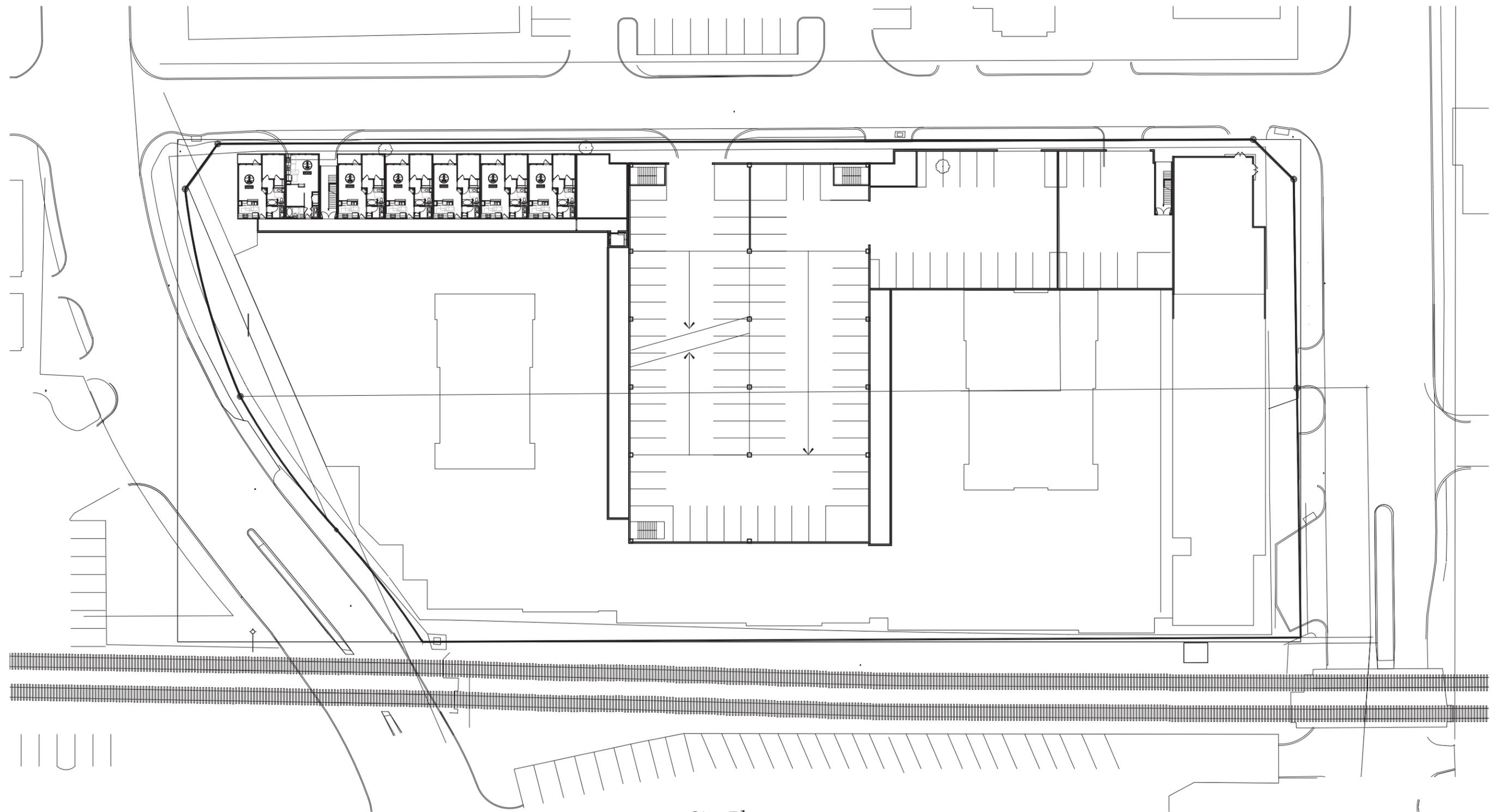
I Avenue Elevation



14th Street Elevation

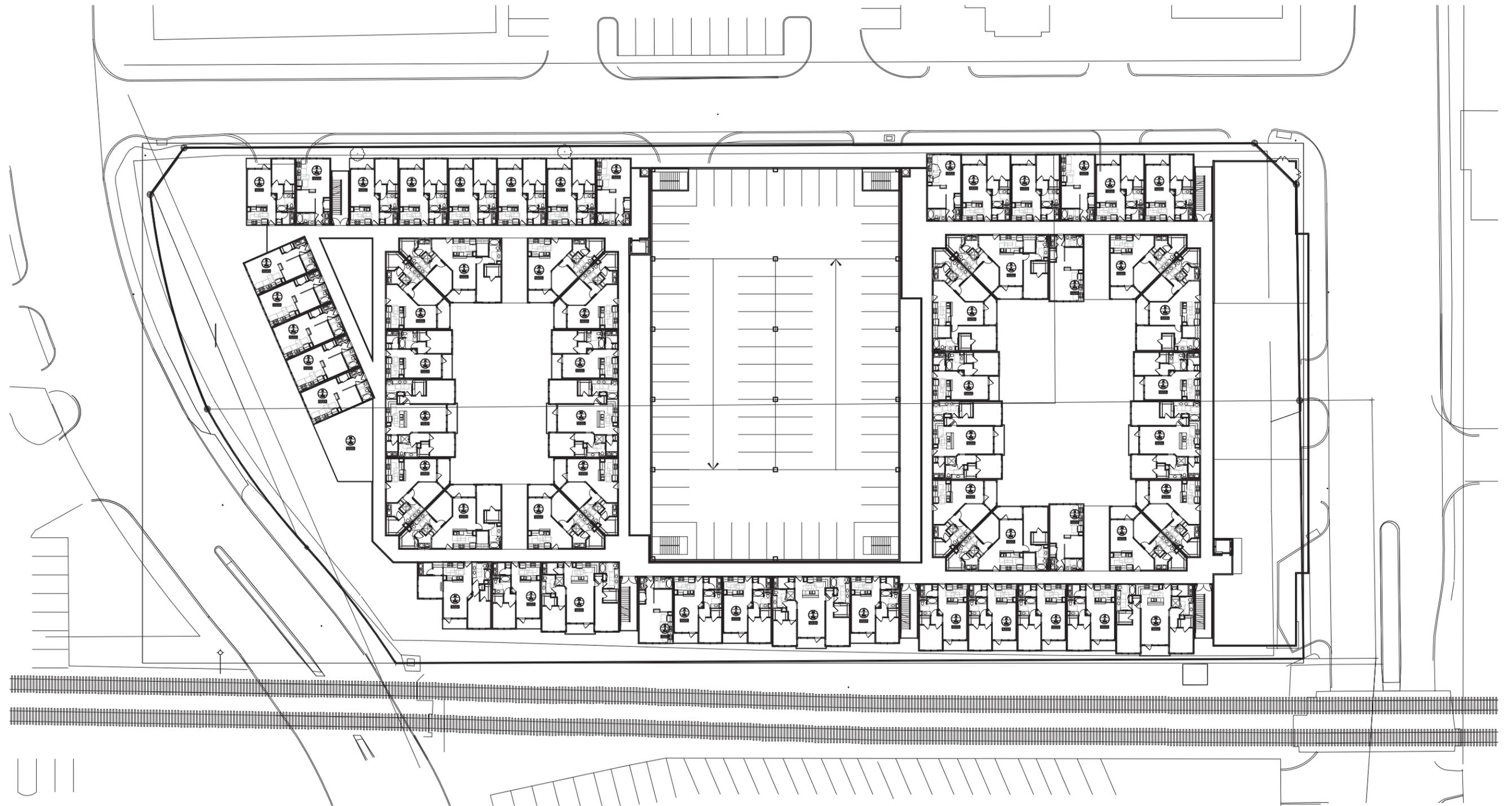


Douglass Walk Elevation



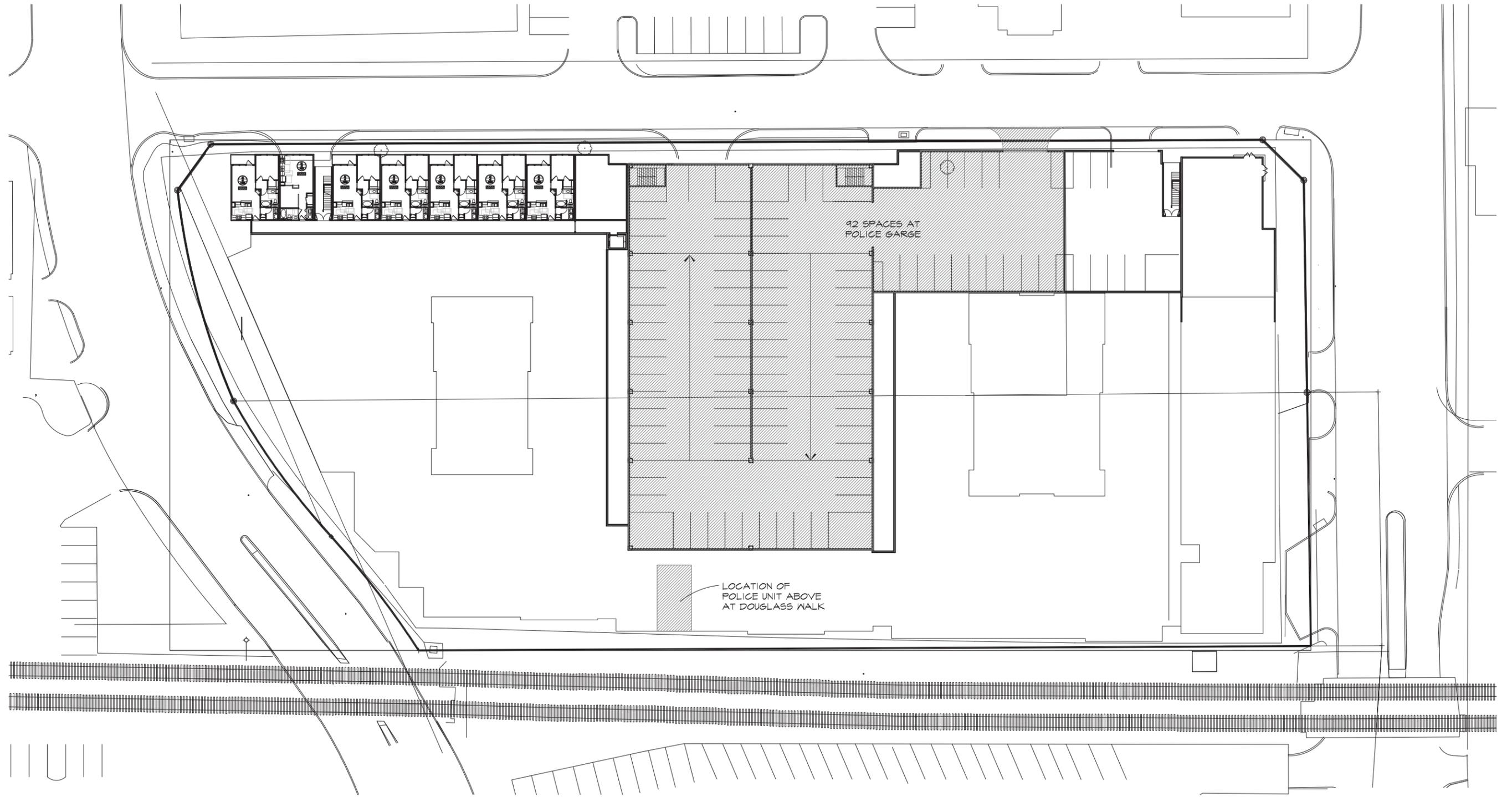
Site Plan





Typical Floor Plan





Ground Floor Plan - I Avenue
Police Parking Garage



EXHIBIT "D"



NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

THE STATE OF TEXAS }
COUNTY OF COLLIN }

KNOW ALL MEN BY THESE PRESENTS:

ACCESS EASEMENT
And
CONSTRUCTION AND MAINTENANCE EASEMENT

THAT DALLAS AREA RAPID TRANSIT, a regional transportation authority ("Grantor"), for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to the Grantor paid by THE CITY OF PLANO, a Texas home rule city ("Grantee"), whose address is P.O. Box 860358, Plano, Texas 75086-0358, the receipt and sufficiency of which is hereby acknowledged and confessed, has GRANTED, SOLD and CONVEYED, and does hereby GRANT, SELL and CONVEY unto Grantee, its successors and assigns, an access easement and a construction and maintenance easement, as described herein, affecting that certain real property described in Exhibits "A" and "B" attached hereto and incorporated herein for all pertinent purposes (the "Property") at all times subject, however, to all existing DART improvements and to all existing easements, covenants, conditions and restrictions shown of record in the Real Property Records of Collin County, Texas, or apparent on the ground, affecting the Property.

1. Access Easement. A perpetual, non-exclusive, access easement (the "Access Easement") across the surface of the Property, for the use and benefit of Grantee, and its contractors, representatives, successors and the public for ingress and egress at all times.

2. Construction and Maintenance Easement. A perpetual, non-exclusive construction and maintenance easement (the "Construction and Maintenance Easement") on, under and across the Property, for the use and benefit of Grantee, and its respective contractors, representatives, successors and assigns, for the purposes of construction, reconstruction, maintenance and repair of a pedestrian walkway, landscaping and irrigation system for the landscaping (the "Permitted Improvements") on the Property. If landscaping is installed, an irrigation system for the landscaping must be installed. All costs of construction and maintenance of the Permitted Improvements shall be borne by Grantee or its successors and assigns. Grantor shall have the right to review and approve all plans and specifications for the Permitted Improvements prior to the start of construction. Grantor's review of the plans and specifications shall not be deemed or construed to transfer any responsibility or duty to, or otherwise create any liability for Grantor regarding the completeness, accuracy, soundness or other feature of the plans and specifications. Prior to any construction activity on the Property, Grantee's contractors shall execute Grantor's Standard Construction Agreement and Contractor's Right of Entry, copies of which are attached hereto as Exhibit "C." Grantee will maintain the Permitted Improvements in a manner consistent with Grantee's customary practices and minimum standards.

Grantee shall not construct or erect any barrier which obstructs or impedes Grantor's access to, or interferes in any way with, Grantor's improvements located on the Property, or on the adjacent property owned by Grantor.

Grantor shall not construct or erect any permanent barrier which obstructs or impedes ingress and egress on, over, across, along, under or through the Access Easement or the Construction and Maintenance Easement, or interferes with the use and enjoyment of any of the easements granted herein.

By acceptance of this conveyance, the parties agree, to the extent permitted under Texas law, and without waiving governmental immunity, to indemnify, hold harmless and defend each other, their directors, officers and employees, against any and all claims, demands, causes of action, costs and liabilities, including reasonable attorney fees and court costs, for the negligent acts of either party arising out of, or resulting from existence of the easements granted herein or the use of those easements by their respective permitted users.

The provisions of this paragraph are for the sole benefit of the parties to these easements and not for the benefit of third parties.

TO HAVE AND TO HOLD the above described easements, together with all and singular the rights and appurtenances thereto in anywise belonging unto Grantee, its successors and assigns forever; and Grantor, for itself, its successors, contractors, representatives and assigns is hereby bound to Warrant and Forever Defend all and singular the said easements unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through and under Grantor, its successors, contractors, representatives and assigns but not otherwise.

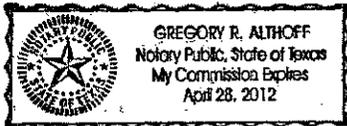
EXECUTED this the 29th day of October 2010.

DALLAS AREA RAPID TRANSIT

By: Cleo S. Grounds
CLEO S. GROUNDS
Assistant Vice President
Real Estate

THE STATE OF TEXAS }
 }
COUNTY OF DALLAS }

The foregoing instrument was acknowledged before me on the 29 day of October, 2010, by CLEO S. GROUNDS, Assistant Vice President, Real Estate, of DALLAS AREA RAPID TRANSIT, a regional transportation authority on behalf of said authority.



Gregory R. Althoff
Notary Public, The State of Texas
Printed Name:
My Commission Expires:

EXHIBIT "A"
DALLAS AREA RAPID TRANSIT (DART)
RIGHT-OF-WAY EASEMENT
JOSEPH KLEPPER SURVEY, ABSTRACT No. 213
CITY OF PLANO, COLLIN COUNTY, TEXAS

BEING a tract of land situated in the Joseph Klepper Survey, Abstract No. 213, in the City of Plano, Collin County, Texas, and being part of a tract of land described in deed to Texas Central Railway Company, recorded in Book W, Page 244 of the Deed Records of Collin County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8-inch iron rod w/ "KHA" cap found in the intersection of the westerly line of the beforementioned Texas Central Railway Company tract and the south right-of-way line of 15th Street (a 77-foot wide public right-of-way) for the northeast corner of a called 1.6099 acre tract of land described in deed to J & A Family Partners, Ltd., recorded under Instrument Number 97-0028103 of the Land Records of Collin County, Texas;

THENCE leaving the east line of the 1.6099 acre tract with the extension of the south right-of-way line of 15th Street and across the Texas Central Railway Company tract, North 89°07'36" East, a distance of 15.08 feet to a point for corner;

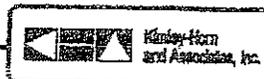
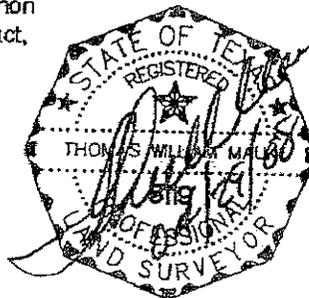
THENCE leaving the extension of the south right-of-way line of 15th Street and continuing across the Texas Central Railway Company tract, the following courses and distances to wit:

- South 00°05'15" West, a distance of 36.01 feet to a point for corner;
- South 00°36'06" East, a distance of 13.68 feet to a point for corner;
- South 00°02'54" East, a distance of 51.67 feet to a point for corner;
- South 00°02'58" East, a distance of 50.52 feet to a point for corner;
- South 01°01'32" West, a distance of 49.82 feet to a point for corner;
- South 00°55'08" West, a distance of 50.54 feet to a point for corner;
- South 01°17'13" West, a distance of 49.57 feet to a point for corner;
- South 01°42'26" West, a distance of 170.83 feet to a point for corner in the extension of the curving north right-of-way line of 14th Street (a variable width public right-of-way), recorded in Volume 5159, Page 2694 of the Deed Records of Collin County, Texas, for the beginning of a non-tangent curve to the left;

THENCE with the curving extension of the north right-of-way line of 14th Street, Southwesterly, with the curve to the left, through a central angle of 00°46'53", having a radius of 435.00 feet, and a chord bearing and distance of South 57°26'22" West, 5.93 feet, an arc distance of 5.93 feet to an "X" cut in concrete found in the east line of the 1.6099 acre tract;

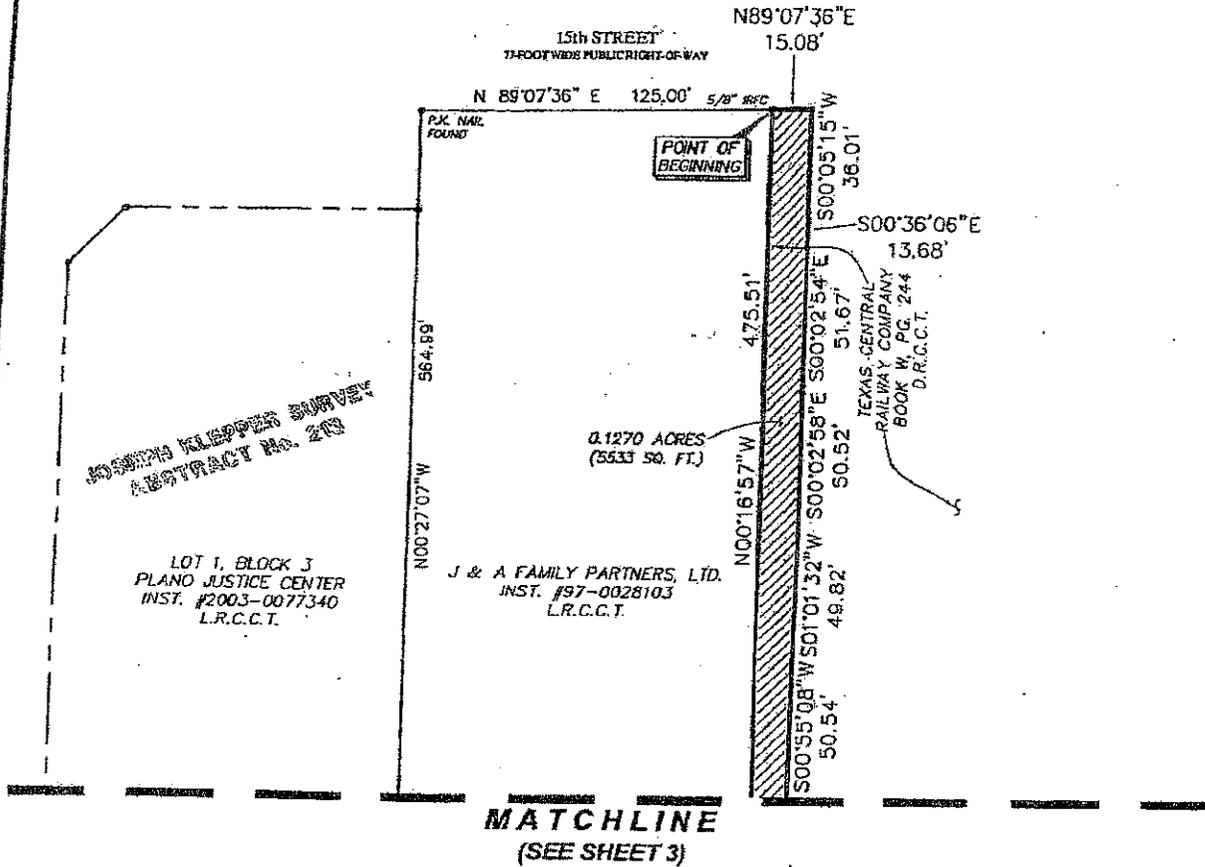
THENCE leaving the north right-of-way line of 14th Street with the common line of the 1.6099 acre tract and the Texas Central Railway Company tract, North 00°16'57" West, a distance of 475.51 feet to the **POINT OF BEGINNING** and containing 0.1270 acres (5533 square feet) of land.

Bearing system based upon the Texas Coordinate System of 1983 North Central Texas Zone (grid Azimuth).

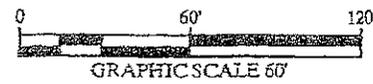
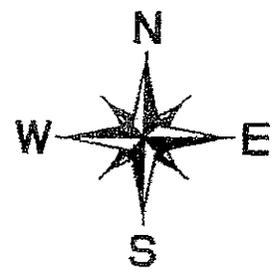


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Instrument

EXHIBIT "B"
DALLAS AREA RAPID TRANSIT (DART)
RIGHT-OF-WAY EASEMENT
JOSEPH KLEPPER SURVEY, ABSTRACT No. 213
CITY OF PLANO, COLLIN COUNTY, TEXAS



MATCHLINE
(SEE SHEET 3)



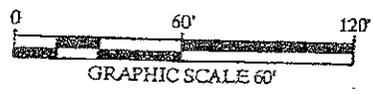
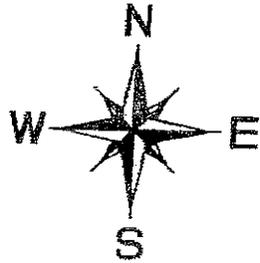
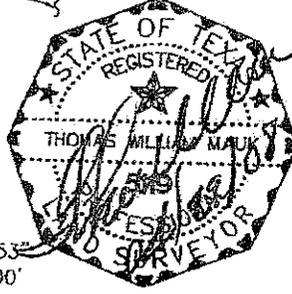
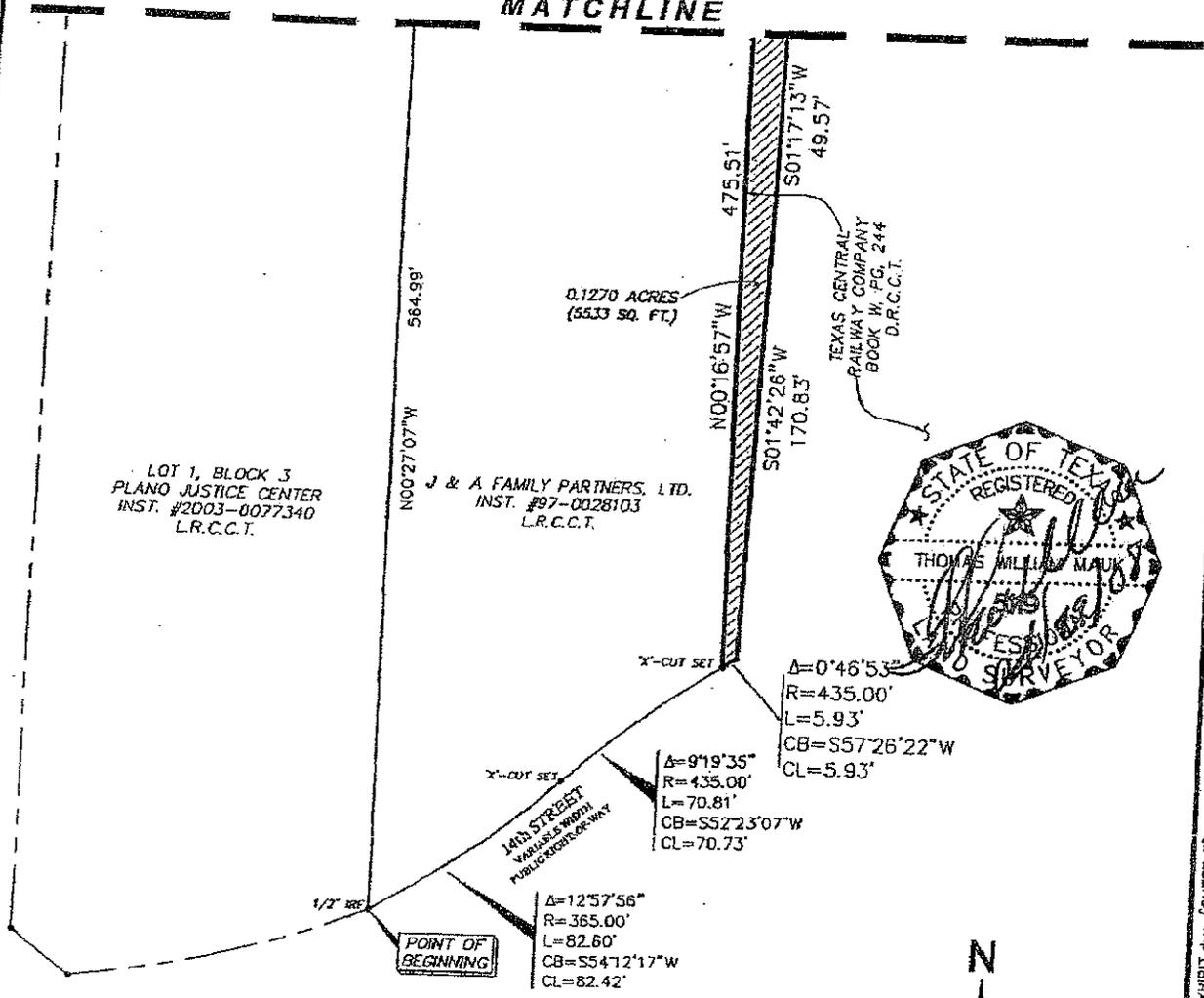
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 COLLIN COUNTY, TEXAS
 D.R.C.C.T. = DEED RECORDS OF COLLIN
 COUNTY, TEXAS



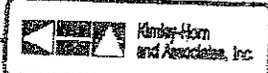
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EXHIBIT "B"
DALLAS AREA RAPID TRANSIT (DART)
RIGHT-OF-WAY EASEMENT
JOSEPH KLEPPER SURVEY, ABSTRACT No. 213
CITY OF PLANO, COLLIN COUNTY, TEXAS

(SEE SHEET 2)
MATCHLINE



LEGEND:
 PG. = PAGE
 INST. = INSTRUMENT
 L.R.C.C.T. = LAND RECORDS OF
 COLLIN COUNTY, TEXAS
 D.R.C.C.T. = DEED RECORDS OF COLLIN
 COUNTY, TEXAS



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Filed and Recorded
Official Public Records
Stacey Kemp, County Clerk
Collin County, TEXAS
11/01/2010 08:00:44 AM
\$36.00 BNOPP
20101101001183230



Stacey Kemp

EXHIBIT "E"

PARKING EASEMENT AGREEMENT

This PARKING EASEMENT AGREEMENT ("Agreement") is made and entered into as of _____, 2012, by and between _____, a _____ ("Southern"), and THE CITY OF PLANO, TEXAS ("City").

W I T N E S S E T H:

WHEREAS, Southern is the owner of the land described on Exhibit "1" attached hereto and incorporated herein by reference (the "Development Tract");

WHEREAS, on _____, 2012, the City conveyed the Development Tract to Southern in connection with a Development Agreement dated _____, 2012 (the "Development Agreement") requiring Southern's development of the Development Tract including construction of a parking garage; and

WHEREAS, part of the consideration for the grant of the Development Tract to Southern from the City included Southern's agreement to grant the City an exclusive Parking Space Easement (defined below) for its use on the Development Tract as further described herein.

NOW, THEREFORE, for and in consideration of the mutual and dependent covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

1. Easement. Southern hereby grants and conveys to City, for the exclusive use by City and its employees, invitees, agents, successors and assigns ("Parking Users"), a perpetual easement for ingress, egress and for ninety two (92) parking spaces at or below grade in the parking garage on the Development Tract in the location designated on Exhibit "2" attached hereto and incorporated herein by reference (the "Easement Property"). Nothing contained herein is intended nor shall it be construed as creating any rights in or for the benefit of the general public. The easements granted herein shall not take effect until the completion of construction of the parking garage in accordance with the Development Agreement. Nothing contained herein is intended nor shall it be construed as creating any rights in or for the benefit of the general public.

2. Limited Purpose. City may use the parking spaces for police vehicle parking and any other lawful uses consistent with the activities of the City, so long as such uses are not inconsistent with, or detract from the attractive residential community atmosphere of the development on the Development Tract (for example, noise, odors or noxious activities). The Parking Space Easement may be utilized by the Parking Users for ingress and egress for vehicular and pedestrian use and access for fire department and emergency use in, along, upon and across the Easement Property. Notwithstanding the foregoing, the City may not lease or assign the parking spaces for a commercial enterprise.

3. Maintenance Obligations.

(a) City's Obligations. Subject to Southern's obligations as described in Section 3(b) herein, City shall be responsible for all costs and expenses of maintaining the Easement Parking Spaces, including but not limited to (i) all electrical costs related to the Easement Parking Spaces via a dedicated electrical meter provided by Southern (ii) light bulb fixture replacements above the Easement Parking Spaces (iii) City's pro rata share (defined as the number of Easement Parking Spaces [92] divided by the total number of parking spaces in the parking garage), payable within thirty (30) days of City's receipt of invoice from Southern, of all parking garage fire sprinkler testing and maintenance, including repairs and replacements (iv) all striping and restriping of the Easement Parking Spaces, (v) all initial installation and ongoing maintenance of fencing, access control, gates and monitoring equipment for the Easement Parking Spaces, and (vi) any damages arising out of maintenance or repairs to common building systems within the City's Easement Property caused by the City.

(b) Southern's Obligations. Southern shall be responsible for all costs and expenses of maintaining the area of the parking garage outside the City's Parking Easement and for the following maintenance costs and expenses within the City's Parking Easement including (i) all cracking, spidering or potholing of at-grade easement parking surfaces during the first year following construction of the parking garage, (ii) structural support of columns and decks, and (iii) ongoing maintenance of storm water drainage systems above and below the Easement Parking Spaces.

4. Easement Runs with the Land. The covenants of Southern contained herein shall run with and follow the land with regard to the fee simple ownership of the land contained within the Parking Easement Property and shall be binding upon the heirs, executors, successors and assigns of Southern. The Parking Easement is personal to the City and the Parking Users, and may not be further assigned without Southern's prior written consent. Any purported assignment in violation of the immediately preceding sentence shall be null and void.

5. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

6. Amendment; Termination. This Agreement and the easement granted hereunder may be terminated or amended by an instrument in writing executed jointly by all of the owner or owners of the Development Tract and City and recorded in the Real Property Records of Collin County, Texas.

7. Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provisions had never been contained herein.

8. Subordination. This Agreement and the easements contained herein shall be deemed automatically subordinated to any mortgage or deed of trust now or hereafter granted or entered into with respect to the Development Tract subject to the City's right to compensation in Section 4 of this Agreement in the event of damage, destruction or failure of performance.

Grantee agrees to promptly execute any additional agreements reasonably required in order to effect or confirm such subordination subject to the City's right to compensation in Section 4 of this Agreement in the event of damage, destruction or failure of performance.

SOUTHERN:

Southern Land Company, LLC, a
Tennessee limited liability company

By: _____
Name: _____
Title: _____

STATE OF TENNESSEE §
 §
COUNTY OF WILLIAMSON §

This instrument was ACKNOWLEDGED before me on the ___ day of _____, 20___,
by _____, the _____ of
Southern Land Company, LLC, a Tennessee limited liability company, on behalf of said limited
liability company.

[S E A L]

Notary Public - State of Tennessee

My Commission Expires:

Printed Name of Notary Public

CITY:

Attest:

THE CITY OF PLANO, TEXAS

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was ACKNOWLEDGED before me on the ___ day of _____, 20___,
by _____ and _____, the _____
and _____, respectively, of the City of Plano,
Texas, a home rule municipal corporation, on behalf of said corporation.

[S E A L]

Notary Public - State of Texas

My Commission Expires:

Printed Name of Notary Public

EXHIBIT "1" TO EXHIBIT "E"

BEING a tract of land situated in the Joseph Klepper Survey, Abstract No. 213, in the City of Plano, Collin County, Texas, and being all of a tract of land described as Lot 1, Block 3 of PLANO JUSTICE CENTER, an addition to the City of Plano, Collin County, Texas, according to the plat thereof recorded under Instrument Number 2003-0077340 of the Land Records of Collin County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2-inch iron rod found in the north right-of-way line of 14th Street (a variable width public right-of-way) for the southwest corner of a called 1.4872 acre tract of land described in deed to J & A Family Partners, LTD, recorded in Volume 3888, Page 374 of the Land Records of Collin County, Texas and the southeast corner of the subject tract and the beginning of a curve to the right;

THENCE southwesterly, with the north right-of-way line of 14th Street, with said curve to the right, through a central angle of 16°41'59", having a radius of 370.00 feet, and a chord bearing and distance of South 75°04'29" West, 107.46 feet, an arc distance of 107.84 feet to a 1-inch iron rod found for the end of the curve, same being the southeast corner of a corner clip for the intersection of said 14th Street and Avenue I (a 40-foot wide public right-of-way);

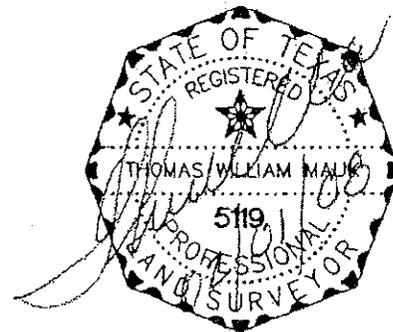
THENCE with said corner clip, North 54°02'32" West, a distance of 27.94 feet to a 1-inch iron rod found for the northwest corner of said corner clip;

THENCE leaving said corner clip and with the east right-of-way line of Avenue I, North 00°14'30" West, a distance of 519.30 feet to a point for the southwest corner of a corner clip for the intersection of said Avenue I and 15th Street;

THENCE with said corner clip, North 44°26'34" East, a distance of 28.44 feet to a point for the northeast corner of said corner clip;

THENCE leaving said corner clip and with the south right-of-way line of 15th Street (a 77-foot wide public right-of-way at this location), North 89°07'38" East, a distance of 104.56 feet to a point in the west line of said 1.4872 acre tract;

THENCE leaving the south right-of-way line of 15th Street and with the common line of said 1.4872 acre tract and the subject tract, South 00°27'07" East, a distance of 564.99 feet to the **POINT OF BEGINNING** and containing 1.5693 acres of land.



LOT 1, BLOCK 3
PLANO JUSTICE CENTER
JOSEPH KLEPPER SURVEY,
ABSTRACT NO. 213
CITY OF PLANO
COLLIN COUNTY, TEXAS

SHEET 2 OF 2	Scale:	1" = 100'
	Designed by:	KHA
	Drawn by:	TTW
	Checked by:	TWM
	Date:	JANUARY 31, 2006
PROJECT NO.	06440180X7	

	Kimley-Horn and Associates, Inc.
<small>12700 Park Central Drive, Suite 1800 Dallas, Texas 75261</small>	<small>Tel. No. (972) 770-1300 Fax No. (972) 536-3820</small>

EXHIBIT "2" TO EXHIBIT "E"

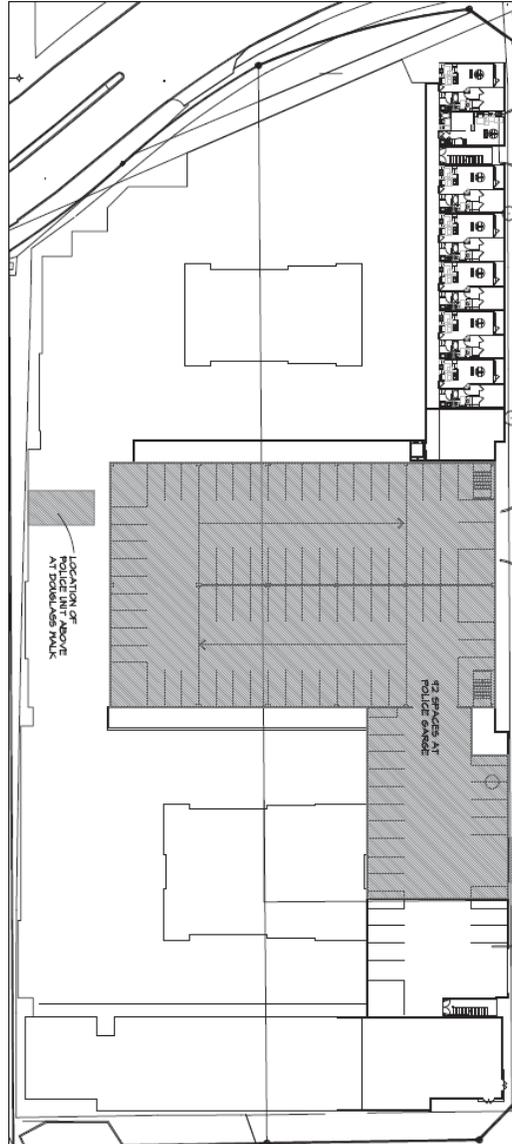


EXHIBIT "F"
CONSTRUCTION

City of Plano - Insurance Checklist

("X" means the coverage is required.)

<u>Coverages Required</u>	<u>Limits (Figures Denote Minimums)</u>
<input checked="" type="checkbox"/> 1. Workers' Compensation & Employers' Liability	Statutory limits of State of Texas \$100,000 accident \$100,000 disease \$500,000 policy limit disease
<input type="checkbox"/> 2. For Future Use	
<input type="checkbox"/> 3. City Approved Alternative Workers' Comp. Program	150,000 medical, safety program
<input checked="" type="checkbox"/> 4. General Liability	Complete entry No. 26 Minimum 500,000 each incident 1,000,000 occurrence
<input checked="" type="checkbox"/> 5. General aggregate applies per project (CGL)	
<input checked="" type="checkbox"/> 6. Premises/Operations	(Items No. 3-10 & 12 require)
<input checked="" type="checkbox"/> 7. Independent Contractors	\$500,000 combined single limit for bodily injury and property damage
<input checked="" type="checkbox"/> 8. Products	damage each occurrence with
<input checked="" type="checkbox"/> 9. Completed Operations	\$1,000,000 general aggregate that applies to project under contract
<input checked="" type="checkbox"/> 10. Contractual Liability	
<input checked="" type="checkbox"/> 11. Personal Injury Liability	\$500,000 each offense & aggregate
<input checked="" type="checkbox"/> 12. XCU Coverages	
<input checked="" type="checkbox"/> 13. Automobile Liability	\$500,000 Bodily Injury & Property
<input checked="" type="checkbox"/> 14. Owned, Hired & Non-owned	Damage each accident
<input type="checkbox"/> 15. Motor Carrier Act Endorsement	
<input type="checkbox"/> 16. Professional Liability	\$1,000,000 each claim \$2,000,000 aggregate
<input type="checkbox"/> 17. Garage Liability	\$_____BI & PD each occurrence
<input type="checkbox"/> 18. Garagekeepers' Legal	\$_____ - Comprehensive \$_____ - Collision

X 19. Owners Protective Liability

\$500,000 Combined single limits

X 20. City named as additional insured on other than W/C and Auto. This coverage is primary to all other coverages the City may possess.

X 21. City provided with Waiver of Subrogation on Workers' Compensation or Alternative program if applicable.

| X 22. Thirty (30) days notice of cancellation or non-renewal provided by insurance carrier. Any material change or coverage reduction endorsement required by Contractor.

X 23. The City of Plano prefers an A.M. Best's Guide Rating of "A-", "VI" or better or Standard and Poors Rating AA or better; Authorized to do business in the State of Texas (not applicable for workers' compensation assigned through pool or alternative compensation programs).

X 24. The Certificate must state bid number and proposal title or project.

___ 25. Other Insurance Required:

INSURANCE AGENT'S STATEMENT

I have reviewed these requirements with the Proposer named below. Additionally:

X 26. The above policy(s) carry the following deductibles: _____

Full limits of coverage available for:

General Liability _____

Automobile Liability _____

X 27. Liability policies are (indicate):

OCCURRENCE []

CLAIMS MADE []

Insurance Agent (Print)

Signature

Date

INSURANCE REQUIREMENTS

1. General Insurance Requirements:

- 1.1 The Contractor shall not start work under this Contract until the Contractor has obtained at his own expense all of the insurance called for here under and such insurance has been approved by the City; nor shall the Contractor allow any subcontractor to start work on any subcontract until all insurance required of the subcontractor has been so obtained and approved by the Contractor. Approval of insurance required of the Contractor and subcontractors for the City of Plano will be granted only after submission to the Director of Public Works of original, signed certificates of insurance or, alternately, at the City's request, certified copies of the required insurance policies.
- 1.2 The Contractor shall require all subcontractors to maintain during the term of this agreement, Commercial General Liability insurance, Business Automobile Liability insurance, and Workers' Compensation and Employer's Liability insurance, in the same manner as specified for the Contractor. The Contractor shall furnish subcontractors' certificates of insurance to the City immediately upon request.
- 1.3 All insurance policies required hereunder shall be endorsed to include the following provision: "It is agreed that this policy is not subject to cancellation, non-renewal, until ten (10) days prior written notice has been given to the Director of Public Works, City of Plano."

NOTE: The words "endeavor to" and "but failure to mail such notice shall impose no obligation to liability of any kind upon the company, its agents or representatives" are to be eliminated from the cancellation provision of standard ACORD certificates of insurance.

- 1.4 Contractor agrees to notify the City of any changes in insurance policy coverage, including but not limited to changes in limits and cancellation. The Contractor shall notify the City in writing of any changes within forty-eight (48) hours of the change. The Contractor's notice shall include a description of the changes and how those changes vary from the insurance requirements of the contract/agreement."
- 1.5 No acceptance and/or approval of any insurance by the City shall be construed as relieving or excusing the Contractor, or the surety, or its bond, from any liability or obligation imposed upon either or both of them by the provisions of the Contract Documents.
- 1.6 The City of Plano (including its elected and appointed officials, agents, volunteers, and employees) is to be named as an additional insured under all coverages except Workers' Compensation and Automobile Liability, and the certificate of insurance, or the certified policy, if requested, must so state. Coverage afforded under this paragraph shall be primary as respects the City, its elected and appointed officials, agents and employees.
 - 1.6.1 The following definition of the term "City" applies to all policies issued under the Contract:

The City Council of the City of Plano and any affiliated or subsidiary Board, Authority, Committee, or Independent Agency (including those newly constituted), provided that such affiliated or subsidiary Board, Authority, Committee, or Independent Agency is either a Body Politic created by the City Council of the City of Plano, or one in which controlling interest is vested in the City of Plano; and City of Plano Constitutional Officers.

- 1.7 The Contractor shall provide insurance as specified in the "Insurance Checklist" (Checklist) found on the last page of the bid or proposal form. Full limits of insurance required in the Checklist of this agreement shall be available for claims arising out of this agreement with the City of Plano.
- 1.8 The Contractor covenants to save, defend, hold harmless and indemnify the City and all of its elected or appointed officials, agents and employees (collectively the "City") from and against any and all claims, loss, damage, injury, cost (including court costs and attorney's fees), charges, liability or exposure, however caused, resulting from or arising out of or in any way connected with the Contractor's performance or non-performance of the terms of the Contract Documents or its obligations under the Contract. This indemnification shall continue in full force and effect until the Contractor completes all of the work required under the Contract, except that indemnification shall continue for all claims involving products or completed operations after final acceptance of the work by the City for which the City gives notice to the Contractor after the City's final acceptance of the work.
- 1.9 The Contractor shall be responsible for the work performed under the Contract Documents and every part thereof, and for all materials, tools, equipment, appliances, and property of any and all descriptions used in connection with the work. The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed on or in connection with the work contracted for, and of all damage or injury to any person property wherever located, resulting from any action, omission, commission or operation under the Contract, or in connection in any way whatsoever with the contracted work, until final acceptance of the work by the City.
- 1.10 Insurance coverage required in these specifications shall be in force throughout the Contract Term. Should the Contractor fail to provide acceptable evidence of current insurance within seven (7) days of written notice at any time during the Contract Term, the City shall have the absolute right to terminate the Contract without any further obligation to the Contractor, and the Contractor shall be liable to the City for the entire additional cost of procuring performance and the cost of performing the incomplete portion of the Contract at time of termination.
- 1.11 Contractual and other liability insurance provided under this Contract shall not contain a supervision, inspection or engineering services exclusion that would preclude the City from supervising or inspecting the project as to the end result. The Contractor shall assume all on-the-job responsibilities as to the control of persons directly employed by it and of the subcontractors and any persons employed by the subcontractor.
- 1.12 Nothing contained in the specifications shall be construed as creating any contractual relationship between any subcontractor and the City. The Contractor shall be as fully responsible to the City for the acts and omissions of the subcontractors and of persons employed by them as it is for acts and omissions of persons directly employed by it.
- 1.13 Precaution shall be exercised by the Contractor at all times for the protection of persons, (including employees) and property. All existing structures, utilities, roads, services, trees and shrubbery shall be protected against damage or interruption of service at all times by the Contractor and its subcontractors during the term of the Contract, and the Contractor shall be held responsible for any damage to property occurring by reason of its operation on the property.
- 1.14 Written requests for consideration of alternate coverages must be received by the City Purchasing Manager at least ten (10) working days prior to the date set for receipt of bids or proposals. If the City denies the request for alternative coverages, the specified coverages will be required to be submitted.

- 1.15 All required insurance coverage must be acquired from insurers authorized to do business in the State of Texas and acceptable to the City. The City prefers that all insurers also have a policyholder's rating of "A-" or better, and a financial size of "Class VI" or better in the latest edition of A.M. Best, or A or better by Standard and Poors, unless the City grants specific approval for an exception, in the same manner as described in 1.13 above.
- 1.16 The City will consider deductible amounts as part of its review of the financial stability of the Proposer. Any deductibles shall be disclosed in the Checklist and all deductibles will be assumed by the Contractor. Contractor/Vendor may be required to provide proof of financial ability to cover deductibles, or may be required to post a bond to cover deductibles.

2. Contractor's Insurance - "Occurrence" Basis:

2.1 The Contractor shall purchase the following insurance coverages, including the terms, provisions and limits shown in the Checklist.

2.1.1 Commercial General Liability - Such Commercial General Liability policy shall include any or all of the following as indicated on the Checklist:

- i. General aggregate limit is to apply per project.
- ii. Premises/Operations.
- iii. Actions of Independent Contractors.

iv. Products/Completed Operations to be maintained for one year. Final completion and acceptance of the work, with evidence of same filed with owner.

v. Contractual Liability including protection for the Contractor from claims arising out of liability assumed under this contract.

vi. Personal Injury Liability including coverage for offenses related to employment.

vii. Explosion, Collapse, or Underground (XCU) hazards; if applicable. Coverage required for any and all work involving drilling, excavation, etc.

2.1.2 Business Automobile Liability including coverage for any owned, hired, or non-owned motor vehicles and automobile contractual liability.

2.1.3 Workers' Compensation - statutory benefits as required by the State of Texas, or other laws as required by labor union agreements, including Employers' Liability coverage.

2.2 Owner's Protective Liability Insurance:
Owner and Engineer shall be included as "additional insured" under contractor's
General Liability and Umbrella policy.

WORKERS' COMPENSATION INSURANCE COVERAGE

A. Definitions:

Certificate of coverage ("certificate" - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - Includes the time from the beginning of the work on the project until the Contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in Texas Labor Code § 406.096) - Includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

- B. The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, § 401.011(44) for all employees of the contractor providing services on the project, for the duration of the project.
- C. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.
- D. If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
- E. The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
- (1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and
 - (2) no later than seven days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- F. The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
- G. The Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the Contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

- H. The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- I. The Contractor shall contractually require each person with whom it contracts to provide services on a project to:
- (1) Provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, § 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - (2) Provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
 - (3) Provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (4) Obtain from each other person with whom it contracts, and provide to the Contractor:
 - (a) a certificate of coverage, prior to the other person beginning work on the project; and
 - (b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (5) Retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
 - (6) Notify the governmental entity in writing by certified mail or personal delivery, within ten (10) days after the person knew or should have known, if any change that materially affects the provision of coverage of any person providing services on the project; and
 - (7) Contractually require each person with whom it contracts to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.
- J. By signing this contract or providing or causing to be provided a certificate of coverage, the Contractor is representing to the governmental entity that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- K. The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor which entitles the governmental entity to declare the contract void if the Contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

**WORKERS COMPENSATION
LANGUAGE TO BE IN POSTED NOTICE BY CONTRACTOR**

TWCC Rule 110.110, Section D.7

Each Contractor is required to post a notice on each project site informing all persons providing services on the project that they are required to be covered, and stating how a person may verify current coverage and report failure to provide coverage. This notice does not satisfy other posting requirements imposed by the Act or other commission rules. This notice must be printed with a title in at least 30 point bold type and text in at least 19 point normal type, and shall be in both English and Spanish and any other language common to the worker population. The text for the notices shall be the following text in Figure 2:28 TAC §110 (d) (7) of this section, provided by the commission on the sample notice, without any additional words or changes.

Figure 2:28 TAC §110 (d) (7)

REQUIRED WORKERS COMPENSATION COVERAGE

"The law requires that each person working on this site or providing services related to this construction project must be covered by workers' compensation insurance. This includes persons providing, hauling, or delivering equipment or materials, or providing labor or transportation or other service related to the project, regardless of the identity of their employer or status as an employee."

"Call the Texas Workers' Compensation Commission at 512-440-3789 to receive information on the legal requirement for coverage, to verify whether your employer has provided the required coverage, or to report an employer's failure to provide coverage."

Effective September 1, 1994

EXHIBIT “G”
City of Plano
Insurance Requirements

Requirements

All insurance companies and coverage must be authorized by the Texas Department of Insurance to transact business in the State of Texas and must be acceptable to the City of Plano.

Type of Insurance	Amount of Insurance	Provisions
Commercial General (Public) Liability to include coverage for: a) Premises /Operations b) Products/Completed Operations c) Independent Contractors d) Personal Injury/Advertising Injury e) Liability assumed under an insured contract (including tort liability of another in a business contract	\$1,000,000 each occurrence, \$2,000,000 general aggregate; \$2,000,000 products/completed operations aggregate	City to be listed as additional insured and provided 30-day notice of cancellation or material change in coverage. A copy of the endorsement to policy must be submitted with the required certificate of insurance. City requires insurers to be rated B+VI or higher by A.M. Best or A or higher by Standard & Poors
Business Auto Liability	\$1,000,000 each accident	
Workers’ Compensation & Employers’ Liability	Statutory Limits \$100,000 each accident \$500,000 policy limit by disease, \$100,000 each employee by disease	City to be provided a waiver of subrogation. A copy of the endorsement to policy must be submitted with the required certificate of insurance.

Additional Requirements:

- All policies must be written on a primary basis, non-contributory with any other insurance coverage and/or self-insurance maintained by the City of Plano.
- All insurance coverage required by this section must be evidenced by a certificate of insurance submitted by the contractor’s insurer or broker. Certificates of insurance received from any other source will be rejected.
- The certificate of insurance must state: (1) the City of Plano is named as an Additional Insured with respect to General Liability Coverage and (2) a Waiver of Subrogation in favor of the City of Plano on the Workers’ Compensation Policy

EXHIBIT "H"

PAYMENT BOND

STATE OF TEXAS §
PRESENTS: COUNTY OF COLLIN § KNOW ALL MEN BY THESE

That hereinafter _____ called "Principal", and _____ a corporation organized and existing under the laws of the State of _____, and fully licensed to transact business in the State of Texas, hereinafter "Surety", are held and firmly bound unto the CITY OF PLANO, TEXAS, a home-rule municipal corporation, hereinafter called "Beneficiary", and unto all persons, firms, and corporations who may furnish materials for, or perform labor upon the building or improvements described below, in the penal sum of _____ DOLLARS

(\$ _____) in lawful money of the United States, to be paid in Collin County, Texas, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors jointly and severally, firmly by these presents. This Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement which reduces the Contract price decrease the penal sum of this Bond.

THE OBLIGATION TO PAY SAME is conditioned as follows: Whereas, the Principal entered into a certain written Contract with the Beneficiary, dated the _____ day of _____, _____, A.D. which is made a part hereof by reference, for the construction of certain public improvements that are generally described as follows:

_____.

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties and make prompt payment to all persons, firms, subcontractors, corporations and claimants supplying labor and/or material in the prosecution of the Work provided for in said Contract and any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modification to the Surety is hereby expressly waived, then this obligation shall be void; otherwise it shall remain in full force and effect.

PROVIDED FURTHER, that if any legal action be filed on this Bond, exclusive venue shall lie in Collin County, Texas.

AND PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to Contract, or to the Work performed thereunder, or the Plans, Specifications, Drawings, etc., accompanying the same, shall in anyway affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work to be performed thereunder.

This Bond is given pursuant to the provisions of Texas Government Code Section 2253.001, et seq., and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Collin County or Dallas County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship, as provided by Texas Insurance Code Article 3503.003.

IN WITNESS WHEREOF, this instrument is executed in counterparts, each one of which shall be deemed an original, this the _____ day of _____, _____.

PRINCIPAL: _____
Address _____
Tel. No. _____

ATTEST:

BY: _____
TITLE: _____

SURETY: _____
1. Address _____

TEL. NO. _____

ATTEST:

BY: _____
TITLE: _____

The Resident Agent of the Surety in Collin County or Dallas County, Texas, for delivery of notice and service of the process is:

NAME: _____
STREET ADDRESS: _____
CITY, STATE, ZIP: _____

may hereafter be made, notice of which modifications to the Surety being hereby waived; and, if the Principal shall repair and/or replace all defects due to faulty materials and workmanship that appear within a period of one (1) year from the date of final completion and final acceptance of the Work by Beneficiary; and, if the Principal shall fully indemnify and save harmless the Beneficiary from all costs and damages which Beneficiary may suffer by reason of failure to so perform herein and shall fully reimburse and repay Beneficiary all outlay and expense which the Beneficiary may incur in making good any default or deficiency, then this obligation shall be void; otherwise, it shall remain in full force and effect.

PROVIDED FURTHER, that if any legal action be filed on this Bond, exclusive Venue shall lie in Collin County, Texas.

PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder or the Specifications accompanying the same shall in anywise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work or to the Specifications.

This Bond is given pursuant to the provisions of Texas Government Code Section 2253.001, et seq., and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Collin County or Dallas County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship, as provided by Texas Insurance Code Section 3503.003.

IN WITNESS WHEREOF, this instrument is executed in ____ copies, each one of which shall be deemed an original, this, the ____ day of _____, _____.

PRINCIPAL: _____
Address _____
Tel. No. _____

ATTEST:

BY: _____
TITLE: _____

SURETY: _____
1. Address _____

TEL. NO. _____

ATTEST:

BY: _____

TITLE: _____

The Resident Agent of the Surety in Collin County or Dallas County, Texas, for delivery of notice and service of process is:

NAME: _____
STREET ADDRESS: _____
CITY, STATE, ZIP: _____

PROVIDED, FURTHER, that if any legal action be filed on this Bond, exclusive venue shall lie in Collin County, Texas.

PROVIDED FURTHER, that Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work performed thereunder, or the plans, specifications, drawings, etc. accompanying same shall in any way affect its obligation on this Bond; and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder.

The undersigned and designated agent is hereby designated by Surety as the resident agent in either Collin or Dallas Counties to whom all requisite notice may be delivered and on whom service of process may be had in matters arising out of this suretyship.

IN WITNESS WHEREOF, this instrument is executed on this the _____ day of _____, _____.

PRINCIPAL: _____
Address _____
Tel. No. _____

ATTEST:

BY: _____
TITLE: _____

SURETY: _____
1. Address _____

SECTION 25. TEL.
NO. _____

ATTEST:

BY: _____
TITLE: _____

The Resident Agent of the Surety in Collin County or Dallas County, Texas, for delivery of notice and service of the process is:

NAME: _____
STREET ADDRESS: _____

CITY, STATE, ZIP:

EXHIBIT "K"

AFFIDAVIT OF NO PROHIBITED INTEREST

I, the undersigned declare that I am authorized to make this statement on behalf of _____, a _____ corporation, and I have made a reasonable inquiry and, to the best of my knowledge, no person or officer of _____, is employed by the City of Plano or is an elected or appointed official of the City of Plano within the restrictions of the Plano City Charter.

I am aware that Section 11.02 of the City Charter states:

"No officer or employee of the city shall have a financial interest, direct or indirect, in any contract with the city, nor shall be financially interested, directly or indirectly, in the sale to the city of any land, or rights or interest in any land, materials, supplies or service. The above provision shall not apply where the interest is represented by ownership of stock in a corporation involved, provided such stock ownership amounts to less than one (1) per cent of the corporation stock. Any violation of this section shall constitute malfeasance in office, and any officer or employee of the city found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the persons or corporation contracting with the city shall render the contract voidable by the city manager or the city council."

I further understand and acknowledge that a violation of Section 11.02 of the City Charter at anytime during the term of this contract will render the contract voidable by the City.

Company Name

By: _____
Signature

Print Name

Title

Date

STATE OF TEXAS §
 §
COUNTY OF _____ §

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20__.

Notary Public, State of Texas