



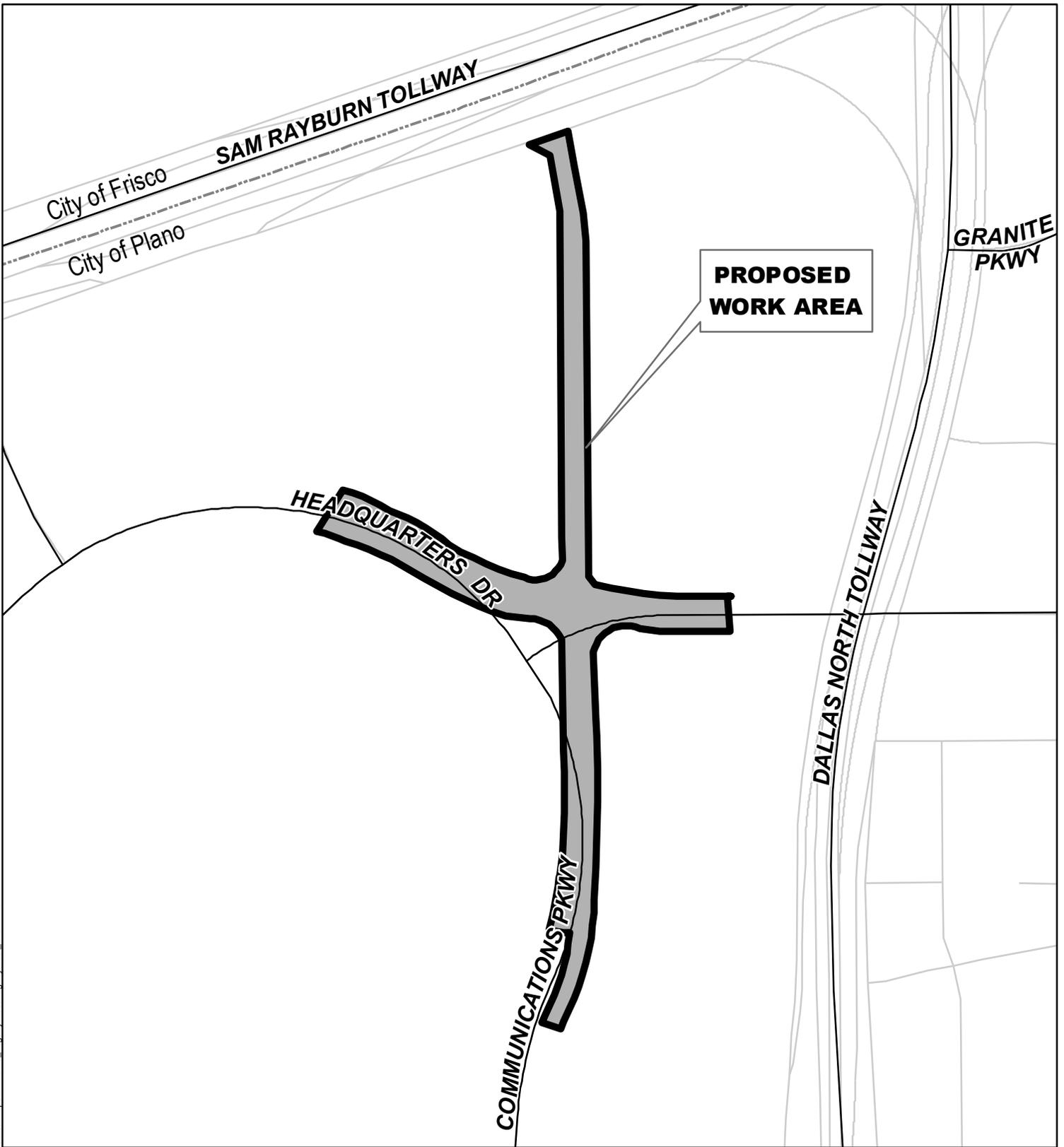
CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:	1/26/2015			
Department:	Engineering			
Department Head	Jack Carr			
Project	Legacy West #6431			
Agenda Coordinator (include phone #): Kathleen Schonne X-7198				
CAPTION				
<p>A Resolution of the City of Plano, Texas, approving the terms and conditions of a Subdivision Improvement Agreement by and between SWC Tollway & 121, LLC, a Delaware limited liability company, and the City of Plano, Texas for the construction of the realignment of Communications Parkway and Headquarters Drive and the extension of Communications Parkway to the Sam Rayburn Tollway; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.</p>				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR: 2014-15, 2015-16	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	2,640,000	2,640,000
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	-2,290,114	-2,290,114
BALANCE	0	0	349,886	349,886
FUND(S): STREET IMPROVEMENT CIP				
<p>COMMENTS: Funding for this item was scheduled for 2015-16 in the 2014-15 Street Improvements CIP. This item, in the estimated amount of \$2,290,114, will leave a balance of \$349,886 available for further street projects in the Legacy West area.</p> <p>STRATEGIC PLAN GOAL: Reimbursing developers for a portion of construction costs related to infrastructure development relates to the City's goals for Financially Strong City with Service Excellence and Partnering for Community Benefit.</p>				
SUMMARY OF ITEM				
<p>Approval of this item will allow the developer of Legacy West to submit a letter of credit as a guarantee for completion of public infrastructure work. Without the guarantee, the developer would be required to complete the public infrastructure work prior to filing the plat associated with the development. The proposed improvements include a reconfiguration of the intersection of Headquarters Drive and Communications Parkway, as well as the construction of Communications Parkway between Headquarters Drive and Sam Rayburn Tollway. The agreement also provides partial funding by the City of Plano for these improvements, in the amount of 30% of the cost of construction.</p> <p>Funds for the City's share are in the approved CIP in FY 15-16. Staff recommends approval of this item.</p> <p>https://maps.google.com/maps?q=Communications+Parkway,+Plano,+TX&hl=en&ll=33.084027,-96.82929&spn=0.015318,0.026779&sll=33.061262,-96.736625&sspn=0.24515,0.428467&oq=communications&hnear=Communications+Pkwy,+Plano,+Texas&tm&z=16</p>				

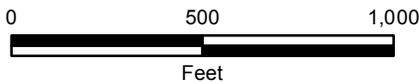


CITY OF PLANO COUNCIL AGENDA ITEM

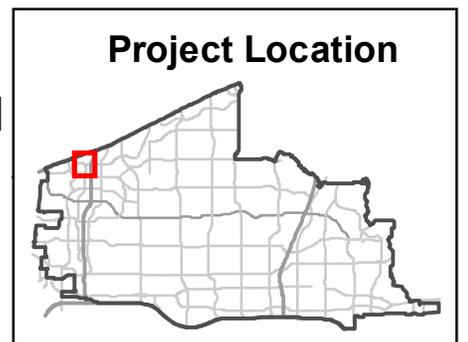
<p>List of Supporting Documents:</p> <ul style="list-style-type: none">Location MapResolutionSubdivision Improvement Agreement	<p>Other Departments, Boards, Commissions or Agencies</p> <p>N/A</p>



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**Communications Parkway and
Headquarters Drive
Alignment
Project No.6431**



A Resolution of the City of Plano, Texas, approving the terms and conditions of a Subdivision Improvement Agreement by and between SWC Tollway & 121 LLC, a Delaware limited liability company, and the City of Plano, Texas for the construction of the realignment of Communications Parkway and Headquarters Drive and the extension of Communications Parkway to the Sam Rayburn Tollway; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.

WHEREAS, Chapter 212, Subchapter C of the Texas Local Government Code (the “Act”) allows for developer participation in contracts for public improvements; and

WHEREAS, Article 4, Section 4.1 of the City of Plano’s Subdivision Ordinance allows a developer to provide financial surety to insure completion of public improvements through a Subdivision Improvement Agreement; and

WHEREAS, on November 10, 2014 the City Council approved Ordinance No. 2014-11-9, which amended the City’s Thoroughfare Plan to include the reconfiguration of the intersection of Headquarters Drive and Communications Parkway and the extension of Communications Parkway to the Sam Rayburn Tollway; and

WHEREAS, construction of these improvements will be undertaken by SWC Tollway & 121 LLC, under the provisions of the Act; and

WHEREAS, the City Council has been presented with a proposed Subdivision Improvement Agreement, a copy of which is attached hereto as Exhibit “A” and which approves the cost sharing arrangement between the City of Plano and SWC Tollway & 121 LLC and requires financial surety for completion of the improvements; and

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

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

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

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

DULY PASSED AND APPROVED this the 26th day of January, 2015.

Harry LaRosiliere, MAYOR

ATTEST:

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY

SUBDIVISION IMPROVEMENT AGREEMENT
(FOR FINAL PLAT APPROVAL)

THIS AGREEMENT (this "Agreement") is made and entered into as of the _____ day of **January, 2015**, by and between the **CITY OF PLANO, TEXAS**, a Home Rule Municipal Corporation (the "City") and **SWC Tollway & 121, LLC**, a Delaware limited liability company(the "Developer").

WHEREAS, the Developer is the developer of a certain proposed subdivision called "**Legacy West-Realignment**", **Block B, Lots 1 & 2, Block C, Lot 1, Block D Lot 1R and Block E, Lot 1**, located in the City of Plano, **Collin County**, Texas (called "Subdivision"); and

WHEREAS, the real property in which the Subdivision and Basic Improvements (defined below) are located as shown on Exhibit "A" attached hereto and made a part hereof by reference (the "Property"); and

WHEREAS, among other reasons, the parties have entered into this Agreement for the purpose of eliminating and avoiding the harmful effects of premature subdivision which leaves property undeveloped and unproductive, and to ensure the completion of basic improvements regardless of whether Developer improves or sells any lots within the Subdivision; and

WHEREAS, the City desires to reconstruct and realign Headquarters Drive and Communication Parkway, including the intersection of such streets, which is the City's right-of-way in connection with the Replat Legacy West Lot 1 and Lot 2, Block B; Lot 1, Block C; Lot LR, Block D; and Lot 1 and Lot 2, Block E approved on January 5, 2015 by the Plano Planning and Zoning Commission; and

WHEREAS, the Developer, in conjunction with its construction of the Subdivision desires to proceed with development of the City's aforementioned right-of-way upon approval by the City of the improvement plan; and

WHEREAS, Texas Local Government Code § 212.071 authorizes a municipality with 5,000 or more inhabitants to enter into a contract with a developer of a non-building public improvement to construct such improvements, without a competitive bidding procedure; and

WHEREAS, Texas Local Government Code § 212.072 allows the municipality to participate in the construction cost, in an amount not to exceed thirty (30%) percent of the total contract price without complying with the competitive bidding procedure of Texas Local Government Code Chapter 252; and

WHEREAS, the Developer's construction of the street improvements will be an economic benefit to local tax payers, will enhance availability to commute and therefore, this Agreement is in the best interest of the citizens of the City; and

WHEREAS, the Developer and the City agree that the Developer shall construct the street and subdivision improvements and the City will participate in the construction costs of the improvements to the street; and

NOW, THEREFORE, for and in consideration of **ONE DOLLAR (\$1.00)** and other good and valuable consideration, including without limitation the approval by the City of the final plat of the Subdivision, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE I. OBLIGATION TO COMPLETE PUBLIC IMPROVEMENTS AND FUNDING

1.01. Classes of Improvements

This Agreement calls for the completion by Developer of public improvements (called "Basic Improvements"). The Basic Improvements are described in Exhibit "B" attached hereto and made a part hereof by reference.

1.02. Duty to Construct

Developer shall construct or cause to be constructed the Basic Improvements in accordance with the City's Standard Specifications for Public Works Construction, which are made a part hereof by reference ("Standard Specifications"), and Developer's Engineering Plans which have been prepared by Kimley-Horn, Inc. ("KHI") and submitted and approved by the City, which are made a part hereof by reference ("Engineering Plans"). Developer shall commence construction of the Basic Improvements no later than **February 28, 2015**, and shall complete construction of the Basic Improvements on or before **January 15, 2016**. Developer's obligation to construct and complete the Basic Improvements is not conditioned upon the commencement of work of private improvements or upon the sale of lots within the Subdivision, and Developer shall complete the construction of the Basic Improvements as set forth above even if Developer does not begin such construction of private improvements or sell any of such lots.

1.03. Funding

The City agrees to participate in the cost of the construction of the improvements in an amount not to exceed thirty (30%) of the total estimated construction cost for the Basic Improvements. The Developer and the City agree that the total estimated construction cost for the Basic Improvements is Seven Million Six Hundred Thirty-Three Thousand Seven Hundred Ten and 50/100 Dollars (\$7,633,710.50) (the "Estimated Cost"). Within thirty (30) days of presentation to the City of a written statement from

Developer certifying that the Basic Improvements have been constructed in accordance with ARTICLE IV. DEDICATION AND ACCEPTANCE and the City's inspection and approval of the constructed improvements, the City will reimburse Developer in an amount equal to Two Million Two Hundred Ninety Thousand One Hundred Thirteen and 16/100 Dollars (\$2,290,113.16) which is equal to thirty percent (30%) of the Estimated Cost for the Basic Improvements.

ARTICLE II. WARRANTIES

2.01. Warranty Against Defects

Developer expressly warrants that the Basic Improvements shall be constructed in accordance with the Standard Specifications and Engineering Plans and free from all defects. Developer shall indemnify the City from all expenses and liability in connection with such defects. This warranty and indemnity shall extend for a period of one (1) year after the acceptance of the dedication of the Basic Improvements, or if such Basic Improvements are accepted separately, one (1) year after acceptance of the dedication of the last completed Basic Improvement.

2.02. Remedy of Defects

The Developer shall remedy and repair all defects within twenty (20) days of written notice to Developer from the City that the defect exists. If the defect is of the type that will require additional time in which to remedy, the Developer shall specify in writing to the City within said twenty (20) day period the particular reasons why such repairs cannot be completed in said twenty (20) day period. If, in the City's opinion, such reasons for delay are justified, the City may grant the Developer additional time. However, in such event the Developer must have commenced the repair work within said twenty (20) day period and continue diligently to complete the repair work. If the City grants additional time, such extension shall be in writing and shall be for a specified period of time. The City shall not be responsible nor participate in any costs accrued with any necessary corrections and alterations.

2.03. Failure of Developer to Remedy Defect

If the Developer fails to meet its warranty obligation and such failure is not remedied within the time periods set forth in Section 2.02 above, it shall be considered in default and the City, at its option, may:

- (a) Contract with another party for the repair work;
- (b) Complete the repair work with its own crews;
- (c) Contract with another party for the repair work and immediately draw down on the maintenance bond, letter of credit, set-aside letter or cash escrow for the amount of such repair work;
- (d) Complete the repair work with its own crews, and immediately draw down on the letter of credit or cash escrow for such costs; or

(e) In the case where the security is a performance or maintenance bond, require that the Surety complete the repair work.

Additionally, the Developer shall be liable to the City for reimbursement of all actual costs expended by the City as a direct result of completing the repair work if such costs were not obtained by drawing down on the letter of credit or cash escrow; or, if in the case of a performance or maintenance bond, the Surety fails to complete the repair work.

In a case where the security is a performance or maintenance bond, if the Surety fails to remedy the defect within thirty (30) days written notice from the City, then the City will be entitled to complete the repair work in accordance with Subsections (a) and (b) above and in such event the Surety, Principal and Developer shall be liable to the City for the actual costs to repair such defects.

ARTICLE III. SECURITY

3.01. Forms of Security

In order to guarantee completion of the Basic Improvements and the faithful performance of this Agreement, Developer, on or before or concurrent with the City's release of the final plat for recordation and before the commencement of the construction of the Basic Improvements shall deliver to the City the following:

(a) [intentionally deleted]

(b) An irrevocable letter of credit or set aside letter ("Letter") in the sum of one hundred percent (100%) of the Estimated Cost, said Letter in form substantially in accordance with letter of credit attached hereto as Exhibit "C" and made a part hereof by reference. Set Aside Letters shall be approved by the City Attorney or his/her designee. Letter and Set Aside Letter are hereafter referred to as "Letter". The Letter shall be issued by a local bank or other agency approved in advance by the City; City hereby approves Bank of America N. A. as an issuing bank. The Letter shall be payable at sight to the City upon presentation of the City's written statement stating that Developer is in default or that the City is otherwise entitled to draw down on the Letter. Such certificate shall be conclusive to allow the City to draw the proceeds of the Letter. In no event shall the City be required to prove to the issuer that the Developer is actually in default or to specify specific grounds of default in order to draw proceeds of the Letter. The Letter is intended to be security for the faithful completion of the Basic Improvements and to ensure against defects for the warranty period specified in Article II of this Agreement; or

(c) The cash sum (the "Cash Escrow") in an amount equal to the Estimated Cost of the Basic Improvements. The Cash Escrow is intended to be security (in place of a Letter) for the faithful completion of the Basic Improvements and to ensure against defects for the warranty period specified in Article II of this Agreement.

3.02. Duration of and Reductions of Letter of Credit or Cash Escrow

(a) The Letter shall be issued for a period of at least one (1) year. If the Basic Improvements have not been accepted by the City within thirty (30) days of the expiration date of the Letter, and Developer has not provided a new Letter for an additional period of at least one (1) year, identical in amount (unless the Letter was previously reduced in amount pursuant to Section 3.02(c)) and in all other respects to the original Letter (unless the City Attorney or his/her designee approves in writing any changes to the new Letter), then the City shall be entitled to immediately draw down the proceeds of the original Letter (or previously reduced Letter). This provision shall not be construed to require that the City accept the new Letter if Developer is in default and the City has elected to draw down from the proceeds of the original Letter (or previously reduced Letter).

(b) Within ten (10) days after the acceptance of the Basic Improvements, the Developer shall deliver to the City another Letter equal in amount to ten (10) percent of the original Letter and in all other respects identical to the original Letter, unless the City Attorney or his/her designee approves in writing changes to this Letter. This Letter shall be for a period of one (1) year and shall be security to insure against defects during the warranty period specified in Article II of this Agreement. However, if this Letter is not delivered to the City at least thirty (30) days before the expiration of the original Letter (or the additional new Letter as described above), then the City shall be entitled to draw down ten (10) percent of the proceeds of such existing Letter. Such money shall be held in escrow by the City and used as security against defects during the warranty period. In lieu of the Letter provided for in this subparagraph (b), the City Engineer may accept a Maintenance Bond as provided for in subparagraph (d) of this Section 3.02.

(c) From time to time as portions of the Basic Improvements are completed in accordance with the Standard Specifications and the Engineering Plans (each being a "Completed Portion"), the Developer may make application to the City Engineer or his/her designee to reduce the amount of the original Letter or Cash Escrow. If the City Engineer or his/her designee receives a certificate from KHI that the Completed Portion of the Basic Improvements has been completed in accordance with the Standard Specifications and Engineering Plans, the City Engineer shall cause and/or allow the amount of the Letter or Cash Escrow to be reduced by such amount that KHI allocates as the value of the Completed Portion so that the remaining amount of the Letter of Credit or Cash Escrow adequately ensures the completion of and is equal to the cost of the remaining Basic Improvements. If the City Engineer or his/her designee has approved the reduction and the issuing bank will not reduce the Letter without issuing a new Letter, the City will accept a new Letter for such reduced amount, if it conforms with the provisions of this Article III. The decision of the City Engineer or his/her designee to reduce the amount of the Letter or Cash Escrow shall in no way be construed as an acceptance by the City of the completed Basic Improvements.

(d) When Cash Escrow is used as the security, all accrued interest shall become a part of the Cash Escrow and shall be used as security for the completion of

the Basic Improvements. The term "Cash Escrow" used in this Agreement includes accrued interest. After final acceptance of the Basic Improvements by the City, the Cash Escrow shall be reduced to ten (10) percent of the original Cash Escrow amount. The remaining ten (10) percent Cash Escrow shall be retained for a period of one (1) year after acceptance of the Basic Improvements as security to ensure against defects during the warranty period specified in Article II of this Agreement. In lieu of the retention of the ten (10) percent Cash Escrow or ten (10) percent Letter provided for in paragraph 3.02(b) of this Agreement, the City Engineer may accept a maintenance bond in the same amount from the Contractor actually performing the work. Such maintenance bond shall be substantially in the same form and substance as the form attached hereto as Exhibit "D", which is made a part hereof by reference, unless changes are approved in writing by the City Attorney or his/her designee. When all the remaining Cash Escrow is refunded to the Developer, such refund shall include accrued interest, calculated at one (1) percent less than the rate of actual earnings. The one (1) percent accrued interest on the principal amount of the Cash Escrow shall be retained by the City as an administrative expense to cover the cost of administering this Agreement.

ARTICLE IV. DEDICATION AND ACCEPTANCE

4.01. City Inspection

During the construction of the Basic Improvements the City will inspect the work for compliance with this Agreement, the Standard Specifications and the Engineering Plans. Upon completion of the Basic Improvements, the Developer shall give the City written notice of completion and request for final inspection.

4.02. Basic Improvements to be Constructed on Public Property; Good Title

At the time the final plat is approved by the City, the Developer, by a dedication certificate on the final plat, offers for dedication to the City the streets, alleys, easements and other public use areas as shown thereon. The Basic Improvements shall be constructed wholly within such dedicated areas as shown on the final plat. At the option of the City, the City may require prior to and as condition of acceptance that the Developer convey by warranty deed, fee simple title to the City of all or part of the real property upon which the Basic Improvements are located if not contained in dedicated areas.

4.03. Final Acceptance

Within fifteen (15) days of receipt of the notice of completion and request for final inspection the City Engineer will cause a final inspection of the Basic Improvements. If the Basic Improvements are in compliance with this Agreement, the Standard Specifications, and the Engineering Plans, and the final subdivision plat has been approved and filed of record in the County Land Records, and so long as the Developer has complied with Sections 4.01 and 4.02 of this Agreement, the City Engineer shall

issue his/her letter of acceptance which shall evidence the City's acceptance of ownership and maintenance of the Basic Improvements and the real property associated therewith. In no event shall the City be required to accept separate Basic Improvements at different times. However, nothing shall preclude the City from doing so if, in the reasonable opinion of the City Engineer, it is beneficial and feasible for the City to do so.

ARTICLE V. DEFAULT AND REMEDIES

5.01. Events of Default

Developer shall be in default under this Agreement upon the occurrence of any of the following and the continuation of same for a period of twenty (20) days (or such longer period as may be appropriate as contemplated in Section 2.02) after written notice of same to Developer in accordance with Section 7.04:

(a) The Developer has failed to commence construction of the Basic Improvements by the date specified in Section 1.02 of this Agreement.

(b) The Developer has failed to substantially complete construction of the Basic Improvements in accordance with the Standard Specifications and Engineering Plans by the completion date specified in Section 1.02 of this Agreement, subject to force majeure and the other provisions of Section 7.03.

(c) The Developer has failed to perform work on the Basic Improvements for fourteen (14) consecutive days, subject to force majeure and the other provisions of Section 7.03.

(d) The Developer has been declared insolvent.

(e) A Receiver has been appointed to handle the affairs or assets of the Developer.

(f) The filing of a voluntary or involuntary petition in bankruptcy by or against the Developer.

(g) The commencement of a foreclosure proceeding of a lien against the Property, or its conveyance in lieu of foreclosure.

(h) The Developer's failure to cure a defect within the cure period provided in Section 2.02 of this Agreement

(i) The failure of the contractor and any subcontractor who actually performs construction work on the Basic Improvements to maintain insurance as required by Section 6.02 of this Agreement.

(j) The failure of Developer to comply with any other covenant or promise contained in the Agreement.

5.02. Specific Remedies

(a) In the event of default by Developer, the City shall notify Legacy West Investors, LP ("Back Up Developer") and Back Up Developer may, within ten (10) days after such notice, elect to perform and complete the uncompleted portions of the Basic Improvements (a "Back Up Election"). Notwithstanding the foregoing or the provisions below, in the event of default, the damages that the City is entitled to recover from Developer shall not be limited to the amount of the Letter, or Cash Escrow but shall be based upon the actual costs of completing the Basic Improvements or to cure defects within the warranty period.

(b) In the event Back Up Developer so elects, then in lieu of City exercising any remedies, including without limitation, drawing down on the proceeds of the Letter or the Cash Escrow, the Back Up Developer shall be subject to all of the same requirements as are applicable to Developer herein and shall be entitled to (i) continue the work to complete the uncompleted portion of the Basic Components and (ii) administer the Letter of Credit or Cash Escrow and the reductions of same as provided in Article III as if Developer has not committed a default. In such event, all other provisions of this Agreement shall apply to Back Up Developer. In the event of default by Developer without a Back Up Election, the City shall be entitled to draw down on the proceeds of the Letter of Credit or use the Cash Escrow, as applicable.

(c) In the event of default by Developer, as an additional and cumulative remedy, the City may vacate all or a portion of the final Subdivision Plat for the Subdivision. In such event the Developer's obligations are specifically released by the City in writing. The City may, at its option, require the completion of some of the Basic Improvements while releasing the obligation to complete others. The vacating of the Subdivision Plat shall not affect offers to dedicate streets, alleys, easements, rights-of-way and other city use areas located thereon, unless the City specifically and unequivocally evidences in writing, and filed of record in the County Land Records, that it intends to abandon or relinquish the City's right to such dedicated lands. This paragraph shall not apply in the event of a Back Up Election except in the event of a default by Back Up Developer.

(d) In the event the City files an action to enforce the terms of this Agreement, including without limitation, a court action or claim in bankruptcy court, the City will be entitled to its actual court costs and reasonable attorneys' fees if it prevails in such action.

5.03. [intentionally deleted]

5.04. Remedies Cumulative

The remedies of the City provided in this Agreement shall be construed to be cumulative and nonexclusive. The City shall also be entitled to exercise all other rights and remedies that are available at law and in equity. Specifically the right to draw down on the proceeds of the Letter, or Cash Escrow are in addition to and not in lieu of the City's other rights and remedies.

ARTICLE VI. INDEMNIFICATION AND INSURANCE

6.01. Indemnity

THE DEVELOPER AND ITS SURETIES SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS OR CLAIMS OF ANY CHARACTER, NAME AND DESCRIPTION BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES, INCLUDING DEATH OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PROPERTY ON ACCOUNT OF OR ARISING OUT OF THE CONSTRUCTION OF THE BASIC IMPROVEMENTS OR DEFECTS EXISTING WITHIN THE WARRANTY PERIOD; OR ON ACCOUNT OF OR ARISING OUT OF THE OPERATIONS OF THE DEVELOPER, ITS CONTRACTOR, AGENTS OR EMPLOYEES OR THE CONTRACTOR'S SUBCONTRACTORS, AGENTS OR EMPLOYEES; OR ON ACCOUNT OF ANY NEGLIGENT ACT OR OMISSION OF THE DEVELOPER, ITS CONTRACTOR, AGENTS OR EMPLOYEES OR THE CONTRACTOR'S SUBCONTRACTORS, AGENTS OR EMPLOYEES; OR ON ACCOUNT OF ANY FAILURE TO PROVIDE THE NECESSARY BARRICADES, WARNING LIGHTS OR SIGNS, AND SHALL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS, WHICH MAY BE OBTAINED AGAINST THE CITY, ITS OFFICERS, AGENTS OR EMPLOYEES GROWING OUT OF SUCH INJURY, INCLUDING DEATH OR DAMAGES.

6.02. Insurance

All contractors or subcontractors performing any portion of the work to construct or complete the Basic Improvements must meet the insurance requirements of 1.26.1 of the special provisions of the Standard Specifications required for heavy construction, and the policy endorsement and special condition requirements of Item 1.26.4 of the Standard Specifications.

ARTICLE VII. MISCELLANEOUS

7.01. Assignment

This Agreement may not be assigned without the express written consent of the City. However, the City shall consent to such an assignment if all of the following conditions are satisfied:

- (a) Developer is not in default (unless a Back Up Election has been made);

(b) The assignment is to a new owner and developer of the Property;

(c) Developer provides the City with written evidence satisfactory to the City Attorney or his/her designee that the new owner is the record owner of the Property;

(d) Developer delivers to the City an original counterpart of the assignment fully executed by the Developer and new owner in form and substance identical (unless such changes are approved by the City Attorney or his/her designee) to the document attached hereto as Exhibit "E" and made a part hereof by reference (the "Assignment"). Under the Assignment, the new owner shall assume and agree to perform all obligations of the Developer under this Agreement; and

(e) The new owner delivers to the City the security required by this Agreement if not already in place.

The City Manager, an Executive Director or City Engineer of the City are authorized to approve assignments on behalf of the City.

7.02. Entire Agreement

This Agreement contains the entire agreement between the City and the Developer, and cannot be varied except by written agreement executed by the parties hereto.

7.03. Time is of the Essence/Force Majeure

Time is of the essence of this Agreement. Whenever a period of time is herein prescribed for action to be taken by Developer (except as to payment of money due by either party hereunder), Developer shall not be liable or responsible for, and there shall be excluded from the computation for any such period of time, any delays beyond the control of Developer due to strikes, riots, acts of God, shortages of labor or materials, terrorist acts and similar occurrences and delays directly attributable to the other party.

7.04. Notice

Any notice to be given or to be served upon a party hereto in connection with this Agreement must be in writing and may be given by certified or registered mail and shall be deemed to have been given and received when a certified or registered letter containing such notice, properly addressed with postage prepaid, is deposited in the United States mail, it shall be deemed to have been given and delivered to and received by the party (or such party's agent or representative) to whom it is addressed. Such notice shall be given to the parties hereto at the address set forth under their respective signatures below. In case of the Surety, notice shall be given to the Surety at the address set forth in the Performance Bond. Any party hereto, including the Surety on the Performance Bond, may, at any time by giving two (2) days written notice to the

other parties, designate any other address in substitution of the foregoing address to which such notice shall be given.

All notices to Developer must be sent as follows:

SWC Tollway & 121, LLC
7200 Bishop Road, Suite 250
Plano, Texas 75024
Attn: Fehmi Karahan

With required copies to:

Grogan & Brawner, P.C.
2808 Fairmount, Suite 150
Dallas, Texas 75201
Attn: R. J. Grogan, Jr.

And:

JC Penney Corporation, Inc.
6501 Legacy Drive (UIS-1104)
Plano, Texas 75024-3698
Attn: Real Estate Counsel

And:

Winstead P.C.
500 Winstead Building
2728 N. Harwood
Dallas, Texas 75201
Attn: Mike McWilliams

And:

Andrews Kurth LLP
1717 Main Street, Suite 3700
Dallas, Texas 75201
Attn: Bud Doxey

Address for Back Up Developer (if applicable):

Legacy West Investors, LP
c/o Invesco Advisers, Inc.
2001 Ross Avenue, Suite 3400
Dallas, Texas 75201

Attn: Scott Wyatt

7.05. Nonwaiver

No waiver of the City's rights under this Agreement shall be deemed to have been made unless expressed in writing and signed by an authorized representative of the City. No delay or omission in the exercise of any right or remedy accruing to the City upon a breach of this Agreement by the Developer or its Sureties will impair its right or remedy or be construed as a waiver for any such breach theretofore or thereafter occurring. The waiver by the City of any breach of any term, covenant or conditions shall not be deemed to be a waiver of any other or subsequent breach of this same or any other term, covenant or condition herein contained.

7.06. No Vested Rights

Nothing in this Agreement shall be implied to vest any rights in the Developer except as are provided by statute, ordinance or as expressly provided in this Agreement.

7.07. Recitals and Headings

Recitals contained at the beginning of this Agreement shall be construed as a part of this Agreement. However, headings used throughout this Agreement have been used for administrative convenience only and do not constitute matter to be considered in interpreting this Agreement.

7.08. Successors and Assigns, Covenants with the Land, and Subordination by Lienholders

This Agreement shall be binding upon the successors and assigns of the Developer and shall be covenants running with the land described herein as the Property and be binding upon all future owners of the Property. This Agreement or a memorandum thereof, may be recorded in the Land Records of the county in which the Property is located. All existing lienholders shall be required to subordinate their liens to the covenants contained in this Agreement. Legacy West Investors, LP is a third party beneficiary of this Agreement and shall be entitled to all of the rights of Back Up Developer herein, subject to the terms of this Agreement.

7.09. Venue

This Agreement shall be construed under and in accordance with the laws of the State of Texas and is fully performable in **Collin** County, Texas. Exclusive venue shall be in Collin County, Texas.

7.10. Severability

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

7.11. No Waiver of Governmental Immunity

Nothing contained in this Agreement shall be construed as a waiver of the City's governmental immunity.

7.12. Developer's Authority

The Developer represents and warrants to the City that it has full power and authority to enter into and fulfill the obligations of this Agreement.

7.13. Increased Costs

This Agreement is a lump sum contract and it is anticipated that additional costs could arise from change, site conditions or latent defects; however, Developer agrees that the Developer will be solely responsible for payment of all increased costs in the construction of facilities, regardless of the cause.

7.14. Relationship of Parties

Developer acknowledges that it is not an agent, servant, or employee of the City and is therefore, responsible for its own actions performed by itself, its agents or employees during the term of this Agreement.

7.15 The facts and recitations contained in the preamble are hereby found and declared to be true and correct.

EXECUTED as of the date first above written.

**CITY OF PLANO, TEXAS,
a home rule municipal corporation**

By: _____
Name: **Bruce D. Glasscock**
Title: **City Manager**

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY

SWC TOLLWAY & 121 LLC,
a Delaware limited liability company

By: Team Legacy Land, LLC,
a Texas limited liability company,
its Manager

By: _____
Fehmi Karahan, President

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on this _____ day of _____, 2015, by **Bruce D. Glasscock, City Manager** of the **City of Plano, Texas**, a Home Rule Municipal Corporation, on behalf of said corporation.

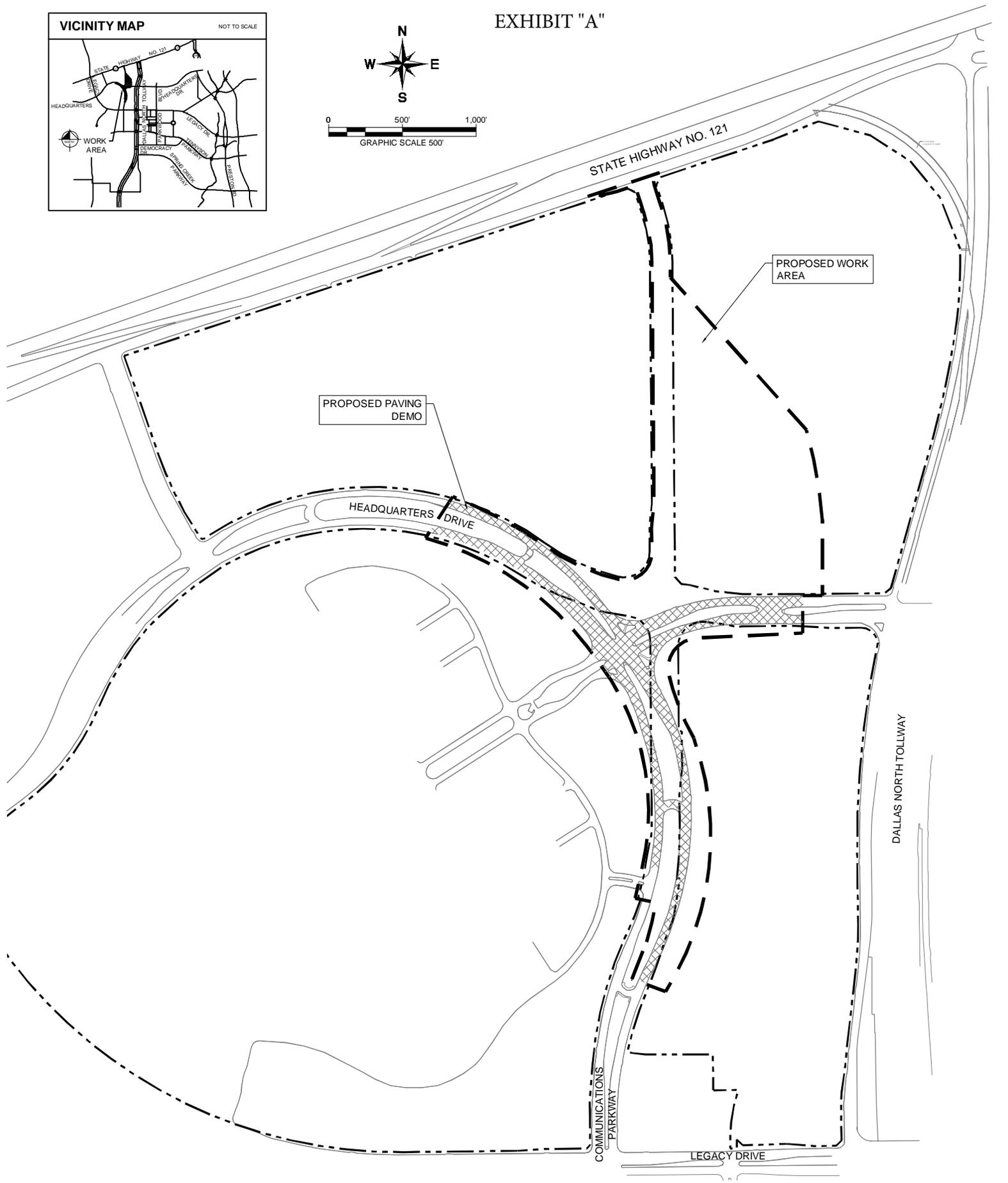
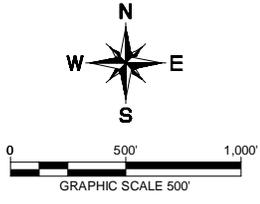
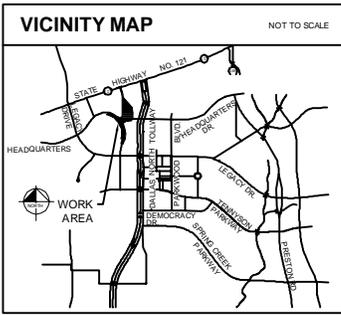
Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on this _____ day of _____, 2015, by Fehmi Karahan, President of Team Legacy Land, LLC., a Texas limited liability company, Manager of SWC Tollway & 121 LLC, a Delaware limited liability company, on behalf of said limited liability company .

Notary Public, State of Texas

EXHIBIT "A"



LEGACY WEST

EXHIBIT B

January 15, 2015

SWC Tollway & 121 LLC

7200 Bishop Road, Suite 250
Plano, TX 75024

ATTENTION: Mr. Fehmi Karahan

GENTLEMEN: We propose to furnish all labor, materials and equipment necessary to construct the following described work:

PROJECT: Legacy West Infrastructure - Off-Site

LOCATION: Plano, Texas

OFF-SITE GENERAL CONDITIONS

Item	Description	Quantity	Unit	Unit Bid	Total Bid
1	Mobilization	1.00	LS	50,000.00 \$	50,000.00
2	Construction Staking / Layout	1.00	LS	130,000.00 \$	130,000.00
3	Inspection Fees (4% Total)	1.00	LS	276,000.00 \$	276,000.00
4	Traffic Control	1.00	LS	100,000.00 \$	100,000.00
5	City of Plano Maintenance Bond (1 Year 10%)	1.00	LS	10,000.00 \$	10,000.00
6	General Conditions	1.00	LS	300,000.00 \$	300,000.00
OFF-SITE GENERAL CONDITIONS TOTAL					\$ 866,000.00

OFF-SITE EROSION CONTROL

Item	Description	Quantity	Unit	Unit Bid	Total Bid
1	Construction Entrance	1.00	EA	2,500.00 \$	2,500.00
2	Silt Fence	4,300.00	LF	1.50 \$	6,450.00
3	Tree Protection Fence	6,170.00	LF	1.50 \$	9,255.00
4	Inlet Protection	21.00	EA	200.00 \$	4,200.00
5	Rock Check Dam	1.00	EA	1,000.00 \$	1,000.00
6	Temp Barb Wire Fence (if Needed)	4,000.00	LF	5.00 \$	20,000.00
7	Erosion Maintenance / Monitoring	1.00	LS	10,000.00 \$	10,000.00
8	Remove Erosion Devices	1.00	LS	2,500.00 \$	2,500.00
OFF-SITE EROSION CONTROL TOTAL					\$ 55,905.00

OFF-SITE DEMOLITION

Item	Description	Quantity	Unit	Unit Bid	Total Bid
1	Sawcut Pavement	2,320.00	LF	4.00 \$	9,280.00
2	Remove Concrete Pavement	29,630.00	SY	7.00 \$	207,410.00
3	Remove Sidewalk	1,720.00	SY	7.00 \$	12,040.00
4	Remove Pavers	760.00	SY	7.00 \$	5,320.00
5	Irrigation / Landscape Demo - BUDGET	1.00	LS	12,500.00 \$	12,500.00
6	Electrical / Street Lighting Demo - BUDGET	1.00	LS	25,000.00 \$	25,000.00
7	Remove Ex. 24" RCCP	1,540.00	LF	20.00 \$	30,800.00
8	Remove Ex. 18" RCCP	1,450.00	LF	20.00 \$	29,000.00
9	Remove Ex. 24" Butterfly Valve	4.00	EA	1,500.00 \$	6,000.00
10	Remove Ex. 18" Butterfly Valve	6.00	EA	1,500.00 \$	9,000.00
11	Remove Ex. Fire Hydrant	7.00	EA	1,250.00 \$	8,750.00
12	Remove Ex. 6" Gate Valve	7.00	EA	500.00 \$	3,500.00
13	Remove Ex. 66" RCP	85.00	LF	25.00 \$	2,125.00
14	Remove Ex. 54" RCP	360.00	LF	20.00 \$	7,200.00
15	Remove Ex. 42" RCP	845.00	LF	20.00 \$	16,900.00
16	Remove Ex. 36" RCP	284.00	LF	20.00 \$	5,680.00
17	Remove Ex. 24" RCP	707.00	LF	20.00 \$	14,140.00
18	Remove Ex. Curb Inlet	7.00	EA	750.00 \$	5,250.00
19	Remove Ex. Wye Inlet	2.00	EA	500.00 \$	1,000.00
20	Remove Ex. 66" Headwall	1.00	EA	950.00 \$	950.00
21	Remove Ex. 24" Headwall	1.00	EA	275.00 \$	275.00
OFF-SITE DEMOLITION TOTAL				\$	412,120.00

OFF-SITE EARTHWORK

Item	Description	Quantity	Unit	Unit Bid	Total Bid
1	Clear & Grub Site	56.00	AC	1,500.00 \$	84,000.00
2	Offsite Topsoil Stripping	14,260.00	CY	2.00 \$	28,520.00
3	Excavation	111,000.00	CY	3.50 \$	388,500.00
4	Offsite Topsoil Replace	40.00	AC	1,200.00 \$	48,000.00
5	Offsite Seeding	40.00	AC	500.00 \$	20,000.00
6	Replace Topsoil Roadway	34,000.00	SY	1.00 \$	34,000.00
7	Sod Roadway	34,000.00	SY	3.25 \$	110,500.00
OFF-SITE EARTHWORK TOTAL				\$	713,520.00

OFF-SITE PAVING

Item	Description	Quantity	Unit	Unit Bid	Total Bid
1	6" Lime Stabilize Pavement (7%)	42,055.00	SY	3.50 \$	147,192.50
2	Lime Material (33 lbs/sy per Geotech)	694.00	TN	160.00 \$	111,040.00
3	8" 5000 PSI Concrete Pavement (Inc. Turn Lane)	38,231.00	SY	50.00 \$	1,911,550.00
4	TxDOT Connection	307.00	LF	20.00 \$	6,140.00
5	Barrier Free Ramps	25.00	EA	1,500.00 \$	37,500.00
6	Longitudinal Butt Joint	2,933.00	LF	10.00 \$	29,330.00
7	Striping	1.00	LS	31,500.00 \$	31,500.00
8	Signage	1.00	LS	15,000.00 \$	15,000.00
9	Street Header	220.00	LF	10.00 \$	2,200.00
10	4" 3000 PSI Concrete Sidewalk	9,604.00	SF	5.00 \$	48,020.00
11	Median Pavers	5,572.00	SF	15.00 \$	83,580.00
12	Monolithic Median Nose	4.00	EA	2,000.00 \$	8,000.00
OFF-SITE PAVING TOTAL				\$	2,431,052.50

OFF-SITE WATER

Item	Description	Quantity	Unit	Unit Bid	Total Bid
1	18" Bar-Wrapped RCCP	1,673.00	LF	142.00 \$	237,566.00
2	12" PVC DR-18	1,725.00	LF	48.00 \$	82,800.00
3	8" PVC DR-18	763.00	LF	45.00 \$	34,335.00
4	6" PVC DR-14	76.00	LF	32.00 \$	2,432.00
5	18" Butterfly Valve	10.00	EA	8,500.00 \$	85,000.00
6	12" Gate Valve	7.00	EA	2,000.00 \$	14,000.00
7	8" Gate Valve	13.00	EA	1,100.00 \$	14,300.00
8	6" Gate Valve	12.00	EA	800.00 \$	9,600.00
9	Fire Hydrant	12.00	EA	4,000.00 \$	48,000.00
10	Fittings	3.98	TN	5,000.00 \$	19,900.00
11	24" x 18" Cut-In-Tee	1.00	EA	12,500.00 \$	12,500.00
12	18" x 12" Tapping Sleeve & Valve	1.00	EA	15,000.00 \$	15,000.00
13	Connect to Existing 24" RCCP	1.00	EA	7,500.00 \$	7,500.00
14	Connect to Existing 18" RCCP	1.00	EA	7,500.00 \$	7,500.00
15	Remove & Relocate Ex. Fire Hydrant	1.00	EA	2,500.00 \$	2,500.00
16	Adjust Ex. Water Valves to Grade	4.00	EA	450.00 \$	1,800.00
17	Trench Safety	4,237.00	LF	5.00 \$	21,185.00
18	Testing	4,237.00	LF	1.00 \$	4,237.00
OFF-SITE WATER TOTAL				\$	620,155.00

OFF-SITE SANITARY SEWER

Item	Description	Quantity	Unit	Unit Bid	Total Bid
1	12" PVC SDR-35	528.00	LF	58.00 \$	30,624.00
2	8" PVC SDR-35	2,108.00	LF	52.00 \$	109,616.00
3	6" PVC SDR-35	31.00	LF	67.00 \$	2,077.00
4	6" Ductile Iron	19.00	LF	125.00 \$	2,375.00
5	4' Diameter Manhole	2.00	EA	8,000.00 \$	16,000.00
6	4' Diameter Drop Manhole	7.00	EA	8,800.00 \$	61,600.00
7	4' Diameter Drop Manhole over	1.00	EA	27,750.00 \$	27,750.00
8	Connect to Existing 12" PVC	1.00	EA	3,200.00 \$	3,200.00
9	Trench Safety	2,686.00	LF	5.00 \$	13,430.00
10	Testing	2,686.00	LF	2.00 \$	5,372.00
OFF-SITE SANITARY SEWER TOTAL					\$ 272,044.00

OFF-SITE STORM SEWER

Item	Description	Quantity	Unit	Unit Bid	Total Bid
1	9' x 4' RCB	473.00	LF	405.00 \$	191,565.00
2	7' x 4' RCB	780.00	LF	320.00 \$	249,600.00
3	6' x 4' RCB	523.00	LF	300.00 \$	156,900.00
4	4' x 4' RCB	270.00	LF	220.00 \$	59,400.00
5	48" Class III RCP	489.00	LF	155.00 \$	75,795.00
6	42" Class III RCP	364.00	LF	120.00 \$	43,680.00
7	36" Class III RCP	1,004.00	LF	96.00 \$	96,384.00
8	30" Class III RCP	138.00	LF	85.00 \$	11,730.00
9	24" Class III RCP	929.00	LF	70.00 \$	65,030.00
10	5' x 5' TxDOT Type M Manhole	2.00	EA	10,000.00 \$	20,000.00
11	4' Diameter Manhole Riser	2.00	EA	2,500.00 \$	5,000.00
12	4' x 4' Drop Inlet w/ 3' Conc. Apron	4.00	EA	4,100.00 \$	16,400.00
13	3' x 3' Drop Inlet w/ 3' Conc. Apron	3.00	EA	3,050.00 \$	9,150.00
14	14' Recessed Curb Inlet	4.00	EA	4,300.00 \$	17,200.00
15	10' Recessed Curb Inlet	3.00	EA	3,050.00 \$	9,150.00
16	8' Recessed Curb Inlet	1.00	EA	2,800.00 \$	2,800.00
17	FW-O Headwall on 9' x 4' RCB	1.00	EA	9,500.00 \$	9,500.00
18	12" Thick Rock Rip Rap	189.00	SY	80.00 \$	15,120.00
19	Connect to Existing 24" RCP	1.00	EA	1,500.00 \$	1,500.00
20	30" Plug	1.00	EA	300.00 \$	300.00
21	24" Plug	1.00	EA	225.00 \$	225.00
22	Trench Safety	4,970.00	LF	5.00 \$	24,850.00
23	Testing	4,970.00	LF	2.00 \$	9,940.00
OFF-SITE STORM SEWER TOTAL					\$ 1,091,219.00

OFF-SITE STREET LIGHTING TOTAL (BUDGET)

Item	Description	Quantity	Unit	Unit Bid	Total Bid
1	2" Conduit - BUDGET	3,300.00	LF	8.00 \$	26,400.00
2	Electric Wire - BUDGET	3,300.00	LF	10.00 \$	33,000.00
3	Light Foundations - BUDGET	24.00	EA	1,000.00 \$	24,000.00
4	Street Lights (Standard City of Plano) - BUDGET	24.00	EA	10,000.00 \$	240,000.00
5	Electrical Service - BUDGET	1.00	EA	20,000.00 \$	20,000.00
OFF-SITE STREET LIGHTING TOTAL (BUDGET) TOTAL					\$ 343,400.00

OFF-SITE IRRIGATION (BUDGET)

Item	Description	Quantity	Unit	Unit Bid	Total Bid
1	Sleeves - BUDGET	1,200.00	LF	15.00 \$	18,000.00
2	Sprinkler Controller - BUDGET	1.00	EA	9,000.00 \$	9,000.00
3	Irrigation Electrical Service - BUDGET	1.00	EA	20,000.00 \$	20,000.00
4	Sprinkler System - BUDGET	105,000.00	SF	1.50 \$	157,500.00
OFF-SITE IRRIGATION (BUDGET) TOTAL					\$ 204,500.00

OFF-SITE ELECTRICAL DUCT BANK

Item	Description	Quantity	Unit	Unit Bid	Total Bid
1	10E6 Duct Bank	2,434.00	LF	187.50 \$	456,375.00
2	4-Way Octagonal Manhole (914 Series)	9.00	EA	17,250.00 \$	155,250.00
3	Trench Safety	2,434.00	LF	5.00 \$	12,170.00
OFF-SITE ELECTRICAL DUCT BANK TOTAL					\$ 623,795.00

OFF-SITE PROPOSAL SUMMARY

OFF-SITE GENERAL CONDITIONS TOTAL	\$ 866,000.00
OFF-SITE EROSION CONTROL TOTAL	\$ 55,905.00
OFF-SITE DEMOLITION TOTAL	\$ 412,120.00
OFF-SITE EARTHWORK TOTAL	\$ 713,520.00
OFF-SITE PAVING TOTAL	\$ 2,431,052.50
OFF-SITE WATER TOTAL	\$ 620,155.00
OFF-SITE SANITARY SEWER TOTAL	\$ 272,044.00
OFF-SITE STORM SEWER TOTAL	\$ 1,091,219.00
OFF-SITE STREET LIGHTING TOTAL (BUDGET) TOTAL	\$ 343,400.00
OFF-SITE IRRIGATION (BUDGET) TOTAL	\$ 204,500.00
OFF-SITE ELECTRICAL DUCT BANK TOTAL	\$ 623,795.00
OFF-SITE PROPOSAL SUMMARY TOTAL	\$ 7,633,710.50

EXHIBIT "C"

IRREVOCABLE LETTER OF CREDIT
(Letterhead of Bank)

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

Gentlemen:

By order of our client, _____, we hereby open our clean Irrevocable Letter of Credit No. _____, in your favor for an amount not to exceed the aggregate of U.S. \$ _____ (_____ U.S. Dollars), effective immediately and expiring at our offices on _____, _____, relative to our client's Contract No. _____ entitled Subdivision Improvement Agreement.

Funds under this Letter of Credit are available against your sight draft or drafts on us, mentioning thereon our Credit No. _____. Each such draft must be accompanied by your signed written statement to the effect that _____ has failed to comply with the terms and conditions of the above-mentioned Contract. Said written statement shall be sufficient if signed by any one of the following representatives of the City of Plano: City Manager, an Executive Director, City Engineer or Finance Director. The above mentioned written statement shall be sufficient and conclusive and you will not be required to specify the nature or grounds of noncompliance with or default of the above mentioned Contract.

The amount of this Letter of Credit may be reduced at the sole option of the City of Plano upon our receipt of a written statement signed by any one of the above representatives of the City of Plano specifying the amount of the reduction.

If we receive your sight draft or drafts and statement or statements as mentioned above, here at our _____ office, on or before the expiration date of this Letter of Credit, we will promptly honor the same.

A B C BANK

BY: _____
Name: _____
Title: _____
Address: _____

EXHIBIT "D"

MAINTENANCE BOND

**STATE OF TEXAS §
 §
COUNTY OF COLLIN §**

KNOW ALL MEN BY THESE PRESENTS:

That _____ of the City of _____,
County of _____ and State of Texas, (called "Principal"), and
_____, a corporation organized and existing
under the laws of the State of Texas to act as surety on bonds for principals,
(called "Surety"), are held and firmly bound unto the **CITY OF PLANO, TEXAS**, a
Home Rule Municipal Corporation (called "City"), in the amount of
_____ **DOLLARS** (\$_____), in
lawful money of the United States, to be paid in Plano, Collin County, Texas for the
payment of which, the Principal and Surety bind themselves, and their heirs,
administrators, executors, successors and assigns, jointly and severally, firmly by these
presents:

WHEREAS, the Principal has entered into a contract (called "Contract") with
_____ (called "Developer") dated the ____ day of
_____, _____, which among other things calls for the construction of
certain public improvements (called "Work"), which inure to the benefit of the City, such
public improvements being in connection with development of
_____, an addition or subdivision incorporated
hereby reference and which public improvements are listed on Exhibit "A" attached
hereto and incorporated herein by reference; and

WHEREAS, under the terms of the specifications of the Work, the Principal is
required to give a bond in the amount specified hereinabove to guarantee the
replacement and repair of defective or faulty workmanship furnished or installed by the
Principal for a period of one (1) year, from and after the date the Work is completed by
Principal and accepted by the City.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if
the Principal shall for a period of one (1) year, from and after the date the Work is
completed by the Principal and accepted by the City, replace and repair any and all
defective or faulty workmanship in the Work, then the above obligation shall be void;
otherwise, the said obligation shall remain in full force and effect.

Venue for any action to enforce this Bond shall be Collin County, Texas

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this ____ day of _____, _____.

Principal		Surety	
By:	_____	By:	_____
Title:	_____	Title:	_____
Address:	_____	Address:	_____
	_____		_____
	_____		_____

The name and address of the Resident Agent of Surety is:

Name: _____
Address: _____
City, State, Zip _____

For additional information on the above named Surety company you may contact the Texas Department of Insurance at (800)578-4677.

NOTE: Date on Page 1 of Maintenance Bond must be same date as Contract. Date on Page 2 of Maintenance Bond must be after the date of Contract. If Resident Agent is not a corporation, give a person's name.

EXHIBIT "E"

**ASSIGNMENT, ASSUMPTION AND AMENDMENT
OF SUBDIVISION IMPROVEMENTS AGREEMENT**

THIS ASSIGNMENT, ASSUMPTION AND AMENDMENT OF SUBDIVISION IMPROVEMENTS AGREEMENT (this "Assignment") is made and entered into effective as of the ___ day of January, 2015, by and between **SWC TOLLWAY & 121 LLC**, a Delaware limited liability company ("SWC") and **LEGACY WEST INVESTORS, LP**, a Delaware limited partnership ("LWI").

W I T N E S S E T H

WHEREAS, in connection with the construction and installation of certain infrastructure improvements required by the City of Plano, Texas ("City"), SWC and City entered into that certain Subdivision Improvements Agreement ("SIA") dated as of January 5, 2015;

WHEREAS, pursuant to the terms of the SIA Agreement, SWC delivered the sum of \$131,760.00 as the deposit required thereunder (the "Cash Escrow");

WHEREAS, SWC desires to assign to LWI, and LWI desires to assume and take from SWC, all of the rights, benefits, privileges, obligations and duties of SWC under the SIA, pursuant to the terms and conditions of this Assignment.

NOW, THEREFORE, in consideration of the foregoing and the agreements and covenants herein set forth, together with the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, including without limitation, the payment of an amount equal to the Cash Escrow by LWI to SWC, the receipt and sufficiency of which are hereby acknowledged, SWC does hereby ASSIGN, TRANSFER, SET OVER AND DELIVER the SIA, and all of the rights, benefits, privileges, obligations and duties of SWC thereunder subject to all terms, conditions, reservations and limitations set forth in the SIA (such SIA, properties, deposits, rights, obligations, and interests, subject as aforesaid, being hereinafter collectively referred to as the "Assigned Agreement") unto LWI.

TO HAVE AND TO HOLD all and singular the Assigned Agreement unto LWI and LWI's, successors, and assigns forever, and SWC does hereby bind SWC, and SWC's successors and assigns, to warrant and forever defend all and singular the Assigned Agreement unto LWI, and LWI's successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

1. Assumption by LWI. By accepting this Assignment and by its execution hereof, LWI hereby assumes and agrees to perform and observe all of the terms, covenants and conditions of the SIA (both monetary and non-monetary, as applicable), as modified hereby, on the part of SWC therein required to be performed, including the

obligation to construct certain infrastructure improvements in accordance with the terms of the SIA.

2. Cash Escrow. SWC hereby transfers and assigns to LWI all rights and interests to the Cash Escrow held by the City.

3. Amendment of SIA. Subject to the joinder and agreement of the City in the Joinder below, Section 1.02 of the SIA is modified and amended such that the commencement deadline shall be February 28, 2015 rather than January 15, 2015.

4. Effect of Assignment. This Assignment shall have the effect of releasing SWC in respect of the obligations under the SIA and replacing SWC with LWI as "Developer" therein as if LWI were named therein originally, and accordingly, all rights, benefits and obligations of "Developer" thereunder shall be solely owned and owed by LWI.

5. Binding Effect. All of the covenants, terms and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

6. Counterparts. This instrument may be executed in one or more counterparts, each of which constitutes an original instrument and all of which constitute one and the same instrument.

7. Facsimile Signatures. The parties hereto agree that this Assignment may be transmitted between them by facsimile machine. The parties hereto intend that faxed signatures constitute original signatures and that a faxed copy of this Assignment containing the signatures (original or faxed) of all of the parties shall be binding on the parties

[Remainder of page intentionally left blank. Signature page follows.]

EXECUTED as of the date first above written.

ASSIGNOR:

SWC TOLLWAY & 121 LLC,
a Delaware limited liability company

By: Team Legacy Land, LLC,
a Texas limited liability company,
its Manager

By:

Name: Fehmi Karhan
Title: President

ASSIGNEE:

LEGACY WEST INVESTORS, L.P.,
a Delaware limited partnership

By: K/C Legacy West GP, LLC,
a Texas limited liability company,
its Co-General Partner

By:

Name: Fehmi Karhan
Title: President

**JOINDER OF CITY
AND AMENDMENT OF SIA**

The City joins in the execution of delivery of this Assignment for the limited purpose of consenting to same and affirming the terms set forth herein, and amending the SIA as set forth in paragraph 3 above.

CITY OF PLANO, TEXAS
a Texas home rule city

By:

Bruce D. Glasscock,
City Manager