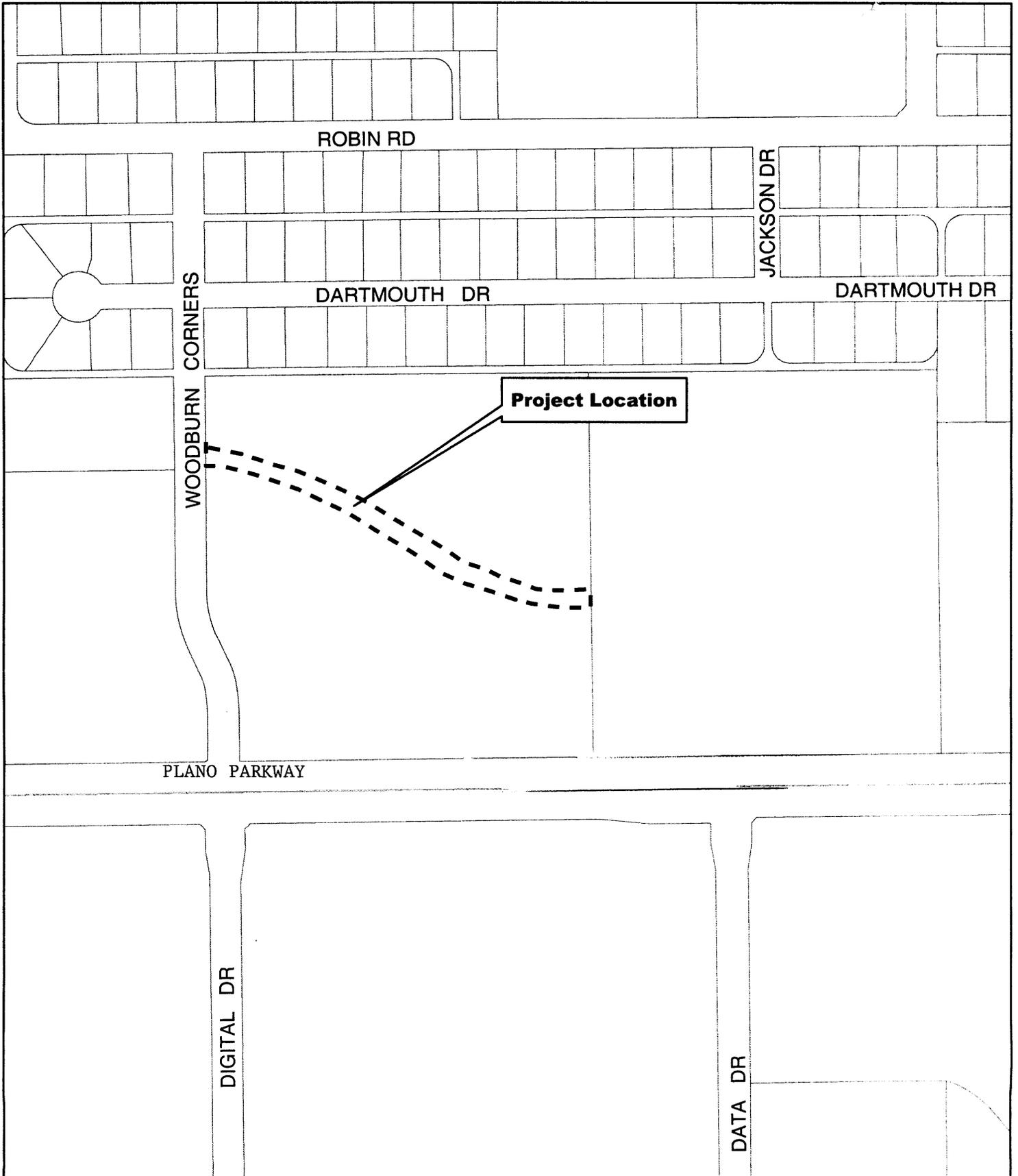




**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		6/25/12		
Department:	Public Works			
Department Head	Gerald Cosgrove			
Agenda Coordinator (include phone #): Linda Sweeney X-7157 Proj. #5485-2				
CAPTION				
<p>An Ordinance of the City of Plano, Texas, abandoning all right, title and interest of the City, in and to that certain 85-foot wide Drainage Easement recorded in Volume 1857, Page 841, of the Deed Records of Collin County, Texas and being situated in the Martha McBride Survey, Abstract No. 553, which is located within the city limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such easement to the abutting property owner, John Paul II Building and Endowment Fund, to the extent of its interest; authorizing the City Manager or his authorized designee, to execute any documents deemed necessary; and providing an effective date.</p>				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	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: This item has no fiscal impact. STRATEGIC PLAN GOAL: Abandoning all right, title and interest of the City to the easement relates to the City's Goal of Financially Strong City with Service Excellence.				
SUMMARY OF ITEM				
<p>The Easement was dedicated for an open channel which bisected the property. The property has since developed and the open channel was replaced with an enclosed storm sewer system located in an easement which will be dedicated by final plat. Therefore, the Easement is no longer required.</p>				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Location Map		N/A		

Easement Abandonment



Project Location



Location Map

An Ordinance of the City of Plano, Texas, abandoning all right, title and interest of the City, in and to that certain 85-foot wide Drainage Easement recorded in Volume 1857, Page 841, of the Deed Records of Collin County, Texas and being situated in the Martha McBride Survey, Abstract No. 553, which is located within the city limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such easement to the abutting property owner, John Paul II Building and Endowment Fund, to the extent of its interest; authorizing the City Manager or his authorized designee, to execute any documents deemed necessary; and providing an effective date.

WHEREAS, the City Council of the City of Plano has been requested to abandon all right, title and interest of the City in and to that certain 85-foot wide Drainage Easement recorded in Volume 1857, Page 841, of the Deed Records of Collin County, Texas (hereinafter called "Easement") being situated in the Martha McBride Survey, Abstract No. 553, which is located within the city limits of Plano, Collin County, Texas, and which is more particularly described in Exhibit "A-1" attached hereto and incorporated herein by reference; and

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

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

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

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

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

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

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

DULY PASSED AND APPROVED this the 25th day of June, 2012.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

**LEGAL DESCRIPTION
DRAINAGE EASEMENT ABANDONMENT
1.56 ACRES**

Exhibit "A-1"

BEING tract of land situated in the Martha McBride Survey, Abstract No. 553, City of Plano, Collin County, Texas and being part of a tract of land described as "Tract II" in Special Warranty Deed to John Paul II High School Building and Endowment Fund, recorded in Volume 5588, Page 4440, Land Records of Collin County, Texas, being part of the Drainage Easement recorded in Volume 1857, Page 841 of the Land Records of Collin County, Texas and being more particularly described as follows:

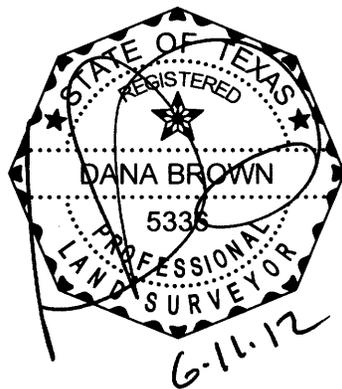
BEGINNING at a point in the west right-of-way line Woodburn Corners (a 60-foot wide right-of-way) from which a 1" iron rod found at the intersection of the south right-of-way line of a 15-foot wide alley and the east right-of-way line of Woodburn Corners (a 60-foot wide right-of-way) at the northwest corner of said John Paul II High School Building and Endowment Fund tract bears North 00°06'00" West, a distance of 104.65 feet, said point being the beginning of a curve to the right having a radius of 540.00 feet, a central angle of 25°25'11", a chord bearing and distance of South 74°50'37" East, 237.62 feet;

THENCE departing said east right-of-way line, the following courses and distances :
Southeasterly, with said curve, an arc distance 239.58 feet to a point for corner;
South 62°08'00" East, a distance of 273.60 feet to a point for the beginning of a tangent curve to the left with a radius of 807.50 feet, a central angle of 20°11'26", and a chord bearing and distance of South 72°13'43" East, 283.09 feet;
Southeasterly, with said curve, an arc distance of 284.56 feet to a point in the east line of said John Paul II High School Building and Endowment Fund tract;

THENCE with said east line, South 00°12'06" East, a distance of 85.73 feet to a point for the beginning of a non-tangent curve to the right having a radius of 892.50 feet, a central angle of 20°56'42", a chord bearing and distance of North 72°36'21" West, 324.45 feet;

THENCE departing said east line, the following courses and distances:
Northwesterly, with said curve, an arc distance 326.26 feet to a point for corner;
North 62°08'00" West, a distance of 273.60 feet to a point for the beginning of a tangent curve to the left with a radius of 455.00 feet, a central angle of 24°56'37", and a chord bearing and distance of North 74°36'20" West, 196.52 feet;
Northwesterly, with said curve, an arc distance of 198.08 feet to a point for corner in the east right-of-way line of said Woodburn Corners;

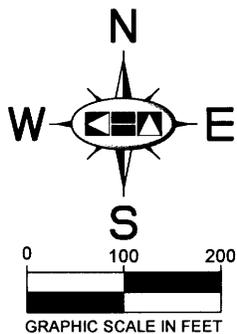
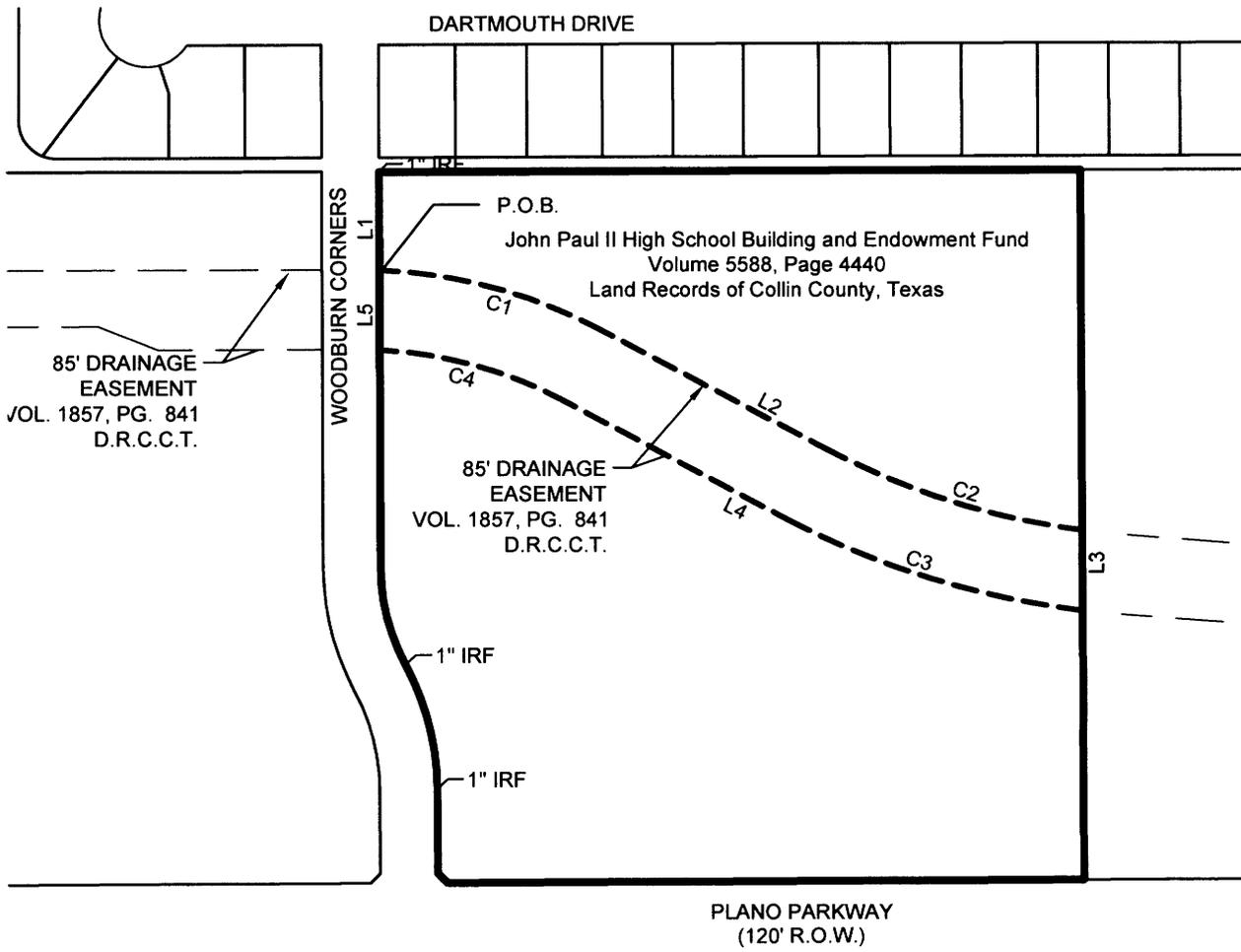
THENCE with said east right-of-way line, North 00°06'00" West, a distance of 85.10 feet to the **POINT OF BEGINNING** and containing 1.56 acres of land.



Dana Brown
Registered Professional Land
Surveyor No. 5336

**DRAINAGE EASEMENT
ABANDONMENT
1.56 ACRES
MARTHA McBRIDE SURVEY
ABSTRACT NO. 553
CITY OF PLANO
COLLIN COUNTY, TEXAS**

		Kimley-Horn and Associates, Inc.			
12700 Park Central Drive, Suite 1800 Dallas, Texas 75251		Tel. No. (972) 770-1300 Fax No. (972) 239-3820			
<u>Scale</u>	<u>Drawn by</u>	<u>Checked by</u>	<u>Date</u>	<u>Project No.</u>	<u>Sheet No.</u>
N/A	DAB	DAB	JUNE 2012	067147023	1 OF 3



**DRAINAGE EASEMENT
ABANDONMENT
1.56 ACRES
MARTHA McBRIDE SURVEY
ABSTRACT NO. 553
CITY OF PLANO
COLLIN COUNTY, TEXAS**

NOTES

Bearing system of this easement are based on a bearing of North 0°06'00" West for the east right-of-way line of Woodburn Corners according to Special Warranty Deed to John Paul II High School Building and Endowment Fund, recorded in Volume 5588, Page 4440, Land Records of Collin County, Texas.

		Kimley-Horn and Associates, Inc.	
<small>12700 Park Central Drive, Suite 1800 Dallas, Texas 75251</small>		<small>Tel. No. (972) 770-1300 Fax No. (972) 239-3820</small>	
<u>Scale</u>	<u>Drawn by</u>	<u>Checked by</u>	<u>Date</u>
1" = 200'	DAB	DAB	JUNE 2012
<u>Project No.</u>		<u>Sheet No.</u>	
067147023		2 OF 3	

EXHIBIT "B"

PETITION FOR ABANDONMENT

[For Easement Abandonment]

We, the undersigned, (hereinafter "Owners"), being all of the owners of real property abutting the 85' Drainage Easement filed in Volume 1857, Page 841, D.R.C.C.T. (hereinafter called "Easement"), more particularly described by metes and bounds in the field note description attached hereto and incorporated herein as **Exhibit "A-1"** do hereby request that the City of Plano, Texas (called "City") abandon the Easement.

1. The Owners are requesting the abandonment of the Easement for the following reasons:
The Easement was dedicated for an open channel which bisected the property. The property has since developed and the open channel was replaced with an enclosed storm sewer system located in an easement which will be dedicated by final plat
2. The following public interest will be served as a result of the abandonment:
Because the enclosed storm sewer system was constructed, the Easement is no longer required.
3. Unless the City determines that this abandonment is exempt from payment of fair market value, the Owners agree to pay to the City the fair market value of the Easement as determined by an appraisal obtained by the City (called "Price"). The appraisal shall be conclusive as to the fair market value. The Owners shall reimburse the City for the cost of the appraisal and other costs incident to the abandonment (called "Costs"). The Price and Costs shall be paid to the City prior to the abandonment. Should the Plano City Council decide not to abandon the Easement, the Price shall be returned to the Owners, but the Costs shall be retained by the City. Each Owner's share of the Price and Costs shall be in the same proportion as their abutting ownership as hereinafter defined.
4. If the Owners are providing a replacement easement for the ~~Easement~~ requested to be abandoned herein, ~~Owners will attach a metes and bounds description or plat identifying the replacement easement and attach same to this Petition as Exhibit "B-1".~~ **N/A**
5. The Owners hereby represent and affirm to the City that no other property owner, lessee, tenant or easement or license holder uses the Easement to access or to serve their property.
6. **The Owners further agree to release, defend, indemnify and hold the City, its officers, agents and employees harmless from and against any and all claims, losses, demands, suits, judgments and costs, including reasonable**

and necessary attorney's fees and expenses, arising out of, related to or resulting from the abandonment of the Easement by City.

7. The Owners understand and agree that the abandonment is in the sole discretion of the Plano City Council. The Owners also understand and agree that the Easement will be abandoned to them in proportion to their abutting ownership. The abutting ownership will be determined by the number of linear feet of frontage adjacent to the Easement owned by each property owner. Based on the foregoing, the Owners hereby represent and affirm that they have searched the public land records and determined that the abutting ownership is in the following proportions:

ONE HUNDRED PERCENT

8. Owners shall also prepare a map or drawing showing the ~~Easement to be abandoned along with a designation of all abutting property owners.~~ This map or drawing shall be attached hereto and incorporated herein as **Exhibit "C-1"**. *N/A*
9. Owners shall also prepare a separate field note description for ~~each portion of the Easement to be released to each abutting property owner.~~ This description shall be attached hereto and incorporated herein as **Exhibit "D-1"**. *N/A*

[Remainder of page blank]

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

John Paul II High School Building and
Endowment Fund

Typed Name of Owner

900

██████ Coit Road

Address

Plano, Texas 75074

City, State and Zip

Dated: 6-11-2012

Todd M. Justesen
Signature of Owner

Contact Person for Property Owners:

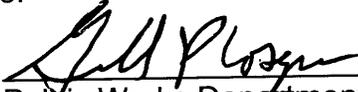
Name: Todd M. Justesen

Phone No: 214 243-7399

FOR DEPARTMENTAL USE ONLY

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

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



Public Works Department
City of Plano, Texas