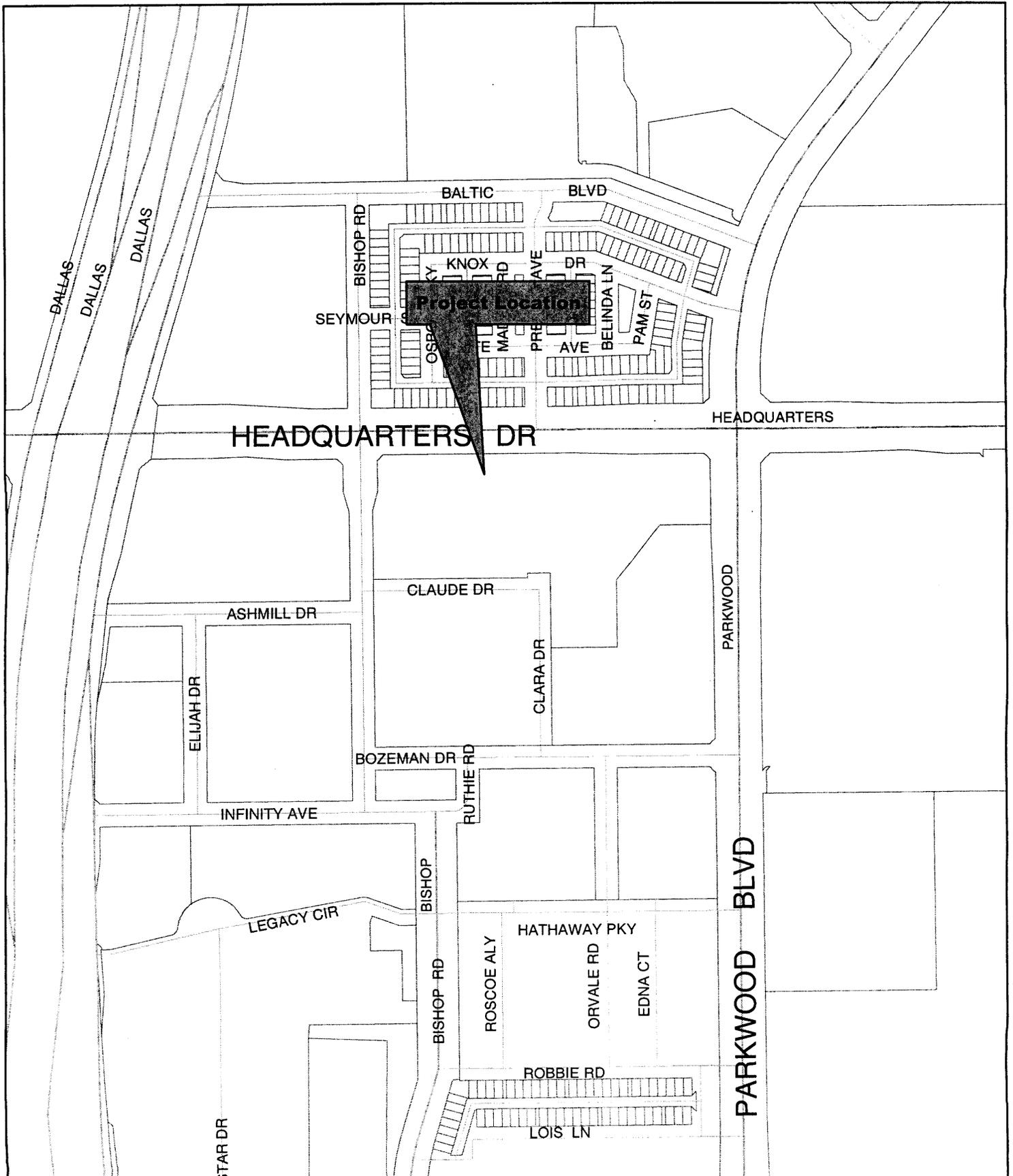




**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY					
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory					
Council Meeting Date:		6/27/2011			
Department:	Public Works				
Department Head	Gerald Cosgrove				
Agenda Coordinator (include phone #): Irene Pegues (X-7152) Proj. #5537-10					
CAPTION					
An ordinance of the City of Plano, Texas, abandoning all right, title and interest of the City, in and to that certain 20-foot wide Temporary Drainage Easement recorded in Volume 4531, Page 245, of the Land Records of Collin County, Texas and being situated in the Samuel H. Brown Survey, Abstract No. 108, 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, Legacy North PT MFA IV, L.P., 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.					
FINANCIAL SUMMARY					
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	2010-11	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: Approval of this ordinance will allow the City to abandon all rights, title and interest to a 20-foot wide Temporary Drainage Easement. STRATEGIC PLAN GOAL: Temporary Drainage Easement relates to the City's Goal of Financially Strong City with Service Excellence.					
SUMMARY OF ITEM					
This Temporary Drainage Easement is replaced by the dedication of a permanent Drainage Easement at Legacy Town Center North, Lot 8R, Block A, Project #5537-10.					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
Location Map			N/A		

Easement Abandonment



Location Map

An ordinance of the City of Plano, Texas, abandoning all right, title and interest of the City, in and to that certain 20-foot wide Temporary Drainage Easement recorded in Volume 4531, Page 245, of the Land Records of Collin County, Texas and being situated in the Samuel H. Brown Survey, Abstract No. 108, 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, Legacy North PT MFA IV, L.P., 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 20-foot wide Temporary Drainage Easement recorded in Volume 4531, Page 245, of the Land Records of Collin County, Texas (hereinafter called "Easement") being situated in the Samuel H. Brown Survey, Abstract No. 108 which is located within the city limits of Plano, Collin County, Texas, and which is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference; and

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

WHEREAS, the 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 27th day of June, 2011.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

**EXHIBIT A
LEGAL DESCRIPTION
DRAINAGE EASEMENT ABANDONMENT
0.010 ACRE**

BEING a tract of land out of the Samuel H. Brown Survey, Abstract No. 108, in the City of Plano, Collin County, Texas, being part of Lot 8R Block A of Legacy Town Center (North), Lots 6R and 8R, Block A, an addition to the City of Plano according to the plat thereof recorded in Cabinet 2010, Page 134 of the Map Records of Collin County, Texas, being all of a Temporary Drainage Easement described as Parcel No. 3 recorded in Volume 4531, Page 245 of the Land Records of Collin County, Texas and being more particularly described as follows:

BEGINNING at a point in the south right-of-way line of Headquarters Drive (variable width ROW) from which a 5/8" iron rod found with a plastic cap stamped "KHA" for the north end of a corner clip at the intersection of the east right-of-way line of Bishop Road (variable width ROW at this point) and the south right-of-way line of said Headquarters Drive bears South 89°32'39" West, a distance of 321.37 feet ;

THENCE with said south right-of-way line, North 89°32'39" East, a distance of 23.09 feet to a point for corner;

THENCE leaving said south right-of-way line, the following courses and distances to wit:

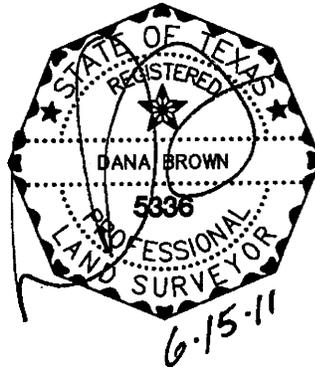
South 29°32'39" West, a distance of 27.84 feet to a point for corner;

North 60°27'21" West, a distance of 20.00 feet to a point for corner;

North 29°32'29" East, a distance of 16.29 feet to the **POINT OF BEGINNING** and containing 441 square feet or 0.010 acre of land.

Bearing system based on the monuments found in the south line of Headquarters Drive according to the plat of Legacy Town Center (North), Lots 6R and 8R, Block A, an addition to the City of Plano according to the plat thereof recorded in Cabinet 2010, Page 134 of the Map Records of Collin County, Texas.

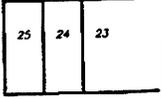
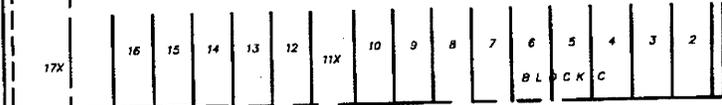
Dana Brown
Registered Professional Land Surveyor No. 5336
Kimley-Horn and Associates, Inc.
12700 Park Central Drive, Suite 1800
Dallas, Texas 75251
972-770-1300



**DRAINAGE EASEMENT ABANDONMENT
LEGACY TOWN CENTER (NORTH)
SAMUEL H. BROWN SURVEY, ABSTRACT NO. 108
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		
Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = ###'	DAB	MBM	06/14/2011	64316005	1 OF 2

LOT 2, BLOCK A
 LEGACY TOWN
 CENTER NORTH NO. 2
 CAB. 2007, PG. 211
 P.R.C.C.T.
 VST.# 20070418010001360
 O.P.R.C.C.T.



HEADQUARTERS DRIVE
 VARIABLE WIDTH ROW

20' TEMP.
 DRAINAGE ESMT.
 PARCEL NO. 3
 VOL. 4531 PG. 245
 L.R.C.C.T.

POINT OF BEGINNING

$S89^{\circ}32'39''W$ 321.37'
 $N89^{\circ}32'39''E$ 23.09'

BISHOP ROAD
 VARIABLE WIDTH ROW
 CAB. 2008, PG. 148
 M.R.C.C.T.

STANDARD CITY OF
 PLANO CONC MON SET

15' SWBT ESMT.
 VOL. 2278 PG. 77
 L.R.C.C.T.

10' WATER LINE ESMT.
 VOL. 5944 PG. 616
 L.R.C.C.T.

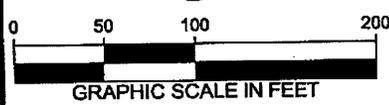
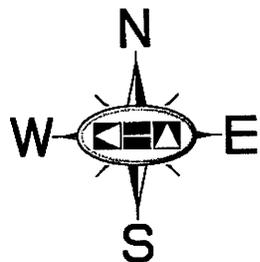
16.29'
 $N29^{\circ}32'39''E$
 20.00'
 $N60^{\circ}27'21''W$
 27.84'
 $S29^{\circ}32'39''W$

CLARA DRIVE
 60' STREET ESMT.
 CAB. 2010 PG. 134
 M.R.C.C.T.

LOT 8R, BLOCK A
 LEGACY TOWN CENTER (NORTH)
 LOTS 6R AND 8R
 BLOCK A
 CABINET 2010, PAGE 134
 M.R.C.C.T.

LOT 7, BLOCK C
 LEGACY TOWN CENTER (NORTH)
 VOLUME 2006, PAGE 440
 M.R.C.C.T.

**DRAINAGE EASEMENT ABANDONMENT
 LEGACY TOWN CENTER (NORTH)
 SAMUEL H. BROWN SURVEY, ABSTRACT NO. 108
 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			
Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 100'	DAB	MBM	06/14/2011	64316005	2 OF 2

EXHIBIT "B"

PETITION FOR ABANDONMENT

[For Easement Abandonment]

We, the undersigned, (hereinafter "Owners"), being all of the owners of real property abutting a Temporary Drainage Easement created by instrument recorded at Volume 4531, Page 245 of the Real Property Records of Collin County, Texas (hereinafter called "Easement"), more particularly described by metes and bounds in the field note description attached hereto and incorporated herein as **Exhibit "A"** 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:
Permanent drainage facilities have been installed in conjunction with the development of adjacent property and the Temporary Drainage Easement is no longer necessary.
2. The following public interest will be served as a result of the abandonment:
Termination of an unnecessary and unused easement.
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"**.
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:

Legacy North PT MFA IV, L.P., a Delaware limited partnership – 100%

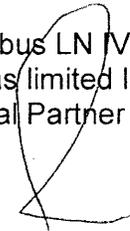
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10. The undersigned officers and/or agents of the Owners hereby represent and affirm that they have the necessary authority to execute this Petition for Abandonment on behalf of the Owners.

LEGACY NORTH PT MFA IV, L.P.,
a Delaware limited partnership

By: Columbus LN IV GP, LLC,
a Texas limited liability company,
General Partner

Dated: June 15, 2011

By: 

Robert L. Shaw

Contact Person for Property Owners:

Name: Robert L. Shaw

Phone No: 214-635-4730