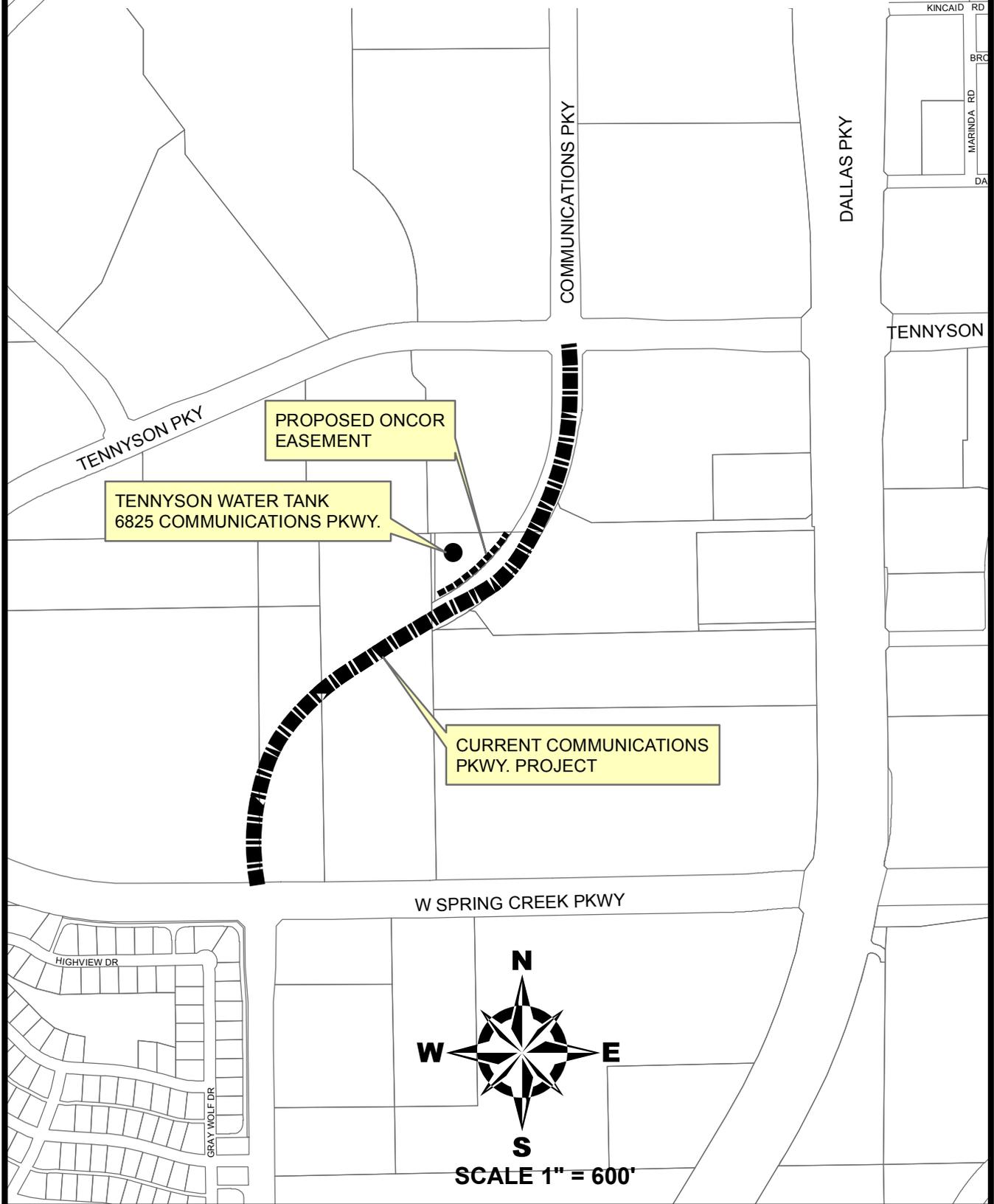




**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		7/23/12		
Department:		Public Works		
Department Head:		Gerald P. Cosgrove, P.E.		
Agenda Coordinator (include phone #): Kathleen Schonne (7198)				
CAPTION				
A Resolution of the City Council of the City of Plano, Texas, approving and granting an electric easement to Oncor Electric Delivery Company, L.L.C. on City property, Tennyson elevated water tank site, located at 6825 Communications Parkway; 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: 2011-12	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: Granting an electric easement to Oncor Electric Delivery Company relates to the City's Goal of Financially Strong City with Service Excellence.				
SUMMARY OF ITEM				
Oncor Electric Delivery Company, L.L.C. proposes to install an underground duct system along and adjacent to the west right of way line of Communications Parkway from Spring Creek Parkway to Tennyson Parkway to provide for electric service needs in this area of the City of Plano. Installation of these facilities requires easement acquisition from several properties along the project length. One of these properties is the City of Plano Tennyson elevated water tank site, from which the subject easement is requested. The proposed easement will allow for installation of these electric facilities on this City property.				
List of Supporting Documents: Location Map; Resolution; Easement		Other Departments, Boards, Commissions or Agencies N/A		

PROPOSED ONCOR EASEMENT
TENNYSON TANK SITE
6825 COMMUNICATIONS PARKWAY



A Resolution of the City Council of the City of Plano, Texas, approving and granting an electric easement to Oncor Electric Delivery Company, L.L.C. on City property, Tennyson Tank Site, located at 6825 Communications Parkway; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.

WHEREAS, the proposed electric easement is to allow for the installation of an underground duct system to provide for electric service in the related area of the City of Plano, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereafter the "Easement"); and

WHEREAS, upon full review and consideration of the Easement 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 the Easement 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 City Council hereby authorizes the granting of the Easement and determines that the Easement is acceptable and is hereby in all things approved.

Section II. The City Manager or his authorized designee is hereby authorized to execute the Easement and all other documents in connection with said Easement on behalf of the City of Plano.

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

DULY PASSED AND APPROVED this 23rd day of July, 2012.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

District:
WR#:
ER#: _____

EASEMENT AND RIGHT OF WAY

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

That, the **CITY OF PLANO, TEXAS**, a home rule municipal corporation, hereinafter called "Grantor," whether one or more, for and in consideration of Ten and No/100 Dollars (\$10.00) and other valuable consideration to Grantor in hand paid by **ONCOR ELECTRIC DELIVERY COMPANY LLC**, a Delaware limited liability company, 1616 Woodall Rodgers Freeway, Dallas, Texas 75202, hereinafter referred to as "Grantee", has granted, sold and conveyed and by these presents does grant, sell and convey unto said Grantee, their successors and assigns, an easement and right-of-way for overhead and/or underground electric supply and communications facilities, consisting of a variable number of wires and cables, supporting structures, surface mounted equipment, conduits, and all necessary or desirable appurtenances over, under, through, across, and upon Grantor's land described as follows:

SEE EXHIBIT "A" ATTACHED

Together with the right of ingress and egress along and upon said easement and right-of-way and over and across Grantor's adjoining properties for the purpose of and with the right to construct, maintain, operate, repair, remove, replace, reconstruct, abandon in place, and to change the size and capacity of said facilities; the right to relocate said facilities in the same relative direction of said facilities; the right to relocate said facilities in the same relative position to any adjacent road if and as such road is widened in the future; the right to lease, to the extent required by law, wire space for the purpose of permitting others to string or lay wire or cable along said facilities; and the right to trim or remove trees or shrubbery within, but not limited to, said easement area, including by use of herbicides or other similar chemicals approved by the U. S. Environmental Protection Agency as may be necessary to prevent possible interference with the operation of said facilities or to remove possible hazard thereto. Grantor shall not allow excavation or construction, within the easement area, of any buildings, structures or other obstructions which may endanger or interfere with the efficiency, safety, and/or convenient operation of Grantee's facilities and their appurtenances. Grantor shall not make changes in grade, elevation or contour of the land or impound water within the easement area as described above without prior written consent of Grantee which shall not be unreasonably withheld.

Grantor reserves the right to use the land within the above described easement area for purposes not inconsistent with Grantee's use of such property, provided such use shall not interfere with the exercise by the Grantee of the rights hereby granted.

GRANTEE AGREES TO DEFEND, INDEMNIFY AND HOLD THE GRANTOR 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 GRANTEE'S VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONALLY WRONGFUL, OR STRICTLY LIABLE ACT OR OMISSION OF THE GRANTEE, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE GRANTEE IS LEGALLY RESPONSIBLE ARISING OUT OF THIS EASEMENT OR USE OF THE EASEMENT PROPERTY. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF THE GRANTOR, AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS. THE GRANTOR 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.

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

Grantee shall procure and maintain for the duration of the Easement insurance coverage as set forth in the Insurance Requirements marked **Exhibit "B"** attached hereto and incorporated herein by reference. Grantee shall provide a signed insurance certificate verifying that they have obtained the required insurance coverage as a condition of this Easement. The insurance required herein is not in addition to any other insurance requirements required by Grantor of Grantee under other agreements between the parties and may be satisfied by any valid annual certificate of insurance provided by Grantee to Grantor subject to compliance with the minimum coverage requirements in **Exhibit "B"**.

TO HAVE AND TO HOLD the above described easement and right-of-way unto the said Grantee, its successors and assigns, until all of said electric lines and facilities shall be abandoned, and in that event said easement and right-of-way shall cease and all rights herein granted shall terminate and revert to Grantor or Grantor's heirs, successors or assigns; and Grantor hereby binds Grantor and Grantor's heirs, successors, assigns, and legal representatives, to warrant and forever defend the above described easement and right-of-way unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

SIGNED on the date indicated below.

**ONCOR ELECTRIC DELIVERY
COMPANY, LLC, a Delaware Limited
Liability Company**

By: _____
Name: _____
Title: _____
Date: _____

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

Bruce D. Glasscock, CITY MANAGER
Date: _____

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 20____, by _____, _____ of **ONCOR ELECTRIC DELIVERY COMPANY, LLC**, a Delaware limited liability company, on behalf of said limited liability company.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 20____, by Bruce D. Glasscock of the **CITY OF PLANO, TEXAS**, a home rule municipal corporation, on behalf of said municipal corporation.

Notary Public, State of Texas

AFTER RECORDING RETURN TO:
City Attorney's Office
City of Plano, Texas
P. O. Box 860358
Plano, TX 75086-0358

Exhibit "A"
The Easement Property

Lying and situated in the Henry B. Miller survey, Abstract No. 614, Collin County, Texas and being a part of those tracts of land conveyed to the City of Plano by deeds recorded in Collin County Clerk Documents No. 96-0092889 (called 1.2394 acres) and 96-0092892 (called 0.1176 acres) Records of Collin County, Texas (D.R.C.C.T.) and being more particularly described as follows:

BEGINNING at an "X" cut in concrete found for the most easterly corner of the above described 1.2394 acre tract and on the curving northwest right of way line of Communications Parkway (110 feet wide);

THENCE southwesterly along said right of way line with a curve to the left having a radius of 995.00 feet, a central angle of $26^{\circ} 48' 17''$, and a chord that bears $S 48^{\circ} 56' 30'' W$, 461.26 feet, an arc distance of 465.49 feet to a 5/8-inch iron rod with an orange "Cheatham & Assoc." cap found;

THENCE $N 00^{\circ} 40' 28'' E$ along the east line of a tract of land called 18.8098 acres in a Warranty Deed to Baccus Partnership recorded in Collin County Clerk Document No. 20100128000090190, D.R.C.C.T.;

THENCE northeasterly along a curve to the left having a radius of 980.00 feet, a central angle of $25^{\circ} 41' 15''$ and a chord that bears $N 49^{\circ} 01' 35'' E$, 435.69 feet, an arc distance of 439.37 feet to a point on the north line of said 1.2394 acre tract;

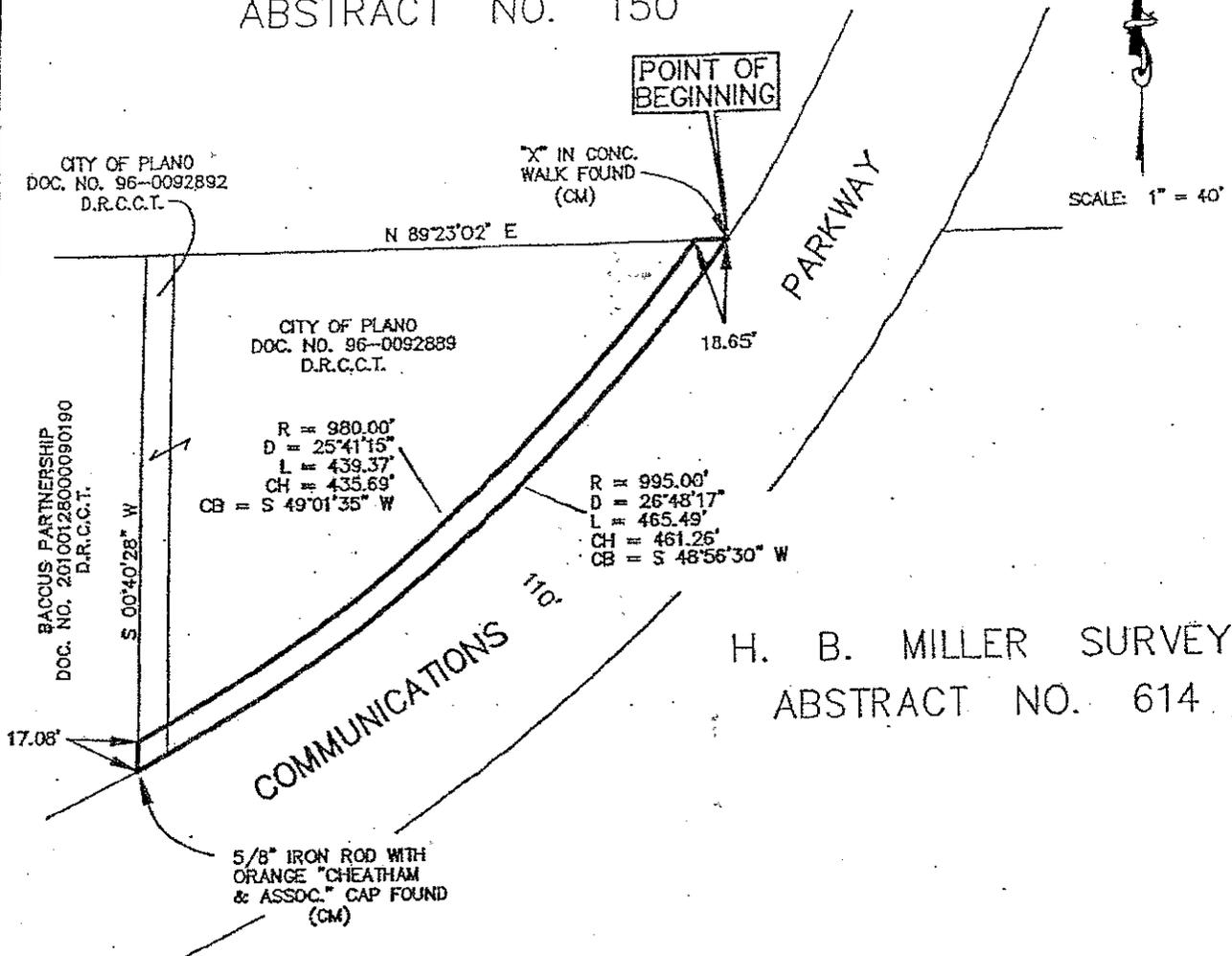
THENCE $N 89^{\circ} 23' 02'' E$ along said north line, a distance of 18.65 feet to the Point of Beginning and containing 6,786.60 square feet of land, more or less.

EXHIBIT "A"
The Easement Property

COLLIN COUNTY SCHOOL LAND SURVEY
ABSTRACT NO. 150



SCALE: 1" = 40'



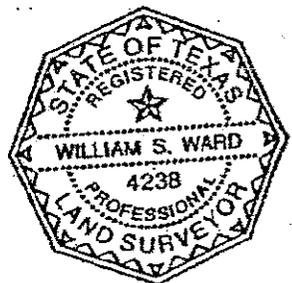
CITY OF PLANO
DOC. NO. 96-0092892
D.R.C.C.T.

CITY OF PLANO
DOC. NO. 96-0092889
D.R.C.C.T.

BACCUS PARTNERSHIP
DOC. NO. 20100128000090190
D.R.C.C.T.

H. B. MILLER SURVEY
ABSTRACT NO. 614

BEARING BASIS: THE NORTH LINE OF THE TRACT OF LAND DESCRIBED IN A DEED TO THE CITY OF PLANO RECORDED IN DOCUMENT NO. 96-0092889, D.R.C.C.T.



KNOW ALL MEN BY THESE PRESENTS:
THAT I WILLIAM S. WARD, REGISTERED PROFESSIONAL LAND SURVEYOR DO HEREBY DECLARE THAT THIS PLAT IS THE RESULT OF A SURVEY MADE ON THE GROUND UNDER MY PERSONAL SUPERVISION ON FEBRUARY 14, 2011 AND ALL DIMENSIONS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

William S. Ward
WILLIAM S. WARD, R.P.L.S. NO. 4238

EXHIBIT "A"
ONCOR ELECTRIC DELIVERY CO.
EASEMENT
PAGE 2 OF 2

Exhibit "B"

City of Plano
Insurance Requirements

Requirements

Contractors performing work on City property for the City of Plano shall provide the City a certificate of insurance evidencing the coverage and coverage provisions identified herein. Contractors shall provide the City evidence that all subcontractors performing work on the project have the same types and amounts of coverage as required herein or that the subcontractors are included under the contractor's policy. The City, at its own discretion, may require a certified copy of the policy.

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.

Listed below are the types and amounts of insurance required. By requiring such coverage, the City shall not be deemed or construed to have assessed the risk that may be applicable to Contractors under this agreement. The Contractor shall assess its own risks and, if it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. The Contractor is not relieved of any liability or other obligations assumed or pursuant to this agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. The City reserves the right to amend or require additional types and amounts of coverage or provisions depending on the nature of the work.

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

Questions regarding this insurance should be directed to the City of Plano Purchasing Department at (972) 941-7557