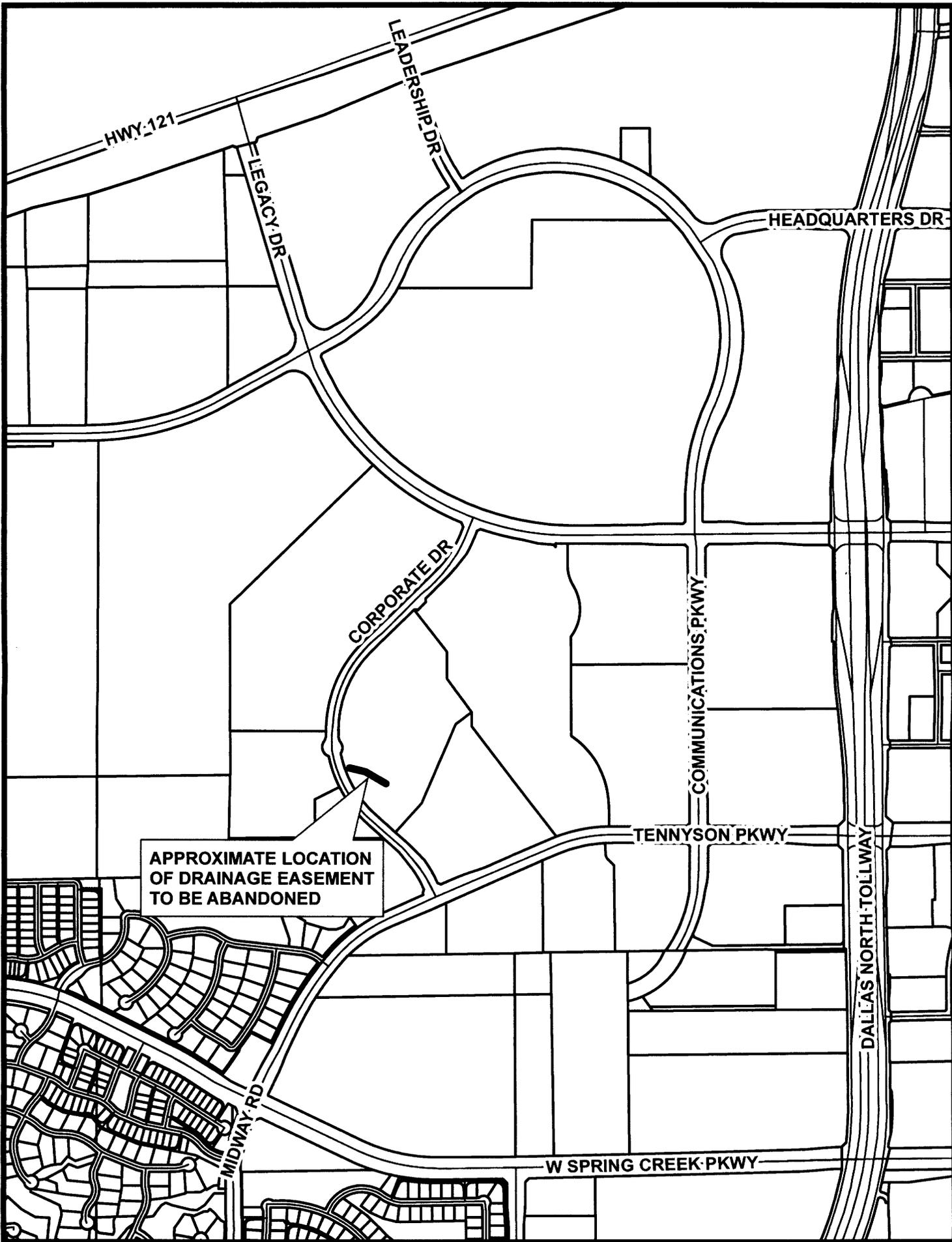




**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>					
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory					
Council Meeting Date:		7/26/10			
Department:		Public Works & Engineering			
Department Head		Alan L. Upchurch			
Agenda Coordinator (include phone #): <b>Irene Pegues (X-7152)</b>					
<b>CAPTION</b>					
<p>An ordinance of the City of Plano, Texas, abandoning all right, title and interest of the City, in and to the remainder of that Variable Width Drainage Easement recorded in Volume 2242, Page 945 of the Deed Records of Collin County, Texas and being situated in the Collin County School Survey, Abstract No. 150, 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, Pizza Hut of America, Inc., 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>					
<b>FINANCIAL SUMMARY</b>					
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input checked="" type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	<b>2009-10</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	0	0	0	0
Encumbered/Expended Amount	0	0	0	0	0
This Item	0	0	0	0	0
BALANCE	0	0	0	0	0
<b>FUND(S):    GENERAL FUND AND GENERAL OBLIGATION DEBT FUND</b>					
<p><b>COMMENTS:</b>     This item will add 11,186 square feet of land back on the tax rolls and subsequently, increase property tax receipts. The specific revenue increase associated with this property is undeterminable at this time.</p> <p><b>STRATEGIC PLAN GOAL:</b> Right-of-Way adjustments relate to the City's Goals of Financially Strong City with Service Excellence and Strong Local Economy.</p>					
<b>SUMMARY OF ITEM</b>					
<p>This existing drainage easement is no longer required since the drainage conveyed to this easement is being relocated and a new drainage easement is dedicated with the development of Pizza Hut Addition, Lot 1, Block 1.</p>					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
Location Map			N/A		



**Legend**  
□ LOT LINE



**An ordinance of the City of Plano, Texas, abandoning all right, title and interest of the City, in and to the remainder of that Variable Width Drainage Easement recorded in Volume 2242, Page 945 of the Deed Records of Collin County, Texas and being situated in the Collin Country School Survey, Abstract No. 150, 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, Pizza Hut of America, Inc., 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 the remainder of that Variable Width Drainage Easement recorded in Volume 2242, Page 945 of the Deed Records of Collin County, Texas (hereinafter called "Easement") being situated in the Collin Country School Survey, Abstract No. 150, 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 26<sup>th</sup> day of July, 2010.

\_\_\_\_\_  
Phil Dyer, MAYOR

ATTEST:

\_\_\_\_\_  
Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY

Remainder of Variable Width  
Drainage Easement

BEING a 11,186 square feet of land in the Collin County School Survey, Abstract No. 150, situated in the City of Plano, Collin County, Texas, and being the remainder of that Variable Width Drainage Easement to the City of Plano recorded in Volume 2242, Page 945, of the Deed Records of Collin County, Texas, and being a portion of Lot 1, Block 1, of the Pizza Hut Addition, as shown on the Conveyance Plat and recorded in Document No. 20100507010000880, of the Official Public Records of Collin County, Texas, and being more particularly described by metes and bounds as follows:

COMMENCING at a 1/2-inch found iron rod with yellow plastic cap stamped "HALFF ASSOC" (hereinafter referred to as "with cap) for the southernmost corner of said Lot 1 on the northeast right-of-way line of Corporate Drive (85 foot right-of-way);

THENCE North 48 degrees 08 minutes 28 seconds West, along said northeast right-of-way line, a distance of 192.00 feet to 1-inch found iron rod for the point of curvature of a circular curve to the right having a radius of 807.50 feet and whose chord bears North 33 degrees 56 minutes 51 seconds West, a distance of 395.96 feet;

THENCE Northwesterly, continuing along said northeast right-of-way line and said curve, through a central angle of 28 degrees 23 minutes 05 seconds, an arc distance of 400.04 feet to the POINT OF BEGINNING, said point being on a circular curve to the right having a radius of 807.50 feet and whose chord bears North 18 degrees 07 minutes 52 seconds West, a distance of 45.77 feet;

THENCE Northwesterly, continuing along said east right-of-way line and said curve, through a central angle of 03 degrees 14 minutes 52 seconds, an arc distance of 45.77 feet to a point for corner;

THENCE South 67 degrees 21 minutes 02 seconds East, departing said east right-of-way line and said curve, over and across said Lot 1, a distance of 119.20 feet to the point of curvature of a circular curve to the right having a radius of 72.50 feet and whose chord bears South 56 degrees 24 minutes 15 seconds East, a distance of 27.53 feet;

THENCE Southeasterly, continuing across said Lot 1 and along said curve, through a central angle of 21 degrees 53 minutes 35 seconds, an arc distance of 27.70 feet to the point of tangency;

THENCE South 45 degrees 27 minutes 27 seconds East, continuing across said Lot 1, a distance of 297.34 feet to a point for corner;

THENCE South 44 degrees 32 minutes 33 seconds West, continuing across said Lot 1, a distance of 25.00 feet to a point for corner;

Remainder of Variable Width  
Drainage Easement

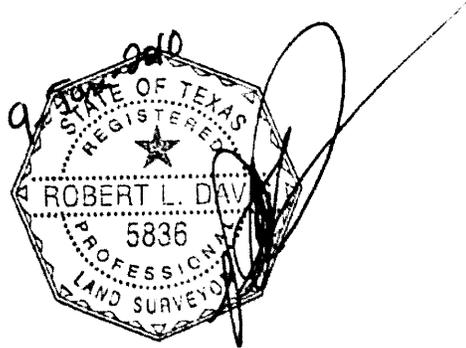
THENCE North 45 degrees 27 minutes 27 seconds West, continuing across said Lot 1, a distance of 297.34 feet to the point of curvature of a circular curve to the left having a radius of 47.50 feet and whose chord bears North 59 degrees 34 minutes 58 seconds West, a distance of 23.18 feet;

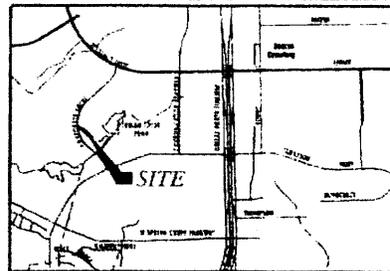
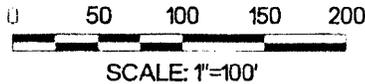
THENCE Northwesterly, continuing across said Lot 1 and along said curve, through a central angle of 28 degrees 15 minutes 02 seconds, an arc distance of 23.42 feet to the point of tangency;

THENCE North 73 degrees 42 minutes 29 seconds West, continuing across said Lot 1, a distance of 84.57 feet to the POINT OF BEGINNING AND CONTAINING 11,186 square feet or 0.2568 acres of land, more or less.

The basis of bearing is the northeast right-of-way line of Corporate Drive as indicated on the Pizza Hut Addition Conveyance Plat, as recorded in Document No. 20100507010000880, O.P.R.C.C.T., and being North 48 degrees 08 minutes 28 seconds West.

A plat accompanies this legal description.





$\Delta=03^{\circ}14'52''$   
 $R=807.50'$   
 $T=22.89'$   
 $L=45.77'$   
 $CL=45.77'$   
 $CB=N18^{\circ}07'52''W$

$S67^{\circ}21'02''E$   
 $119.20'$

$\Delta=21^{\circ}53'35''$   
 $R=72.50'$   
 $T=14.02'$   
 $L=27.70'$   
 $CL=27.53'$   
 $CB=S56^{\circ}24'15''E$

POINT OF BEGINNING

$N73^{\circ}42'29''W$   
 $84.57'$

$\Delta=28^{\circ}15'02''$   
 $R=47.50'$   
 $T=11.95'$   
 $L=23.42'$   
 $CL=23.18'$   
 $CB=N59^{\circ}34'58''W$

REMAINDER OF VARIABLE WIDTH DRAINAGE EASEMENT VOL.2242, PG. 945 O.P.R.C.C.T.

LOT 1, BLOCK 1 PIZZA HUT ADDITION DOC. NO. 20100507010000880 O.P.R.C.C.T.

PIZZA HUT OF AMERICA, INC. DOC. NO. 20100204000117940 O.P.R.C.C.T.

11,186 SQ. FT.  
 0.2568 AC.

$\Delta=28^{\circ}23'05''$   
 $R=807.50'$   
 $T=204.22'$   
 $L=400.04'$   
 $CL=395.96'$   
 $CB=N33^{\circ}56'51''W$

CORPORATE DRIVE  
 85' RIGHT-OF-WAY

$S45^{\circ}27'27''E$   
 $N45^{\circ}27'27''W$

$291.34'$   
 $291.34'$

$S44^{\circ}32'33''W$   
 $25.00'$

COLLIN COUNTY SCHOOL SURVEY ABSTRACT NO. 150



1" FIR (C.M.)

$N48^{\circ}08'28''W$   
 $192.00'$

1/2" FIR W/CAP (C.M.)

LOT 2, BLOCK 1

POINT OF COMMENCING

A legal description accompanies this plat.

The basis of bearing is the northeast right-of-way line of Corporate Drive as indicated on the Pizza Hut Addition Conveyance Plat, as recorded in Document No. 20100207010000880, O.P.R.C.C.T., and being North 48 degrees 08 minutes 28 seconds West.

LEGEND

- 1" FIR ONE INCH FOUND IRON ROD
- 1/2" FIR ONE HALF INCH FOUND IRON ROD
- W/CAP WITH CAP STAMPED 'HALFF ASSOC.'
- C.M. CONTROL MONUMENT
- O.P.R.C.C.T. OFFICIAL PUBLIC RECORDS OF COLLIN COUNTY, TEXAS
- D.R.C.C.T. DEED RECORDS OF COLLIN COUNTY, TEXAS

EXHIBIT  
 REMAINDER OF  
 VARIABLE WIDTH EASEMENT  
 11,186 SQ. FT. (0.2568 AC.)  
 SITUATED IN THE  
 COLLIN COUNTY SCHOOL SURVEY,  
 ABSTRACT NO. 150  
 CITY OF PLANO, COLLIN COUNTY, TEXAS  
 FOR  
 PIZZA HUT OF AMERICA, INC.



## EXHIBIT "B"

### PETITION FOR ABANDONMENT

[For Easement Abandonment]

We, the undersigned, (hereinafter "Owners"), being all of the owners of real property abutting variable width drainage easement (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 proposed development requires revisions to the existing drainage divides. The easement is no longer needed because runoff has been redirected and additional easements will be dedicated.
2. The following public interest will be served as a result of the abandonment:  
Improvement of the real property with a new headquarters office building.
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"**.
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:

NA

---

---

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"**.
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"**.

[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.

AL LITCHENBURG, PIZZA HUT, INC.

**Typed Name of Owner**

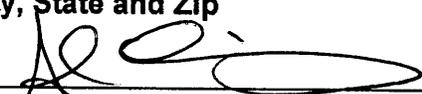
14841 N. DALLAS PARKWAY

**Address**

DALLAS, TX 75254

**City, State and Zip**

**Dated:** 6-22-10

  
**Signature of Owner**

**Contact Person for Property Owners:**

**Name:** AL LITCHENBURG

**Phone No:** 972-338-8495

-----  
**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 & Engineering Department  
City of Plano, Texas