CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY	
☐ Consent ☐ Regular ☐ Statutory	
Council Meeting Date:	12/7/10
Department:	Public Works & Engineering
Department Head	Alan L. Upchurch
Agenda Coordinator (include phone #):	**Irene Pegues (X-7152)** **Proj. #6796**

CAPTION

An ordinance of the City of Plano, Texas, abandoning all right, title and interest of the City, in and to a portion of that certain 60-foot wide Right-of-Way (Infinity Avenue) recorded in Cabinet 2006, Page 440 of the Map Records of Collin County, Texas and being situated in the Henry Cook Survey, Abstract No. 183, 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, KDC Legacy North Investments I, 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

☐ NOT APPLICABLE ☐ OPERATING EXPENSE ☒ REVENUE ☐ 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): GENERAL FUND AND GENERAL OBLIGATION DEBT FUND

COMMENTS: Approval of this ordinance will allow the City to abandon all rights, title and interest in and to a portion of a 60-foot wide Right-of-Way and will add this 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.

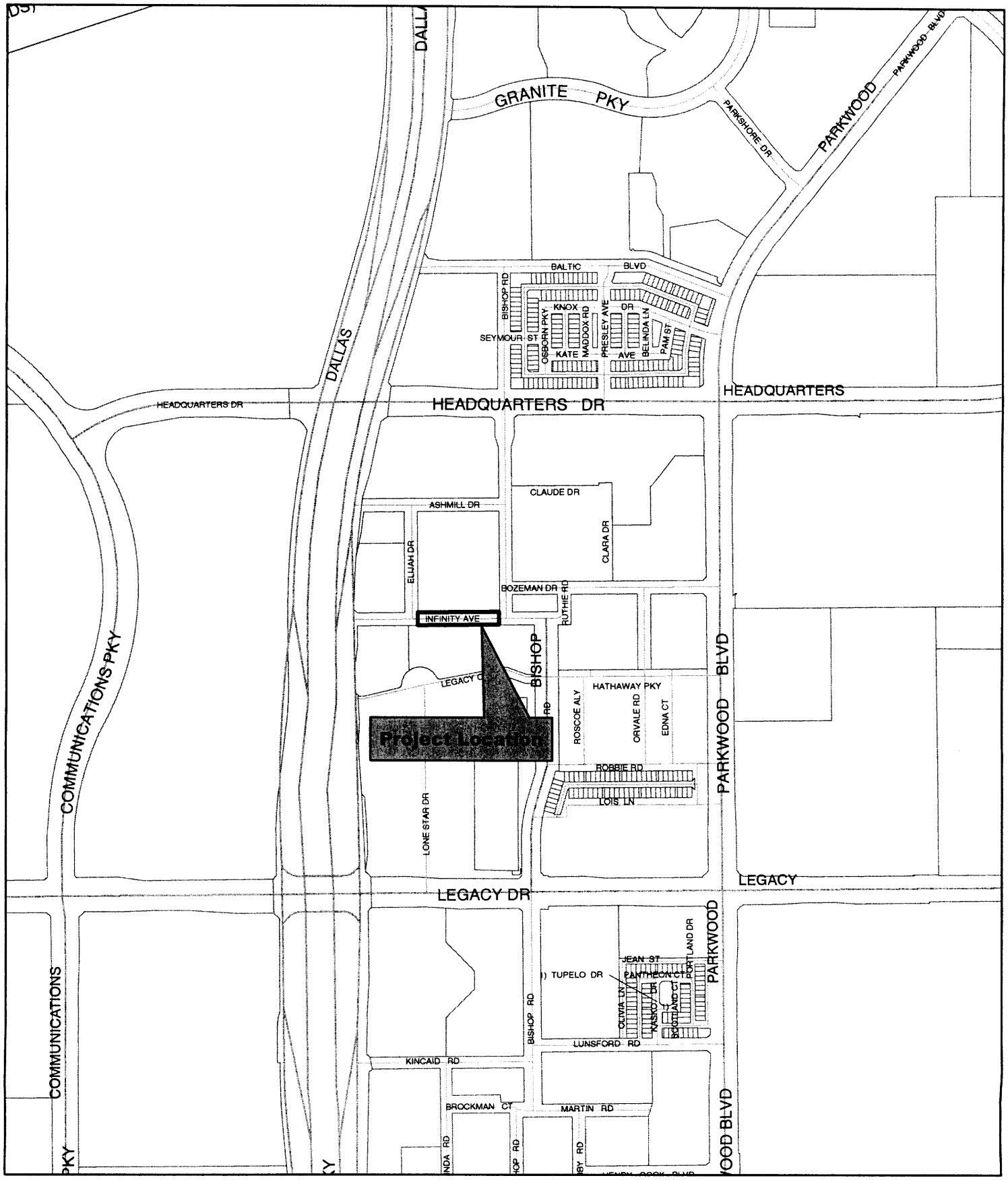
STRATEGIC PLAN GOAL: Abandoning Right-of-Way for development relates to the City's Goals of Financially Strong City with Service Excellence and Strong Local Economy.

SUMMARY OF ITEM

Abandonment of this Right-of-Way will facilitate the construction of an approximately 300,000 square foot regional headquarters office building and supporting parking garage, bringing over 500 new jobs to Plano and furthering the development of the Legacy Town Center North.

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
Location Map	N/A

Abandonment of Part of Infinity Avenue



Location Map

11/18/2010

An ordinance of the City of Plano, Texas, abandoning all right, title and interest of the City, in and to a portion of that certain 60-foot wide Right-of-Way (Infinity Avenue) recorded in Cabinet 2006, Page 440 of the Map Records of Collin County, Texas and being situated in the Henry Cook Survey, Abstract No. 183, 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, KDC Legacy North Investments I, 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 a portion of that certain 60-foot wide Right-of-Way (Infinity Avenue) recorded in Cabinet 2006, Page 440 of the Map Records of Collin County, Texas Right-of Way (hereinafter called "Right-of-Way") being situated in the Henry Cook Survey, Abstract No. 183, 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 Right-of-Way is abandoned and quitclaimed to the abutting Property Owner; and has advised that the Right-of-Way 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 Right-of-Way is hereby abandoned, and all right, title and interest of the City in and to the Right-of-Way 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 Right-of-Way 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 Right-of-Way. 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 Right-of-Way.

Section III. The City Council hereby finds and determines that the abandonment of the Right-of-Way 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 7th day of December, 2010.

_____
Phil Dyer, MAYOR

ATTEST:

_____
Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

_____
Diane C. Wetherbee, CITY ATTORNEY

EXHIBIT "B"

PETITION FOR ABANDONMENT
[For Right-of-Way Abandonment]

We, the undersigned, (hereinafter "Owners"), being all of the owners of real property abutting **a 60'-0 right of way for part of Infinity Avenue** [*description and location of Right-of-Way*] (hereinafter called "Right-of-Way"), 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 Right-of-Way.

1. The Owners are requesting the abandonment of the Right-of-Way for the following reasons:
   To facilitate constructing an approximately 300,000 square foot regional headquarters office building and supporting parking garage.

2. The following public interest will be served as a result of the abandonment:
   This will facilitate the construction of the above noted office project bringing over 500 new jobs to Plano and furthering the development of the Legacy Town Center North.

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 Right-of-Way 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 Right-of-Way, 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 right-of-way for the Right-of-Way requested to be abandoned herein, Owners will attach a metes and bounds description or plat identifying the replacement right-of-way ad 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 Right-of-Way 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 and closing of the Right-of-Way 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 Right-of-Way 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 Right-of-Way 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:
100% by KDC Legacy North Investments I, L.P.

8. Owners shall also prepare a map or drawing showing the Right-of-Way 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 "A-1"**.

9. Owners shall also prepare a separate field note description for each portion of the Right-of-Way to be quitclaimed to each abutting property owner. This description shall be attached hereto and incorporated herein as **Exhibit "D-1"**.

(Not applicable)

[Reminder 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.

KDC Legacy North Investments I, L.P.
Typed Name of Owner

8115 Preston Road, Suite 700
Address

Dallas, Texas 75225
City, State and Zip

Dated: 11/15/10

Signature of Owner

Contact Person for Property Owners:

Name: Scott Ozymy

Phone No: 214-696-1700

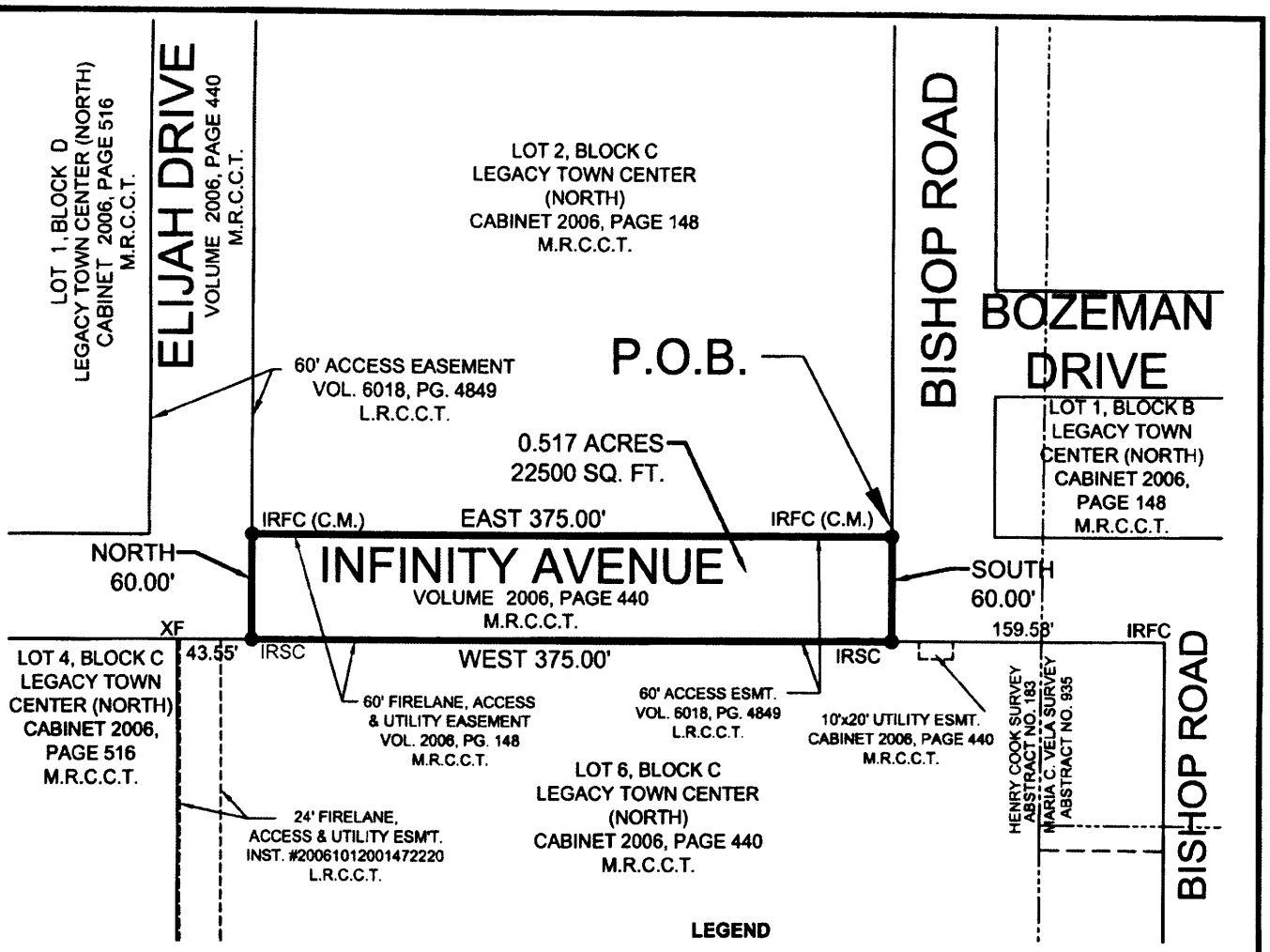
FOR DEPARTMENTAL USE ONLY

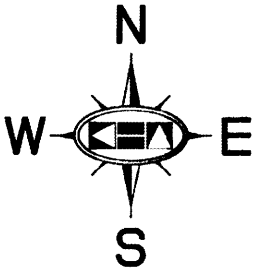
The Right-of-Way to be abandoned is to one or more abutting property owners and is exempt from the requirement that fair market value be paid for the following reason(s):

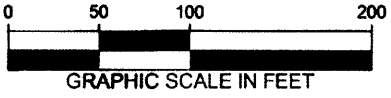
- ☐ The Right-of-Way consists of narrow strips of land, or land that because of its shape, lack of access to public roads, or small area cannot be used independently under its current zoning or under applicable subdivision or other development code ordinances;
- ☑ The Right-of-Way consists of streets or alleys, owned in fee or used by easement;
- ☐ The Right-of-Way 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 Right-of-Way contains land that the City wants to have developed by an independent foundation;
- ☐ The Right-of-Way 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.

Alan Schulz

Public Works & Engineering Department
City of Plano, Texas







LEGEND

IRSC =5/8" IRON ROD WITH "KHA" CAP SET
IRFC =5/8" IRON ROD WITH "KHA" CAP FOUND
ESMT. = EASEMENT
C.M. =CONTROLLING MONUMENT

NOTES

The bearing system for this exhibit is based on the plat of Lot 2, Block C, Legacy Town Center (North), an addition to the City of Plano recorded in Cabinet 2006, Page 148 Map Records of Collin County, Texas.

EXHIBIT A-1
0.517 ACRE ABANDONMENT OF PART OF INFINITY AVENUE CITY OF PLANO, 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

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'	SRD	DAB	Sept. 2010	068176002	2 OF 2

EXHIBIT A-1

0.517 ACRE
ABANDONMENT OF PART OF INFINITY AVENUE

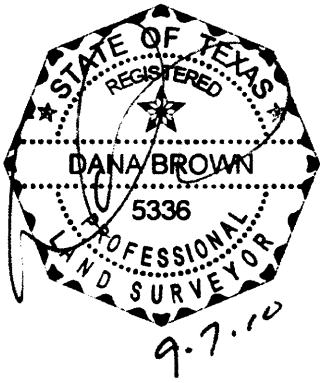
BEING a tract of land out of the Henry Cook Survey, Abstract No. 183, City of Plano, Collin County, Texas, being part of Infinity Avenue, a 60-foot wide right-of-way per the plat of Legacy Town Center (North), an addition to the City of Plano recorded in Cabinet 2006, Page 440, Map Records of Collin County, Texas and being more particularly described as follows:

BEGINNING at a 5/8" iron rod with "KHA" cap found at the intersection of the west right-of-way line of Bishop Road (a 109-foot wide right-of-way) and the north right-of-way line of said Infinity Avenue; said point being the southeast corner of Lot 2, Block C, Legacy Town Center (North), an addition to the City of Plano, Texas according to the plat recorded in Cabinet 2006, Page 148, Map Records of Collin County, Texas;

THENCE departing said north right-of-way line, South, a distance of 60.00 feet to a 5/8" iron rod with "KHA" cap set for corner in the north line of Lot 6, Block C, first referenced Legacy Town Center (North);

THENCE with said north line, West, a distance of 375.00 feet to a 5/8" iron rod with "KHA" cap set for corner;

THENCE departing said south right-of-way line, North, a distance of 60.00 feet to a 5/8" iron rod with "KHA" cap found at the intersection of said north right-of-way line of Infinity Avenue and the east right-of-way line of Elijah Drive (a 60-foot wide right-of-way); said point also being the southwest corner of said Lot 2, Block C;

THENCE with the south line of said Lot 2, Block C, East, a distance of 375.00 feet to the **POINT OF BEGINNING** and containing 0.517 acre or 22,500 square feet of land.

Dana Brown
Registered Professional Land Surveyor No. 5336
Kimley-Horn and Associates, Inc.
12700 Park Central Drive, Suite 1800
Dallas, Texas 75251-1516