

LFT 2002 Landmark Railroad Crossing - L. Blaydes

15 to 9/02

## RAILROAD DOCUMENTS

REFERENCE	CROSSING/PURCHASE/RAILROAD	FILE NAME	DATE
LANDMARK CROSSING UNION PACIFIC FILE DGNO PAPERS ARE IN	FILE IS IN "LANDMARK" FILE IS IN "RAILROAD" FILE UNION PACIFIC "RAILROAD"		
LANDMARK CROSSING	COMMITMENT FOR TITLE INS.	LANDMARK RR	12/27/2002
LANDMARK CROSSING	METERS & BOUNDS T.L.	LANDMARK RR	12/2/2002
LANDMARK CROSSING	PUBLIC HIGHWAY CROSSING AGREE.	LANDMARK RR	9/30/2002
LANDMARK CROSSING	CROSSING AGREEMENT	LANDMARK RR	9/30/2002
LANDMARK CROSSING	PUBLIC HIGHWAY CROSSING AGREE.	LANDMARK RR	9/23/2002
LANDMARK CROSSING	DRAFT OF PROPOSED AGREEMENT	LANDMARK RR	9/12/2002
LANDMARK CROSSING	LONNIE BLAYDES INVOICE	LANDMARK RR	8/22/2002
LANDMARK CROSSING	DRAFT OF PROPOSED AGREEMENT	LANDMARK RR	8/19/2002
QUORUM CROSSING	QUORUM DR. RR CROSSING	LANDMARK RR	6/27/2002
QUORUM CROSSING	COSTS FOR QUORUM DR. CRSSG.	LANDMARK RR	6/12/2002
LANDMARK CROSSING	LONNIE BLAYDES INVOICE	LANDMARK RR	5/14/2002
LANDMARK CROSSING	U.P. RR CROSSING AGREE. T.L.	LANDMARK RR	5/3/2002
UP/QUORUM/LANDMARK	JIM PIERCE NOTES ON ALL	LANDMARK RR	4/1/2002
LANDMARK CROSSING	LANDMARK CRSG. AGREE. PROPOSAL	LANDMARK RR	3/11/2002
LANDMARK CROSSING	LANDMARK CRSG. AGREE. PROPOSAL	LANDMARK RR	3/11/2002
LANDMARK CROSSING	LANDMARK CRSG. AGREE. PROPOSAL	LANDMARK RR	3/6/2002
LANDMARK CROSSING	LANDMARK CRSG. AGREE. PROPOSAL	LANDMARK RR	2/28/2002
LANDMARK CROSSING	EXHIBIT "A" UP/DGNO CONST.PROJECT	LANDMARK RR	12/17/2001
UNION PACIFIC DGNO	PURCH.AGREE.-U.P. ADDISON/ARAP. CRSG.AGREE.-DGNO-LANDMARK PLACE	UNION PACIFIC	NO DATE 11/14/2002
UNION PACIFIC	CROSSING AGREE.-U.P.-ARAPAHO	UNION PACIFIC	1/28/2002
UNION PACIFIC	CRSG.AGREE.UP/DGNO-ARAPAHO	UNION PACIFIC	12/17/2001
UNION PACIFIC	PROPOSED PURCH.AGREE.-U.P.	UNION PACIFIC	12/4/2001
UNION PACIFIC	PURCH.AGREE.-U.P.-ADDISON/ARAP.	UNION PACIFIC	10/29/2001
UNION PACIFIC	CRSG.AGREE.UP/DGNO-ARAPAHO	UNION PACIFIC	7/20/2001
UNION PACIFIC	APPRAISAL-ADDISON/ARAPAHO	UNION PACIFIC	3/28/2001
UNION PACIFIC	APPRAISAL-ADDISON/ARAPAHO	UNION PACIFIC	5/10/2000
CORRESP.-MIKE MURPHY	NOTES FROM MEETING-WYE	UNION PACIFIC	NO DATE
CORRESP.-MIKE MURPHY	NOTES	UNION PACIFIC	NO DATE
CORRESP.-J.HILL	UNION PACIFIC RAILROAD CO.-WYE	UNION PACIFIC	12/26/2001
CORRESP.-PAUL FARRELL	PROPOSED ROAD CRSG.-ARAPAHO	UNION PACIFIC	12/17/2001
CORRESP.-MIKE MURPHY	OFFER TO PURCHASE WYE W/NOTES	UNION PACIFIC	11/14/2001
CORRESP.-J.HILL	UNION PACIFIC-TITLE COM.-ARAPAHO	UNION PACIFIC	10/8/2001
CORRESP.-DENNIS MILLER	UNION PACIFIC SPECIFIC INFO.-WYE	UNION PACIFIC	9/26/2001
CORRESP.-J.HILL	PURCHASE OF U.P.WYE TRACT	UNION PACIFIC	9/12/2001
CORRESP.-J.HILL	UNION PACIFIC-WYE	UNION PACIFIC	9/10/2001
CORRESP.-MIKE MURPHY	OFFER TO PURCHASE U.P. WYE	UNION PACIFIC	9/10/2001
CORRESP.-J.HILL	UNION PACIFIC PROP.ACQUISITION-WYE	UNION PACIFIC	9/7/2001
CORRESP.-D.EYERMANN	QUESTIONS RE PURCHASE OF WYE	DGNO	9/4/2001
CORRESP.-MIKE MURPHY	QUESTIONS RE PURCHASE OF WYE	UNION PACIFIC	8/22/2001
CORRESP.-MIKE MURPHY	QUESTIONS RE PURCHASE OF WYE	UNION PACIFIC	8/10/2001
CORRESP.-TONY K. LOVE	U.P. ITEMS FOR SALE-WYE	UNION PACIFIC	7/20/2001
CORRESP.-PAUL FARRELL	CONST.OF ROAD CRSSG.-ARAPAHO	UNION PACIFIC	7/20/2001
CORRESP.-MEETING	ATTENDEES-U.P. RR MTG-WYE	UNION PACIFIC	6/29/2001

## RAILROAD DOCUMENTS

CORRESP.-MIKE MURPHY	EMAIL RE <b>ASSEM &amp; U.P.</b> PROPERTIES	UNION PACIFIC	4/19/2001
CORRESP.-JIM PIERCE	<b>ADDISON BRANCH,QUORUM DR.CRSG.</b>	UNION PACIFIC	3/15/2001
CORRESP.-MIKE MURPHY	NOTES FROM MEETING W/D.MILLER	UNION PACIFIC	3/14/2001
CORRESP.-K.DIPPEL	OFFER TO PURCHASE- <b>WYE</b>	UNION PACIFIC	3/5/2001
CORRESP.-CITY MANAGER	OFFER W/MIKE'S NOTES- <b>WYE</b>	UNION PACIFIC	3/5/2001
CORRESP.-CITY MANAGER	OFFER TO PURCHASE <b>WYE</b> W/NOTES	UNION PACIFIC	3/2/2001
CORRESP.-CITY MANAGER	OFFER TO PURCHASE <b>WYE</b> W/NOTES-2	UNION PACIFIC	3/2/2001
CORRESP.-CITY MANAGER	OFFER TO PURCHASE <b>WYE</b> W/NOTES	UNION PACIFIC	2/27/2001
CORRESP.-L. BLAYDES	RAILROAD CROSSINGS CRITIQUE	UNION PACIFIC	2/23/2001
CORRESP.-DENNIS MILLER	OFFER TO PURCHASE U.P.PROP.- <b>WYE</b>	UNION PACIFIC	2/21/2001
CORRESP.-MIKE MURPHY	NOTES RE U.P.- <b>DART MTG.</b>	UNION PACIFIC	1/16/2001
CORRESP.-DENNIS MILLER	COMMIT.TO PURCHASE U.P.PROP.- <b>WYE</b>	UNION PACIFIC	10/17/2000
CORRESP.-CITY MANAGER	LTR. OF COMMIT.W/NOTES- <b>ADD/ARAP.</b>	UNION PACIFIC	8/21/2000
CORRESP.-CITY MANAGER	LTR. OF COMMIT.TO PURCH.- <b>ADD/ARAP.</b>	UNION PACIFIC	7/28/2000
CORRESP.- <b>OLA ASSEM</b>	PROPOSAL TO PURCHASE PROPERTY	UNION PACIFIC	7/14/2000
CORRESP.-CITY MANAGER	COMMIT.TO PURCH.W/NOTES <b>ADD/ARAP</b>	UNION PACIFIC	7/10/2000
CORRESP.-CITY MANAGER	COMMIT.TO PURCH.W/NOTES <b>ADD/ARAP</b>	UNION PACIFIC	6/14/2000
CORRESP.-CITY MANAGER	COMMIT.TO PURCH.W/NOTES <b>ADD/ARAP</b>	UNION PACIFIC	5/30/2000

**7.3267 IS THE WYE**  
**8.3714 IS ARAPAHO**  
**4.5 IS ADDISON/**  
**ARAPAHO INTER.**

# COWLES & THOMPSON

A Professional Corporation

ATTORNEYS AND COUNSELORS



JOHN M. HILL  
214.672.2170  
JHILL@COWLESTHOMPSON.COM

December 27, 2002

**VIA FACSIMILE (972) 450-2837**  
**AND REGULAR U.S. MAIL**

Mr. Jim Pierce  
Assistant Director of Public Works  
Town of Addison  
P.O. Box 9010  
Addison, TX 75001-9010

**RE: Landmark Crossing**

Dear Jim:

As we discussed today over the telephone, enclosed is a copy of the commitment for title insurance issued in connection with the Landmark crossing property. Schedule A of the Commitment indicates that record title appears to be vested in St. Louis Southwestern Railway Company of Texas. Schedule B of the Commitment lists as exceptions to title, among other things, a Dedication Deed filed November 28, 1973 (recorded in Volume 73252, Page 1476, Deed Records of Dallas County) and terms and provisions contained in an instrument filed November 23, 1993 (recorded in Volume 93228, Page 2284, Deed Records of Dallas County, Texas). These documents are both in connection with the City of Farmers Branch. Could your office please review these documents to determine whether or not they affect the Landmark crossing tract?

I am also enclosing a copy of a map or plat which the Title Company sent to me.

Please give me a call if you have any questions.

Very truly yours,

John M. Hill

*Jenkin5@li.carrollfor.tx.c*

## Michael Murphy

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**From:** Jim Pierce  
**Sent:** Friday, December 27, 2002 1:59 PM  
**To:** Sue Ellen Fairley  
**Cc:** Michael Murphy  
**Subject:** Landmark RR Xing

Sue Ellen: ~~Keep an eye out for a letter from John Hill to me re above. Please give it to Mike. Mike: The letter lists some things we need to check out re the Title Commitment.~~

Mike: ~~See if you can move along getting the agreement signed. Bill Shipp had a minor comment on the Contractor's Right of Entry Form - had to do with termination of the right of entry. I think we can disregard. John Hill seems to be OK with everything. Lonnie should be getting the agreement to us now for signing. Lonnie's phone 214-924-4632.~~

Thanks!

Jim Pierce, P.E.  
Assistant Public Works Director  
P.O. Box 9010  
Addison, TX 75001-9010  
972-450-2879

DEDICATION DEED

STATE OF TEXAS     I  
                           I  
 COUNTY OF DALLAS  I

KNOW ALL MEN BY THESE PRESENTS:

That ST. LOUIS SOUTHWESTERN RAILWAY COMPANY OF TEXAS, a Texas Corporation, for and in consideration of the sum of ONE AND NO/100 Dollar (\$1.00) and for other good and valuable consideration to them in hand paid by the City of Farmers Branch, Texas, a municipal corporation, have granted and dedicated, and by these presents do hereby grant and dedicate unto the said City of Farmers Branch, Texas, all of that certain tract or parcel of land more particularly described as follows, to-wit:

BEING a 20 foot wide strip of land out of the St. Louis Southwestern Railway Company owned right of way located in the Josiah Pancoast Survey, Abstract 1146, Dallas County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a point in the north city limits line of Farmers Branch, Texas, said point also being in the east right of way line of Inwood Road and the west right of way line of the St. Louis Southwestern Railway Company of Texas;

THENCE N 89° 56' 00" E 20.908 feet along the north city limits line of Farmers Branch, Texas, to a point for corner;

THENCE S 17° 01' 00" E. 2704.660 feet, said line being 20 feet east and parallel to the east right of way line of Inwood Road, to a point for corner, said point being in the north right of way line of Spring Valley Road, said road having a right of way width of 100 feet;

THENCE S 89° 12' 00" W 20.829 feet along the north line of Spring Valley Road to a point for corner, said point being in the east line of Inwood Road;

THENCE N 17° 01' 00" W 2704.940 feet along the east right of way line of Inwood Road to the point of BEGINNING and containing 1.242 acres of land more or less.

The dedication of the above described property is made to the City of Farmers Branch, Texas, for the purpose of having the said City use the same for the widening of Inwood Road.

TO HAVE AND TO HOLD the above described premises, together with all and singular rights and appurtenances thereto in anywise belonging unto the said City of Farmers Branch, Texas, its successors

and assigns, as long as used for street purposes.

WITNESS OUR HANDS this the 25<sup>th</sup> day of SEPTEMBER, 1973.

ATTEST:

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY  
OF TEXAS:

William Wendich  
Secretary

By: R. M. Nall  
President

APPROVED AS TO FORM:

Paul [Signature]  
General Counsel

FOR Accounting  
Department  
9/19/73  
KJW EAT

STATE OF TEXAS I  
COUNTY OF SMITH I

BEFORE ME, the undersigned authority, in and for said SMITH County, Texas, on this day personally appeared R. M. NALL, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said ST. LOUIS SOUTHWESTERN RAILWAY COMPANY OF TEXAS, a corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 25<sup>th</sup> day of SEPTEMBER, 1973.

Michael S. Longland  
Notary Public, SMITH County, Texas

DEC-28-73 729570

ND-8

2.50

73 DEC 26 AM 10:06

*Off Attorney  
13000 W. Hill  
Ferguson, British  
75234  
Dorson  
Dorson*

STATE OF TEXAS COUNTY OF DALLAS  
I hereby certify that this instrument was filed on this  
date and time stamped hereon by me and was duly re-  
corded in the volume and page of the named records  
in Dallas County, Texas as stamped hereon by me.

DEC 28 1973



*Tom E. Kelly*

COUNTY CLERK, Dallas County, Texas

73252 1978



COMMITMENT FOR TITLE INSURANCE

Issued by

**First American Title Insurance Company**

THE FOLLOWING COMMITMENT FOR TITLE INSURANCE IS NOT VALID UNLESS YOUR NAME AND THE POLICY AMOUNT ARE SHOWN IN SCHEDULE A, AND OUR AUTHORIZED REPRESENTATIVE HAS COUNTERSIGNED BELOW.

We, First American Title Insurance Company, will issue our title insurance policy or policies (the Policy) to You (the proposed insured) upon payment of the premium and other charges due, and compliance with the requirements in Schedule B and Schedule C. Our Policy will be in the form approved by the Texas Department of Insurance at the date of issuance, and will insure your interest in the land described in Schedule A. The estimated premium for our Policy and applicable endorsements is shown on Schedule D. There may be additional charges such as recording fees, and expedited delivery expenses.

This Commitment ends ninety (90) days from the effective date, unless the Policy is issued sooner, or failure to issue the Policy is our fault. Our liability and obligations to you are under the express terms of this Commitment and end when this Commitment expires.

In witness whereof, the Company has caused this commitment to be signed and sealed as of the effective date of commitment as shown in Schedule A, the commitment to become valid and binding only when countersigned by an authorized signatory.

ATTEST

**First American Title Insurance Company**



*Mark A. Anderson*

Secretary

ISSUING AGENT



REPUBLIC TITLE

2626 Howell Street, 10th Floor  
Dallas, Texas 75204

(214) 855-8888 Fax (214) 855-8848

By:

*Gary L. Keruett*

PRESIDENT

*James T. Barber*

Authorized Signature

**CONDITIONS AND STIPULATIONS**

1. If you have actual knowledge of any matter which may affect the title or mortgage covered by this Commitment, that is not shown in Schedule B, you must notify us in writing. If you do not notify us in writing, our liability to you is ended or reduced to the extent that your failure to notify us affects our liability. If you do notify us, or we learn of such matter, we may amend Schedule B, but we will not be relieved of liability already incurred.

2. Our liability is only to you, and others who are included in the definition of Insured in the Policy to be issued. Our liability is only for actual loss incurred in your reliance on this Commitment to comply with its requirements or to acquire the interest in the land. Our liability is limited to the amount shown in Schedule A of this Commitment and will be subject to the following terms of the Policy: Insuring Provisions, Conditions and Stipulations, Exceptions and Exclusions.

Title insurance insures you against loss resulting from certain risks to your title.

The Commitment for Title Insurance is the title insurance company's promise to issue the title insurance policy. The Commitment is a legal document. You should review it carefully to completely understand it before your closing date.

El seguro de título le asegura en relación a pérdidas resultantes de ciertos riesgos que pueden afectar el título de su propiedad.

El Compromiso para Seguro de Título es la promesa de la compañía aseguradora de títulos de emitir la póliza de seguro de título. El Compromiso es un documento legal. Usted debe leerlo cuidadosamente y entenderlo completamente antes de la fecha para finalizar su transacción.

Your Commitment for Title Insurance is a legal contract between you and us. The Commitment is not an opinion or report of your title. It is a contract to issue you a policy subject to the Commitment's terms and requirements.

Before issuing a Commitment for Title Insurance (the Commitment) or a Title Insurance Policy (the Policy), the Title Insurance Company (the Company) determines whether the title is insurable. This determination has already been made. Part of that determination involves the Company's decision to insure the title except for certain risks that will not be covered by the Policy. Some of these risks are listed in Schedule B of the attached Commitment as Exceptions. Other risks are stated in the Policy as Exclusions. These risks will not be covered by the Policy.

Another part of the determination involves whether the promise to insure is conditioned upon certain requirements being met. Schedule C of the Commitment lists these requirements that must be satisfied or the Company will refuse to cover them. You may want to discuss any matters shown in Schedules B and C of the Commitment with an attorney. These matters will affect your title and your use of the land.

When your Policy is issued, the coverage will be limited by the Policy's Exceptions, Exclusions and Conditions, defined below.

— **EXCEPTIONS** are title risks that a Policy generally covers but does not cover in a particular instance. Exceptions are shown on Schedule B or discussed in Schedule C of the Commitment. They can also be added if you do not comply with the Requirements section of the Commitment. When the Policy is issued, all Exceptions will be on Schedule B of the Policy.

— **EXCLUSIONS** are title risks that a Policy generally does not cover. Exclusions are contained in the Policy but not shown or discussed in the Commitment.

— **CONDITIONS** are additional provisions that qualify or limit your coverage. Conditions include your responsibilities and those of the Company. They are contained in the Policy but not shown or discussed in the Commitment. The Policy Conditions are not the same as the Commitment Conditions.

You can get a copy of the policy form approved by the State Board of Insurance by calling the Title Insurance Company at 1-800-347-7826 or by calling the title insurance agent that issued the Commitment. The State Board of Insurance may revise the policy form from time to time.

You can also get a brochure that explains the policy from the Texas Department of Insurance by calling 1-800-252-3439.

Before the Policy is issued, you may request changes in the policy. Some of the changes to consider are:

—Request amendment of the "area and boundary" exception (Schedule B, paragraph 2). To get this amendment, you must furnish a survey and comply with other requirements of the Company. On the Owner Policy, you must pay an additional premium for the amendment. If the survey is acceptable to the Company and if the Company's other requirements are met, your Policy will insure you against loss because of discrepancies or conflicts in boundary lines, encroachments or protrusions, or overlapping of improvements. The Company may then decide not to insure against specific boundary or survey problems by making special exceptions in the Policy. Whether or not you request amendment of the "area and boundary" exception, you should determine whether you want to purchase and review a survey if a survey is not being provided to you.

—Allow the Company to add an exception to "rights of parties in possession." If you refuse this exception, the Company or the title insurance agent may inspect the property. The Company may except to and not insure you against the rights of specific persons, such as renters, adverse owners or easement holders who occupy the land. The Company may charge you for the inspection. If you want to make your own inspection, you must sign a Waiver of Inspection form and allow the Company to add this exception to your Policy.

The entire premium for a Policy must be paid when the Policy is issued. You will not owe any additional premiums unless you want to increase your coverage at a later date and the Company agrees to add an Increased Value Endorsement.

**COMMITMENT:**

1 COMMITMENT NUMBER  
2 PROPERTY TYPE  
3 COUNTY

4 PURCHASE PRICE  
5  
6 LOAN AMOUNT

7 EFFECTIVE DATE  
8  
9

01-12-26-200					\$	12/03/2002		
1	2	3	4	5	6	7	8	9

2  
--FIRST AMERICAN TITLE INSURANCE COMPANY

SCHEDULE A

Effective Date: December 3, 2002 GF No. 02R27255 SJ6  
Commitment No. 01-12-26-2002, issued December 26, 2002, 12:00 PM.

1. The policy or policies to be issued are:

- (a) OWNER POLICY OF TITLE INSURANCE (Form T-1) \$ To Be Determined.  
(Not applicable for improved one-to-four family residential real estate)  
Proposed Insured:  
TOWN OF ADDISON
  
- (b) TEXAS RESIDENTIAL OWNER POLICY OF TITLE INSURANCE \$  
-- ONE-TO-FOUR FAMILY RESIDENCES (Form T-1R)  
Proposed Insured:
  
- (c) MORTGAGEE POLICY OF TITLE INSURANCE (Form T-2) \$  
Proposed Insured:  
  
Proposed Borrower:
  
- (d) TEXAS SHORT FORM RESIDENTIAL MORTGAGEE POLICY OF TITLE INSURANCE (Form T-2R) \$  
Proposed Insured:  
  
Proposed Borrower:
  
- (e) MORTGAGEE TITLE POLICY BINDER ON INTERIM CONSTRUCTION LOAN (Form T-13) \$  
Proposed Insured:  
  
Proposed Borrower:
  
- (f) OTHER \$  
Proposed Insured:

Countersigned at DALLAS, TEXAS.

REPUBLIC TITLE OF TEXAS, INC.

*Janine N. Barber*  
\_\_\_\_\_  
JANINE BARBER, SENIOR VICE PRESIDENT  
Authorized Signatory

01-12-26-2002

SCHEDULE A

2. The interest in the land covered by this Commitment is:

EASEMENT (to be created)

3. Record title to the land on the Effective Date appears to be vested in:

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY OF TEXAS

4. Legal description of land:

Being a 0.3219 acre tract of land in the JOSIAH PANCOAST SURVEY, ABSTRACT No. 1146, Town of Addison, Dallas County, Texas, and being more particularly described on Exhibit A attached hereto and made a part hereof for all purposes.

EXHIBIT "A"

County: Dallas  
Roadway: South Quorum/Inwood Connection  
Parcel: R E - 7  
ROADWAY EASEMENT NO. RE-7

BEING a 0.3219 acre tract of land situated in the Town Of Addison, Dallas County, Texas, in the Josiah Hancock Survey, Abstract No. 1146, and being part of a 100 Foot Right-Of-Way owned by St. Louis Southwestern Railway Company, and being more particularly described as follows:

COMMENCING at a 1/2 inch iron rod lying at the Southwest corner of Block 3, Quorum Addition, an addition to the Town of Addison, Dallas County, Texas, according to the plat thereof recorded in Volume 79100, Page 1895, Deed Records Of Dallas County, Texas, and being the Southeast corner of Block 3, Quorum West Addition, an addition to the Town of Addison, Dallas County, Texas, according to the plat thereof recorded in Volume 81005, Page 1454, deed records of Dallas County, Texas;

THENCE North 89°28'00" West along the South line of Block 3, Quorum West Addition, a distance of 165.32 feet to a point for the Southwest corner of said Quorum West Addition, said point lying in the Southeast Right-Of-Way line of the St. Louis and Southwestern Railroad;

THENCE, North 17°01'00" West along the said Southeast line a distance of 356.40 feet to the POINT OF BEGINNING;

THENCE, South 72°59'00" West a distance of 80.00 feet to an angle point;

THENCE South 27°59'00" West a distance of 14.14 feet to an angle point;

THENCE South 17°01'00" East a distance of 144.80 feet to an angle point;

THENCE North 23°11'26" West a distance of 92.98 feet to a point for North corner lying in the Northeast line of Inwood Road (60 foot Right-of-Way) said point also lying in the Southwest line of the said 100 foot Right-of-Way St. Louis Southwestern Railway Company;

THENCE North 17°01'00" West along the common line between the said Inwood Road Right-of-Way and the 100 foot St. Louis Southwestern Railway Company Right-of-Way, a distance of 524.56 feet to a point for corner;

THENCE North 72°59'00" East departing said common line a distance of 10.00 feet to an angle point;

THENCE South 17°01'00" East a distance of 362.20 to an angle point;

THENCE South 62°01'00" East a distance of 14.14 feet to an angle point;

THENCE North 72°59'00" East a distance of 65.00 feet to an angle point;

THENCE North 27°59'00" East a distance of 21.21 feet to a point for corner lying in the common line between the said Block 3, Quorum West Addition and the 100 foot Right-of-Way St. Louis Southwestern Railway Company;

THENCE South 17°01'00" East along said common line a distance of 105.00 feet to the POINT OF BEGINNING and containing approximately 14,021 square feet or 0.3219 acres of land.

The basis of bearings is the Northeast line of the 100 foot Right-of-Way St. Louis Southwestern Railway Company.

*Donald R. Howard* 11/11/00

Donald R. Howard, P.E., R.P.L.S.  
Registered Professional Land Surveyor  
Texas Registration No. 2812

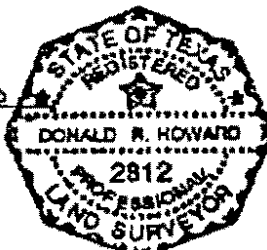


Exhibit A

GP-Number 02R27255

NOTE: The Company is prohibited from insuring the area or quantity of the land described herein. Any statement in the above legal description of the area or quantity of land is not a representation that such area or quantity is correct, but is made only for informational and/or identification purposes and does not override Item 2 of Schedule B hereof.

COMMITMENT FOR TITLE INSURANCE NO. 01-12-26-2002

## SCHEDULE B

## EXCEPTIONS FROM COVERAGE

In addition to the Exclusions and Conditions and Stipulations, your Policy will not cover loss, costs, attorney's fees and expenses resulting from:

1. [Intentionally Omitted]
2. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements. May be amended to read Shortages in Area in owner policy upon receipt of approved survey and additional premium, no charge for amendment in mortgagee policy.
3. Homestead or community property or survivorship rights, if any, of any spouse of any insured. (Applies to the Owner Policy only.)
4. Any titles or rights asserted by anyone, including, but not limited to, persons, the public, corporations, governments or other entities:
  - a. to tidelands, or lands comprising the shores or beds of navigable or perennial rivers and streams, lakes, bays, gulfs or oceans, or
  - b. to lands beyond the line of the harbor or bulkhead lines as established or changed by any government, or
  - c. to filled-in lands, or artificial islands, or
  - d. to statutory water rights, including riparian rights, or
  - e. to the area extending from the line of mean low tide to the line of vegetation, or the rights of access to that area or easement along and across that area.(Applies to the Owner Policy only.)
5. Standby fees, taxes and assessments by any taxing authority for the year 2002, and subsequent years; and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership, but not those taxes or assessments for prior years because of an exemption granted to a previous owner of the property under Section 11.13, Texas Tax Code, or because of improvements not assessed for a previous tax year. (If Texas Short Form Residential Mortgagee Policy (T-2R) is issued, that policy will substitute "which become due and payable subsequent to Date of Policy" in lieu of "for the year 2002 and subsequent years.")
6. The terms and conditions of the documents creating your interest in the land.
7. Materials furnished or labor performed in connection with planned construction before signing and delivering the lien document described in Schedule A, if the land is part of the homestead of the owner. (Applies to the Mortgagee Title Policy binder on Interim Construction Loan only, and may be deleted if satisfactory evidence is furnished to us before a binder is issued.)
8. Liens and leases that affect the title to the land, but that are subordinate to the lien of the insured mortgage. (Applies to Mortgagee Policy (T-2) only.)
9. The Exceptions from Coverage and Express Insurance in Schedule B of the Texas Short Form Residential Mortgagee Policy (T-2R). (Applies to Texas Short Form Residential Mortgagee Policy (T-2R) only. Separate exceptions 1 through 8 of this Schedule B do not apply to the Texas Short Form Residential Mortgagee Policy (T-2R).)
10. The following matters and all terms of the documents creating or offering evidence of the matters (We must insert matters or delete this exception.):
  - a. Rights of parties in possession and rights of tenants under any unrecorded leases or rental agreements. (may be amended or deleted upon execution of affidavit with respect to parties in possession and tenants at closing.) [1]

(CONTINUED ON NEXT PAGE)

## SCHEDULE B Page 2

- b. Terms, provisions, and conditions of Dedication Deed filed 12/28/1973, recorded in Volume 73252, Page 1476, Deed Records of Dallas County, Texas. [4]
- c. Terms, provisions, conditions, and assessments contained in instrument filed 11/23/1993, recorded in Volume 93228, Page 2284, Deed Records of Dallas County, Texas. [5]
- d. All visible and apparent easements or uses and all underground easements or uses, the existence of which may arise by unrecorded grant or by use. (May be amended or deleted upon approval of current survey.) [2]
- e. Rights, if any, of third parties with respect to any portion of the subject property lying within the boundaries of a public or private road. (May be amended or deleted upon approval of current survey.) [3]
- f. Lack of a right of access to and from the land. (In any policies issued pursuant to this Commitment, insuring provisions number 4 in the owner policy and number 3 in the mortgagee policy shall be deleted.) [8]



COMMITMENT FOR TITLE INSURANCE NO. 01-12-26-2002  
SCHEDULE C

Your Policy will not cover loss, costs, attorneys fees, and expenses resulting from the following requirements that will appear as Exceptions in Schedule B of the Policy, unless you dispose of these matters to our satisfaction, before the date the Policy is issued:

1. Documents creating your title or interest must be approved by us and must be signed, notarized and filed for record.
2. Satisfactory evidence must be provided that:
  - no person occupying the land claims any interest in that land against the persons named in paragraph 3 of Schedule A,
  - all standby fees, taxes, assessments and charges against the property have been paid,
  - all improvements or repairs to the property are completed and accepted by the owner, and that all contractors, subcontractors, laborers and suppliers have been fully paid, and that no mechanic's, laborer's or materialmen's liens have attached to the property,
  - there is legal right of access to and from the land,
  - (on a Mortgagee Policy only) restrictions have not been and will not be violated that affect the validity and priority of the insured mortgage.
3. You must pay the seller or borrower the agreed amount for your property or interest.
4. Any defect, lien or other matter that may affect title to the land or interest insured, that arises or is filed after the effective date of this Commitment.
5. Require satisfactory evidence of authority to act on behalf of record owner.

[9]

FIRST AMERICAN TITLE INSURANCE COMPANY

SCHEDULE D

No: 01-12-26-2002 Page 1  
GF-Number: 02R27255

The following disclosures are made pursuant to Procedural Rule P-21 promulgated by the State Board of Insurance:

You are entitled to receive advance disclosure of settlement charges in connection with the proposed transaction to which this Commitment relates. Upon your request, such disclosure will be made to you. Additionally, the name of any person, firm, or corporation receiving any sum from the settlement of this transaction will be disclosed on the closing or settlement statement.

You are further advised that the estimated title premium \* is:

Owner Policy	\$	to be determined
Mortgagee Policy	\$	to be determined
Endorsement charges	\$	
Total	\$	to be determined

Of this amount: 15.000% will be paid to the policy issuing Title Insurance Company; 85.000% will be retained by the issuing Title Insurance Agent; and the remainder of the estimated premium will be paid to other parties as follows: none to other parties

\* The estimated premium is based upon information furnished us as of the date of this Commitment for Title Insurance. Final determination of the amount of premium will be made at closing in accordance with the Rules and Regulations adopted by the State Board of Insurance.

UNDERWRITER

First American Title Insurance Company, A California Corporation  
(wholly owned subsidiary of a public company).

DIRECTORS:

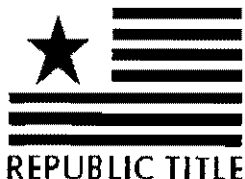
George L. Argyros, Gary J. Beban, Philip B. Branson, J. David Chatham, William G. Davis, James L. Doti, Lewis W. Douglas, Jr., Paul B. Fay, Jr., Donald P. Kennedy, Parker S. Kennedy, Gary L. Kermott, Thomas A. Klemens, John W. Long, Herbert B. Tasker, Frank E. O'Bryan, James M. Orphanides, Roslyn B. Payne, D. Van Skilling, Virginia M. Ueberroth

OFFICERS:

Chairman of the Board: Parker S. Kennedy; Vice Chairman of the Board: Donald P. Kennedy; President: Gary Lewis Kermott; Vice President: Thomas A. Klemens; Vice President, Secretary, Corporate Counsel: Mark R. Arnesen; Vice President, General Counsel: Timothy P. Sullivan; Vice President, Chief Financial Officer: Max O. Valdes; Regional Vice President: Tom E. Blackwell

DIRECT OPERATIONS:

Republic Title of Texas, Inc. (Dallas, TX)  
William A. Kramer, Chairman of the Board  
Ward Williford, Vice Chairman  
Paul A. Pulliam, Chief Executive Officer  
David A. Shuttee, President and Chief Operating Officer  
Dennis Eastland, Secretary/Treasurer



REPUBLIC TITLE OF TEXAS, INC.

a Subsidiary of



**PRIVACY POLICY**  
of Republic Title of Texas, Inc.  
and its underwriters,

First American Title Insurance Company, Chicago Title Insurance Company, Lawyers Title Insurance Corporation,  
Title Insurance Company of America (TICA), Ticor Title Insurance Company, Commonwealth Land Title Insurance Company,  
Old Republic National Title Insurance Company

**We Are Committed to Safeguarding Customer Information**

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information - particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our parent company, The First American Corporation, and advice from our other underwriters, we have adopted this Privacy Policy to govern the use and handling of your personal information.

**Applicability**

This Privacy Policy governs our use of the information which you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity. First American and our other underwriters have also adopted broader guidelines that govern our use of personal information regardless of its source. First American, for example calls these guidelines its *Fair Information Values*, a copy of which can be found on our website at [www.firstam.com](http://www.firstam.com). We refer to this definition on behalf of our other underwriters who can be contacted for their similar guidelines which have a different name.

**Types of Information**

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- \* Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- \* Information about your transactions with us, our affiliated companies, or others; and
- \* Information we receive from a consumer reporting agency.

**Use of Information**

We request Information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies, and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies, or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

**Former Customers**

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

**Confidentiality and Security**

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and *Fair Information Values* and similar guidelines of our other underwriters. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

**Note:** The above Privacy Policy applies to individuals who obtain from Republic Title or any of its underwriters a financial service or product that is to be used primarily for personal family or household purposes.

**IMPORTANT NOTICE**

**FOR INFORMATION, OR  
TO MAKE A COMPLAINT  
CALL OUR TOLL-FREE TELEPHONE NUMBER**

**1-800-347-7826**

**ALSO  
YOU MAY CONTACT  
THE TEXAS DEPARTMENT  
OF INSURANCE AT**

**1-800-252-3439**

to obtain information on:

1. filing a complaint against an insurance company or agent,
2. whether an insurance company or agent is licensed,
3. complaints received against an insurance company or agent,
4. policyholder rights, and
5. a list of consumer publications and services available through the Department.

**YOU MAY ALSO WRITE TO  
THE TEXAS DEPARTMENT OF INSURANCE  
P. O. BOX 149104  
AUSTIN, TEXAS 78714-9104  
FAX NO. (512) 305-7426**

**AVISO IMPORTANTE**

**PARA INFORMACION, O  
PARA SOMETER UNA QUEJA  
LLAME AL NUMERO GRATIS**

**1-800-347-7826**

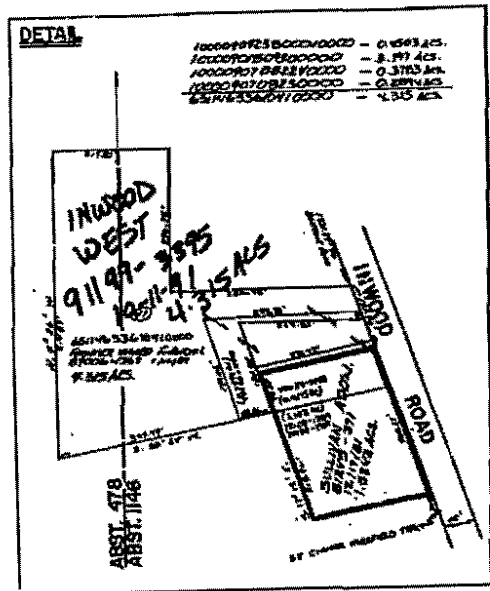
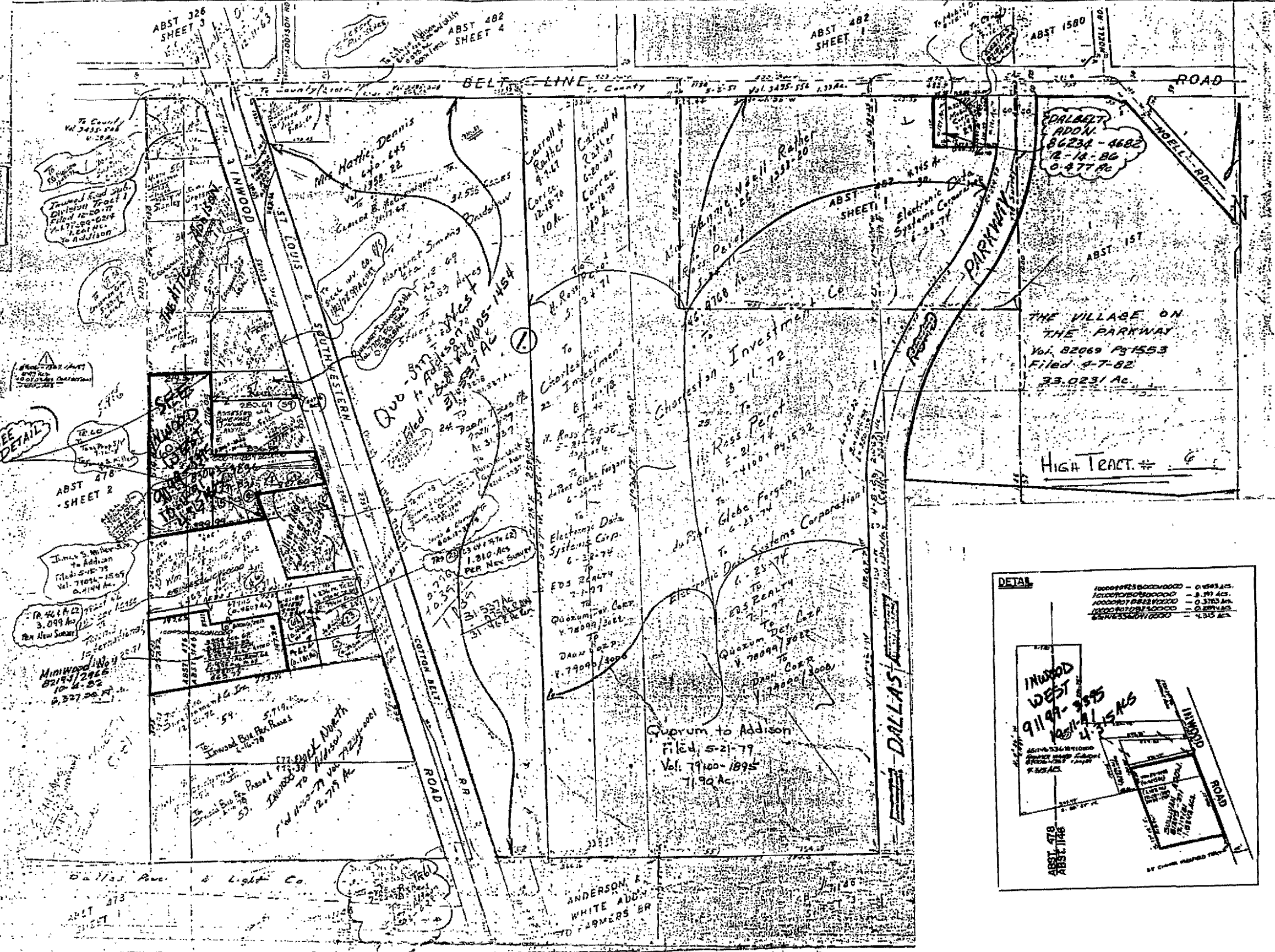
**TAMBIEN  
PUEDE COMUNICARSE CON  
EL DEPARTAMENTO DE SEGUROS  
DE TEXAS AL**

**1-800-252-3439**

para obtener información sobre:

1. como someter una queja en contra de una compañía de seguros o agente de seguros,
2. si una compañía de seguros o agente de seguros tiene licencia,
3. quejas recibidas en contra de una compañía de seguros o agente de seguros,
4. los derechos del asegurado, y
5. una lista de publicaciones y servicios para consumidores disponibles a través del Departamento.

**TAMBIEN PUEDE ESCRIBIR AL  
DEPARTAMENTO DE SEGUROS DE TEXAS  
P. O. BOX 149104  
AUSTIN, TEXAS 78714-9104  
FAX NO. (512) 305-7426**



6300

CITY OF FARMERS BRANCH  
COUNTY OF DALLAS  
STATE OF TEXAS

DEED 63.00  
TOTL 63.00  
A001 9329 0000000 9808 10:06AM 11/23/93

I, Ruth Ann Parish, City Secretary for the City of Farmers Branch, Texas, certify that the attached Ordinance No. 2087 dated September 9, 1993 is a true and correct copy of the ordinance adopted by the City Council of the City of Farmers Branch, Texas, and that the original of said ordinance is now a filed paper in the office and constitutes part of the records thereof.

Signed this the 15th day of November, 1993.



*Ruth Ann Parish*  
Ruth Ann Parish  
City Secretary  
City of Farmers Branch, Texas

93228 2284 11-23-93



**FARMERS  
BRANCH**

ORDINANCE NO. 2087

*AN ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS,  
CLOSING HEARING AND LEVYING ASSESSMENTS FOR THE  
COST OF CERTAIN IMPROVEMENTS TO BE PROVIDED IN  
PUBLIC IMPROVEMENT DISTRICT NUMBER ONE (1); FIXING  
CHARGES AND LIENS AGAINST THE PROPERTY IN THE  
DISTRICT AND AGAINST THE OWNERS THEREOF; PROVIDING  
FOR THE COLLECTION OF THE ASSESSMENT; PROVIDING  
AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.*

WHEREAS, Chapter 372 of the Texas Local Government Code (the "Act") allows for the creation of public improvement districts; and

WHEREAS, on or before April 19, 1993, owners of real property located within Public Improvement District Number One (1) of the City of Farmers Branch delivered to the City of Farmers Branch Petitions (the "Petitions") to create Public Improvement District Number One (1) (the "District") that is shown on the map attached hereto and made a part hereof and marked Exhibit "A" (the "Map of the District"); and

WHEREAS, the City Staff and City Council reviewed the Petitions and determined that the owners of taxable real property representing more than 50% of the appraised value of the taxable real property liable for assessment under the Petition and owning more than 50% of the area of all taxable real property within the District executed the Petitions and that the Petitions comply with the Act and authorized the City Council of the City of Farmers Branch to consider making findings as to the advisability of the creation of the District; and

WHEREAS, pursuant to Section 372.007 of the Act, the City Staff, with the assistance of a consultant, prepared a feasibility report (the "Feasibility Report") to determine whether the improvements should be made as proposed by the Petitions or otherwise; and

WHEREAS, after providing notices required by Section 372.009 of the Act, the City Council, on April 19, 1993, conducted a public hearing on the advisability of the improvements and the creation of the District; and

WHEREAS, on April 19, 1993, the City Council passed Resolution No. 93-071, which authorized and approved the District and in accordance with its findings as to the advisability of the improvements, recommended and approved an Improvement Plan and Assessment Plan (the "Assessment Plan") for the District, and for the management of the District, approved the Assessment Plan for the District; and

WHEREAS, the authorization of the District took effect when the Resolution No. 93-071 was published in a newspaper of general circulation in the City on April 22, 1993; and

WHEREAS, Pursuant to the Act, the assessment roll was filed with the City Secretary, and the statutory notice providing notice of a public hearing on September 9, 1993, to consider the levy of the proposed assessments on real property within the District was accomplished; and

WHEREAS, after notice was provided as required by the Act, the Farmers Branch City Council on September 9, 1993, held a public hearing to consider the levy of the proposed assessments on property within the District, heard and passed on any objections to the proposed assessment and closed the public hearing.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS:

SECTION 1. That the action of the City Council closing the September 9, 1993 public hearing in these proceedings is hereby ratified and confirmed.

SECTION 2. That the City Council finds that the assessments should be made and levied against the respective parcels of property within the District and against the owners thereof, and are substantially in proportion to the benefits to the respective parcels of property by means of improvements in the District for which such assessments are levied, and establish substantial justice and equality and uniformity between the respective owners of the respective properties and between all parties concerned considering the benefits received and burdens imposed, and further finds that in each case the property assessed is specially benefited by means of the said improvements in the District, and further finds that the apportionment of the cost of the services is in accordance with the law in force in this City and State and the proceedings of the City heretofore had with reference to the formation of the District and the imposition of the assessments for said improvements are in all respects valid and regular.

SECTION 3. That there shall be and is hereby levied and assessed against the parcels of property within the District, and against the real and true owners thereof (whether such owners be correctly named or not), the sums of money as listed in Exhibit "B" attached hereto and made a part hereof shown opposite the description of the respective parcels of property, and the several amounts assessed against the same, and the owners thereof.



SECTION 4. That the several sums above mentioned and assessed against the said parcels of property and the owners thereof, plus interest thereon at the rate of one-half of one percent higher than the actual interest rate paid on the City's bonds used to finance the improvements per annum, together with reasonable attorney's fees and costs of collection, if incurred, are hereby declared to be and are made a first, prior and superior lien upon the respective parcels of property against which the same are assessed, and a personal liability and charge against the real and true owners of such property, whether such owners be named herein or not, and the said liens shall be and constitute the first enforceable lien and claim against the property on which such assessments are levied, and shall be a first and paramount lien thereon, superior to all other liens and claims except State, County, School District and City ad valorem taxes.

SECTION 5. That the assessments shall be due and payable in full on or before October 1, 1995. That if default be made in the payment of any of the said sums hereby assessed against said property owners and their property, collection thereof, including interest authorized in Section 4 above, costs and attorney's fees, shall be enforced by suit in any Court having jurisdiction or by lien foreclosure or both.

SECTION 6. That all assessments levied are a personal liability and charge against the real and true owners of the premises described, notwithstanding such owners may not be named, or may be incorrectly named. Assessments may be paid in full and a complete release of lien executed by the City on or before October 1, 1995 without payment of interest costs authorized in Section 4 above. On or after October 1, 1995, the assessments may be paid on a twenty (20) year equal annual basis by payments commencing October 1, 1995 plus interest computed at one-half of one percent above the actual interest rate paid on the City's bonds used to finance the improvements. On or after October 1, 1995, Owner may pay the full and complete amount of the assessment plus interest accrued to the date of payment and upon such payment of principle and interest receive a full and complete release of lien executed by the City. All interest payments on the assessments are calculated to the date of payment. Owners of property may request partial releases of lien on less than the total property assessed and the City may agree to accept partial payments and execute partial releases of lien, provided the City's Director of Finance and City Attorney approve the payment and are satisfied that the remaining property still subject to the balance of the lien represents adequate security for the lien. Failure to make timely payment by payment in full of the annual principal payment plus the accrued interest within thirty (30) days of each October 1, shall be deemed a default and the total unpaid assessment plus accrued interest shall become immediately due and payable in its entirety and the City shall be authorized to proceed to file suit to collect the principal, interest, reasonable attorney's fees and court costs and to foreclose the lien.

SECTION 7. That the assessments herein levied are made and levied under and by virtue of the terms, powers and provisions of the Public Improvement District Assessment Act, Chapter 372 of the Texas Local Government Code, as amended.

SECTION 8. That this ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Farmers Branch, and it is accordingly so ordained.

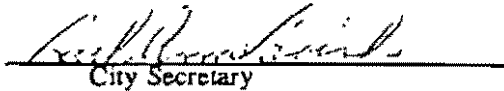
DULY PASSED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, on this the 9th day of September, 1993.

APPROVED:



\_\_\_\_\_  
Mayor, Dave Blair  
City of Farmers Branch, Texas

ATTEST:



\_\_\_\_\_  
City Secretary  
City of Farmers Branch, Texas

[SEAL]

APPROVED AS TO FORM:



\_\_\_\_\_  
City Attorney  
City of Farmers Branch, Texas

EXHIBIT "A"

DALLAS PARKWAY

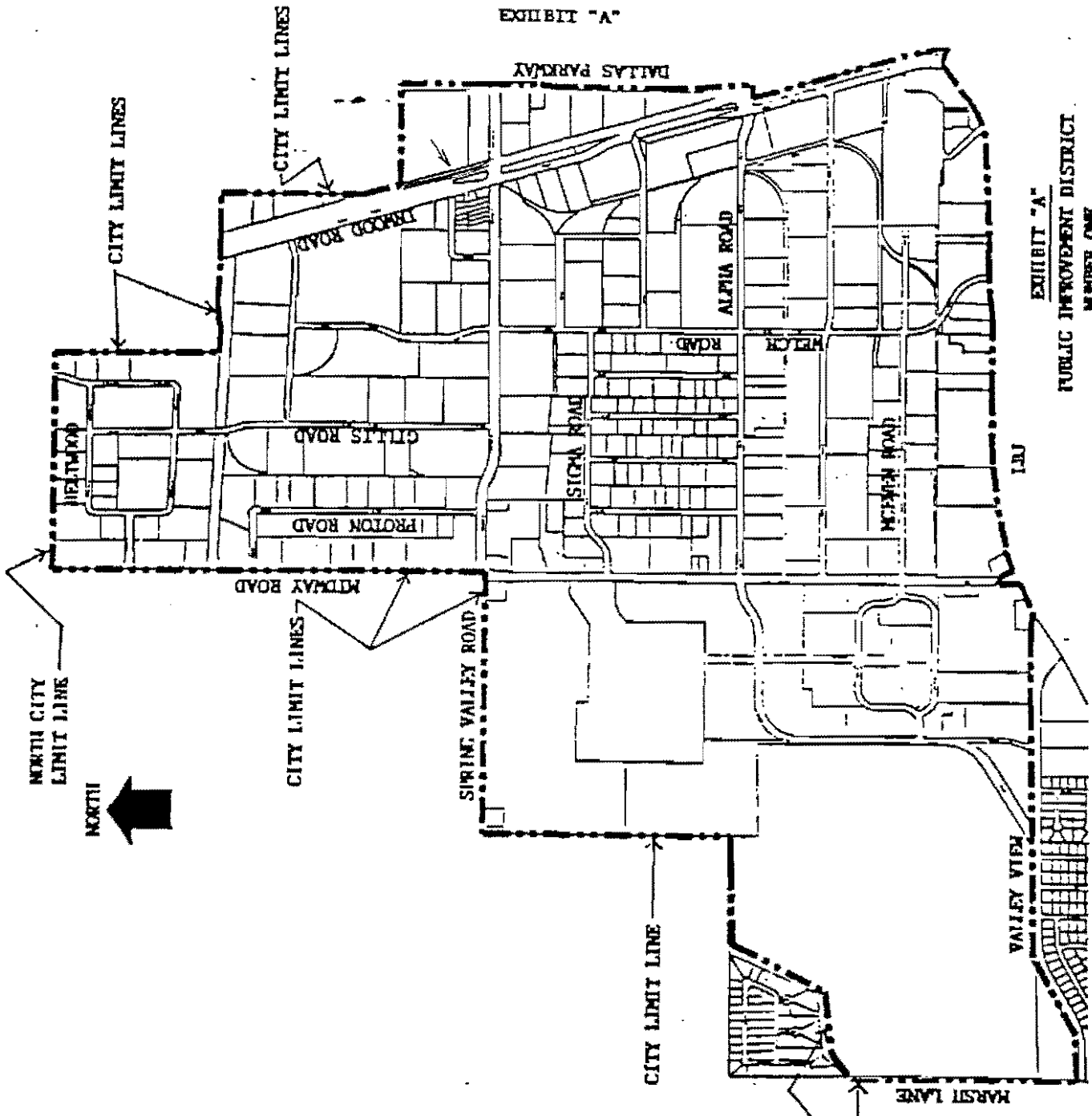


EXHIBIT "A"  
PUBLIC IMPROVEMENT DISTRICT  
NUMBER ONE

NORTH CITY  
LIMIT LINE



CITY LIMIT LINES

CITY LIMIT LINES

CITY LIMIT LINES

SPRING VALLEY ROAD

CITY LIMIT LINE

EXHIBIT "A"  
PUBLIC IMPROVEMENT DISTRICT  
NUMBER ONE

BOUNDARY OF  
IMPROVEMENT  
DISTRICT

VALLEY VIEW

HARST LANE

93228 2289



1	00-0000000000000001	STATE ST. BANK & TRUST CO. 100 MAIN ST. SUITE 111 HARTFORD, CT. 06113	131,671.31
1	00-0000000000000002	PACE MEMBERSHIP WAREHOUSE 2400 GREENWICH PLAZA BLVD ENCLERID, CT. 06111	28,417.35
2 A	00-000000000000002A	PACE MEMBERSHIP WAREHOUSE 2400 GREENWICH PLAZA BLVD ENCLERID, CT. 06111	19,712.07
2 B	00-000000000000002B	PACE MEMBERSHIP WAREHOUSE 2400 GREENWICH PLAZA BLVD ENCLERID, CT. 06111	21,971.85
2 C	00-000000000000002C	PACE MEMBERSHIP WAREHOUSE 2400 GREENWICH PLAZA BLVD ENCLERID, CT. 06111	24,494.07
3	24-22740000000010000	STENOGRAPHERS ASSN OF CT 2 WINDING SEAFOOD REST 1317 HIGHWAY RD FARMERS BRANCH, TEXAS 75234	21,156.30
4	24-131400010010000	TEACHERS UNB & ANNUITY ASSN OF AMERICA 730 THIRD AVE. NEW YORK NY 10017	265,659.57
5	24-073720010010000	EXCON COMPANY USA P O BOX 53 HOUSTON TX 77001	72,177.87
6	24-128700010050000	FREED JER ETAL 14008 WARBURGHEBT BR DALLAS TX 75240	112,322.04
7	24-128700000010000	DUAN-REITING-INV-CORP-S TCL SERVICES INC 4455 LBJ FWY BTE 404 DALLAS TX 75244	212,473.31
8	24-128700010100000	FREED JER ET AL 14008 WARBURGHEBT BR DALLAS TX 75240	43,544.23
9	24-128700010040000	RECREATIONAL EQUIPMENT INC 4700 B 228TH ST MENOMONIE WI 54902	77,372.94
9 A	24-128700010050000	LBJ RETAIL ASSOC LTD UNITED COMMERCIAL DEV 7001 PREBTON RD DALLAS TX 75205	39,984.70
10	24-123400010240000	MEYER-HIGHWAY-ETS 4707 LBJ FWY FARMERS BRANCH, TEXAS 75234	38,928.57
11	24-115400010340000	MEYER HIGHWAY LTD P O BOX 810007 DALLAS TX 75281	37,750.04

93228 2290

EXHIBIT "B"

(F)



LEGAL DTS PROP. ADD. FIB # ACCIDENT NO NWE DPREB ASB. SENT

LEGAL DTS	PROP. ADD.	FIB #	ACCIDENT NO	NWE	DPREB	ASB.	SENT
METROPOLITAN INDUSTRIAL PARK LOT 1 BLK 1 3353 INWOOD 6.80 ACS		27	24-125700020010100	MEYER ROBERT M 701 W. 31ST ST DALLAS TX 75102			177,942.61
WASHINGTON LOT 1 BLK 1 4901 BIRNENTON		28	24-005900000010000	RESOLUTION TRUST COY RS CONSERV FOR SAMBIA FED 3939 BELTLINE RD BTE 800 DALLAS TX 75244			65,720.64
METROPOLITAN INDUSTRIAL PARK LOT 1 BLK 2 4921 BIRNENTON		29	24-125300020020000	RESOLUTION TRUST COY RS CONSERV FOR SAMBIA FED 3939 BELTLINE RD BTE 800 DALLAS TX 75244			40,318.74
METROPOLITAN INDUSTRIAL PARK LOT 1 BLK 3 15292 INWOOD		30	24-125500020010000	MEYER ROBERT M 701 W. 31ST ST DALLAS TX 75102			37,070.20
WAVEY L SCHWARTZ LOT 1 BLK 1 13414 DALLAS PARKWAY		31	24-147400000010000	TEXAS TURPINE AUTH 3013 RALEIGH STREET P O BOX 190149 DALLAS TX 75219			7,520.40
INWOOD PARKWAY OFFICE PARK LOT 2 BLK 33450 INWOOD		32	24-072600000000000	TRANSCONTINENTAL RLTY INV & NATIONAL RLTY ADVISORS 10670 NORTH CENTRAL EXPY DALLAS TX 75231			7,149.17
INWOOD PARKWAY OFFICE PARK LOT 4 BLK 13460 INWOOD		33	24-075600000000000	TRANSCONTINENTAL RLTY INV & NATIONAL RLTY ADVISORS 10670 NORTH CENTRAL EXPY DALLAS TX 75231			11,050.73
INWOOD PARKWAY OFFICE PARK LOT 3 BLK 33510 INWOOD		34	24-075600000030000	TRANSCONTINENTAL RLTY INV & NATIONAL RLTY ADVISORS 10670 NORTH CENTRAL EXPY DALLAS TX 75231			11,031.50
INWOOD PARKWAY OFFICE PARK LOT 2 BLK 33520 INWOOD		35	24-075600000000000	TRANSCONTINENTAL RLTY INV & NATIONAL RLTY ADVISORS 10670 NORTH CENTRAL EXPY DALLAS TX 75231			16,948.01
INWOOD PARKWAY OFFICE PARK LOT 1 BLK 13490 INWOOD		36	24-075600000010000	TRANSCONTINENTAL RLTY INV & NATIONAL RLTY ADVISORS 10670 NORTH CENTRAL EXPY DALLAS TX 75231			11,391.37
METROPOLITAN INDUSTRIAL PARK LOT 50 BLK 3 1901 ALPHA		27	24-12654003000000000	TEXAS R E & CARPENT EXCHANGE 4991 ALPHA RD FARMERS BRANCH TX 75244			63,565.86
INWOOD PLAZA LOT 1 BLK 3 13415 INWOOD		28	24-092700030010000	LINDEN PROPERTY CO 3300 LINDEN PLAZA DALLAS TX 75201			173,126.87
LIBRA FIRE ARBT 478 PC 677 LOT 1 BLK 13415 INWOOD		29	45-047847718270000	INWOOD ALPHA PB SUITE 150 2000 LAMAR BLVD E WASHINGTON TX 76006			33,886.26
INWOOD OFFICE-BEV LOT 2.1 BLK 13400 INWOOD		30	24-07570000000001000	TEXAS TURPINE AUTHORITY LOCK MURRELL MCKEN LEELEY 3600 REPUBLIC BANK TWR DALLAS TX 75201			4,053.01
STANDARD CORPORATE CENTRE 2 LOT 1 BLK 13701 DALLAS		42	24-14054000000100000	H R C CORP INC & INVESTORS REALTY INV CO 14054 DALLAS PKY 800 DALLAS TX 75248			55,424.28

93228 2292

(1/3)

LOCAL NO.	REF. NO.	FID	ACCOUNT NO	NAME	ADDRESS	ASSE	INT
1411		43	24-00840000010000	CHAMPION REALTY CORP	AMERICAN EXPL CO LESSEE 222 N LASALLE CHICAGO IL 60601	4,859.17	
1412		44	24-00840000010000	CHAMPION REALTY CORP	AMERICAN EXPL CO LESSEE 222 N LASALLE CHICAGO IL 60601	133,542.67	
1413		45	24-160560000020000	H R C GROUP INC	TRAVELERS REALTY INV CO 14001 N DALLAS PKY B00 DALLAS TX 75240	40,413.45	
1414		46	24-160560000030000	H C R GROUP INC	SUITE 107 4001 LANGHAM DALLAS TX 75244	85,147.53	
1415		47	24-00840000010000	CHAMPION REALTY CORP	TW GREENSPRING PLAZA 16825 WORTHCHASE DR B00 HOUSTON TX 77040	10,937.77	
1416		48	24-123500030020000	DIERRMAN BUILDINGS	DBA WAREHOUSE VENTURE IV 14105 INWOOD RD DALLAS TX 75244	84,885.10	
1417		49	24-123500030130000	CORNERSTONE BANK NA	THE TRUST CO OF TEXAS 7001 FRESTON RD BTE 300 DALLAS TX 75205	56,599.84	
1418		50	24-123500030120000	MERRYMAN JOHN ET AL	14109 INWOOD RD DALLAS TX 75244	28,327.85	
1419		51 A	24-123500030040000	BUSH S P	P O BOX 402021 DALLAS TX 75240	119,011.58	
1420		52	24-075760000010000	STANFORD MICHAEL C ET AL	ESTATE OF M W BROWNING JR 6080 H CENTRAL EXPY 1410 DALLAS TX 75204	34,775.91	
1421		53	24-171500000020000	CARBERT JOHN D & MARTHA M	4600 OLSEN MEMORIAL HWY MINNEAPOLIS MN 55422	44,036.89	
1422		54	24-171500000010000	EMING S FINLEY JR & JR	INTERFIRST BANK TRUSTEE 5100 W LOWERS LN STE 200 DALLAS TX 75209	58,540.87	
1423		55	24-000400000010000	BROWNING JANE HOLLAND	S-NORIS BANK TRUSTEE P O BOX 831500 DALLAS TX 75283	20,938.32	
1424		56	24-047647719270000	INTERFIRST BANK DALLAS	S-NORIS BANK TRUSTEE P O BOX 831500 DALLAS TX 75283	109,087.39	
1425		57	24-160000000010000	CIGNA REAL EST FUND	SUITE 1300 7257 RAMBLER RD DALLAS TX 75224	47,428.14	

21

93228 2293

LEGAL DES.	PROP. ADD.	PID #	ACCOUNT NO	NAME ( DREDB	ASSE	WT
SPRING VALLEY BUSINESS PARK LOT 3 1901 SPRING VALLEY	BLK-0	59	24-140000000030000	HARRIS DZRO IRE SUITE-530 2711 LBJ Fwy FARMERS BRANCH, TEXAS	75234	49,395.48
PANCAST ARST 1144 PG 535 LOT 111 1011 ARBORVIEW	BLK	59	65-114653510210000	DAVENPORT ENTERPRISES 3607 N BUCKNER BLVD DALLAS	TX 75218	11,327.64
PANCAST ARST 1144 PG 535 LOT TR 2 1901 SPRING VALLEY	BLK	40	24-114653510220100	DAVENPORT M E 3607 N BUCKNER BLVD DALLAS	TX 75218	4,932.46
PANCAST BLK LOT 10X209.5	BLK	61	65-114653510200000	DAVENPORT ENTERPRISES 3607 N BUCKNER BLVD DALLAS	TX 75218	6,521.75
PANCAST BLK ARST 1144 PG 53 LOT A 10X217.9	BLK 50	62	65-114653510190000	DAVENPORT ENTERPRISES 3607 N BUCKNER BLVD DALLAS	TX 75218	6,521.45
PANCAST BLK LOT	BLK	43	65-114653510220000	DAVENPORT M E 3507 N BUCKNER BLVD DALLAS	TX 75218	6,206.57
PANCAST ARST 1144 PG 535 LOT TR 2 1901 SPRING VALLEY	BLK	64	24-114653510230000	DAVENPORT ENTERPRISES 3607 N BUCKNER BLVD DALLAS	TX 75218	1,576.20
M E DAVENPORT LOT 1 14111 INWOOD	BLK	45	24-047500000010000	DAVENPORT BRYAN H 1291 KLITTB RD ROCKWALL	TX 75087	7,124.26
PANCAST BLK ARST 1144 LOT TR.17	BLK	64	65-114653510170000	DAVENPORT M E & TYRONE 3607 N BUCKNER BLVD DALLAS	TX 75228	4,907.51
PANCAST BLK ARST 1144 LOT TR.16	BLK	47	65-114653510160000	DAVENPORT ENTERPRISES 3607 N BUCKNER BLVD DALLAS	TX 75218	4,834.77
PANCAST BLK ARST 1144 LOT 13 DCAD TR.13 62X148X40X152	BLK	60	65-114653510150000	DAVENPORT ENTERPRISES 3607 N BUCKNER BLVD DALLAS	TX 75218	6,391.59
PANCAST BLK ARST 1144 LOT TR14 1840 ARBORVIEW	BLK	67	65-114653510140000	DAVENPORT M E 3607 N BUCKNER BLVD DALLAS	TX 75228	6,391.59
PANCAST BLK ARST 1144 LOT 1416 ARBORVIEW	BLK	70	65-114653510130000	DAVENPORT M E & TYRONE 3607 N BUCKNER BLVD DALLAS	TX 75228	6,391.59
PANCAST BLK ARST 1144 PG 53 LOT 12 1812 ARBORVIEW	BLK	71	65-114653510120000	DAVENPORT ENTERPRISES 3607 N BUCKNER BLVD DALLAS	TX 75228	6,391.59
M E DAVENPORT LOT 2 14115 INWOOD	BLK	72	24-047500000020000	DAVENPORT BRYAN H 1291 KLITTB RD ROCKWALL	TX 75087	4,651.04

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LEGAL DCS.	PROP. ADD.	PID	ACCOUNT NO	NAME	DRESS	ASSE	INT
CENTRE REPLAT LOT 3 13455 MIDWAY	BLK E	07	24-042700050030000	CAFETERIAS INC		55,828.82	
CENTRE REPLAT LOT 3 13455 MIDWAY	BLK E	70	24-042540030030000	CENTRE BUILDING JV 4 SUITE 101 4100 ALPHA RD FARMERS BRANCH TX 75244		82,783.16	
CENTRE REPLAT LOT 2 4101 MC EMEN	BLK E	91	24-042600050020000	CENTRE BUILDING JV NO 1 SUITE 101 4100 ALPHA RD FARMERS BRANCH TX 75244		111,485.28	
CENTRE REPLAT LOT 2 4079 MC EMEN	BLK C	92	24-042320000020000	CENTRE DEV CO SUITE 101 4100 ALPHA RD FARMERS BRANCH TX 75244		105,735.57	
CENTRE REPLAT LOT 3 1001 MC EMEN	BLK E	93	24-042350050030000	CENTRE BLDG JV 3 SUITE 101 4100 ALPHA RD FARMERS BRANCH TX 75244		97,476.60	
CENTRE REPLAT LOT 1 4050 ALPHA	BLK C	94	24-042560000010000	U S A AMER. SV. SERV. CO. REAL ESTATE DIV 819 TAYLOR ST FORT WORTH TX 76102		193,188.00	
CENTRE REPLAT LOT 4 1031A	BLK E	95	24-042530050040000	CENTRE BUILDING JV 4 SUITE 101 4100 ALPHA RD FARMERS BRANCH TX 75244		168,526.60	
CENTRE REPLAT LOT 1 4349 MC EMEN	BLK B	93 A	24-042550510010000	DAL. MAC DEV CO INC TR CENTRE DEV CO INC 4100 ALPHA RD SUITE 101 FARMERS BRANCH TX 75244		82,709.25	
CENTRE REPLAT LOT 2 4100 MC EMEN	BLK B	95 B	24-042550510030000	CENTRE BLDG JV NO 1 SUITE 101 4100 ALPHA RD FARMERS BRANCH TX 75244		43,194.47	
METROPOLITAN BUSINESS PARK B LOT J 1205 SIGMA	BLK E	76	24-118500050030000	ROBINSON HARY S 7130 CANNONGATE DR DALLAS TX 75248		37,177.14	
COMPUTER LANGUAGE RESEARCH LOT 13480 MIDWAY	BLK	97	24-049700000030000	FARMERS BRANCH CITY OF P O BOX 340435 FARMERS BRANCH, TEXAS 75234			
METROPOLITAN BUSINESS PARK S LOT 13400 MIDWAY	BLK	98	24-122700000010000	SOUTHWESTERN BELL MOBILE SYSTEMS INC 14300 PRESTON RD BTE 100A DALLAS TX 75232		16,357.54	
METROPOLITAN BUS PK DEC 7 RE LOT 2 4100 SPRING VALLEY	BLK 1	99	24-122740010020000	HOME LIFE INSUR CO SCHEIDT & BAKER 4100 SPRING VALLEY RD DALLAS TX 75244		5,720.73	
METROPOLITAN BUS PK DEC 7 RE LOT 1A 4100 SPRING VALLEY	BLK	100	24-122740010010000	HOME LIFE INSUR CO SCHEIDT & BAKER 4100 SPRING VALLEY RD 304 DALLAS TX 75244		31,749.93	
METROPOLITAN BUS PK DEC 7 RE LOT 1A 4102 SPRING VALLEY	BLK	101	24-122740010010100	AMERICA BANK TEXAS SUITE 300 1909 WOODALL RIDGERS FWY DALLAS TX 75201		4,408.68	

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LEGAL DIST	TROP. ADD.	PID #	ACCOUNT NO	NAME	ADDRESS	ABS.	ENT.
SPRING VALLEY PLAZA 401-1ST 1001 SPRING VALLEY	BLK	73	24-160100000010000	INTERNATIONAL TRANSPORT	13789 MOEL RD DALLAS TX 75240	12,654.85	
SPRING VALLEY BUSINESS PARK 01 2 1001 SPRING VALLEY	BLK 0	74	24-168000000000000	CITICORP REAL ESTATE FUND	SUITE 1300 7575 RIMBLER RD DALLAS TX 75231	154,334.70	
1 C 01 2 01 0 14217 INWOOD	BLK 0	75	24-113910000010000	AMELONG HALL INV BLDRS &	SUITE 126 1201 N WATSON RD ARLINGTON TX 76006	45,432.58	
1 C 01 1 14245 INWOOD	BLK A	76	24-113900010010000	G F L FURNITURE LEASING	4209B NE EXPRESWAY DORAVILLE GA 30034	26,317.09	
SUITE 01 0 01 1 14225 DALLAS PARKWAY	BLK 1	77	24-041500000010000	BUX AND PARTNERS L P	SUITE 850 14901 DIXON DR DALLAS TX 75240	359,273.60	
PROVIDENCE TOWERS LTD 01 ACS 1001 SPRING VALLEY	BLK	77	24-147600000000000	PROVIDENCE INV LP	STAMFORD PROVIDENCE LP 5001 SPRING VALLEY RD FARMERS BRANCH TX 75244	16,824.59	
METROPOLITAN INV TR BECA 1ST 01 14303 INWOOD	BLK 1	80	24-129500010010000	CULLIN DEV CO	14303 INWOOD RD DALLAS TX 75244	575,217.08	
ENTRE REFLAT 01 1 1001 VALLEY VIEW S-2154 ACS	BLK A	81	24-042540000010000	PIC REALTY CORP	SUITE 4900 1201 ELM ST DALLAS TX 75270	139,077.82	
ENTRE REFLAT 01 2 1009 VALLEY VIEW	BLK A	82	24-042530000030000	MIDWAY HOTEL CORP	SUITE 400 10670 N CENTRAL EXPY DALLAS TX 75231	136,148.06	
ENTRE REFLAT 01 4 1000 MC EWEH	BLK A	83	24-042580000020100	CENTRE BLDG JV 3	SUITE 101 4100 ALPHA RD FARMERS BRANCH TX 75244	35,634.28	
ENTRE REFLAT 01 2 1000 MC EWEH	BLK A	84	24-042530000020000	CENTRE BLDG JV 3	SUITE 101 4100 ALPHA RD FARMERS BRANCH TX 75244	36,674.12	
ENTRE REFLAT 01 3 1000 MC EWEH	BLK B	85	24-042580510050000	CENTRE BLDG JOINT VENTURE	SUITE 101 4100 ALPHA RD FARMERS BRANCH TX 75244	70,222.52	
ENTRE REFLAT 01 2 1000 BLUE LAKE	BLK B	86	24-042580510020000	PIC REALTY CORP	SUITE 4900 1201 ELM ST DALLAS TX 75270	64,297.53	
ENTRE REFLAT 01 2 1141 BLUE LAKE	BLK B	87	24-042580510040000	CENTRE BLDG JV 1	SUITE 101 4100 ALPHA RD FARMERS BRANCH TX 75244	110,830.46	
ENTRE REFLAT 01 1 13133 MIDWAY	BLK D	88	24-042530000010000	PIC REALTY CORP	AFRICA NATIONAL BANK P O BOX 61340 NEW ORLEANS LA 70161	24,657.49	

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LEGAL DESC.	TRP. ADD.	PID #	ACCOUNT NO	NAME / DRESS	ASSE	HT
COMPUTER LANGUAGE RESEARCH 01-2 13770 MIDWAY 1.403 AC		102	24-049700000020000	LRR JOINT VENTURE NO 2 SUITE 201 12240 INWOOD RD DALLAS TX 75244		12,511.50
METROPOLITAN BUSINESS PARK B 01-3 1219 SIGMA		103	24-118500050040000	H & L PARTNERSHIP BTE 1160 15951 DALLAS PKY DALLAS TX 75248		13,844.38
METROPOLITAN BUSINESS PARK B 01-3 1211 SIGMA		104	24-118500050050000	LABORERS NATL PENSION FUND P O BOX 2051 DALLAS TX 75221		5,342.59
METROPOLITAN BUSINESS PARK B 01-1 1244 SIGMA		105	24-118500050020000	DAVIS VICTORIA A 4352 HIGHLANDER DR DALLAS TX 75267		5,867.32
METROPOLITAN BUSINESS PARK B 01-2 1141 SIGMA		106	24-121500050020000	YASSAI JEFF & BEYED-HAJAR YASSAI 1010 CALLE SOMERA SAN CLEMENTE CA 92672		20,046.58
METROPOLITAN BUS PK 4 & 5 RE 01 TR11 1200 SPRING VALLEY 4.296 AC		107	24-121530050010000	TRETT C B KARSTEN ATTEN P KEEVER 12121 WILSHIRE BLVD 900 LOS ANGELES CA 90023		32,159.82
METROPOLITAN BUSINESS PARK B 01-3 1411 SIGMA		108	24-121500050010100	FOSTER JOE CO 2400 L B J FRMY 900 ONE LINCOLN CENTRE DALLAS TX 75240		10,302.51
METROPOLITAN BUS PK 4 & 5 RE 01 TR2 1400 SPRING VALLEY 2.954 AC		109	24-121530050020000	B V ASSOC PB SUITE 405 5944 LUTHER LN DALLAS TX 75225		29,024.04
METROPOLITAN OFFICE PARK 01-2 1455 SIGMA		110	24-131500030030000	FOSTER JOE CO 2400 L B J FRMY 900 ONE LINCOLN CENTRE DALLAS TX 75240		5,351.57
METROPOLITAN OFFICE PARK 01 1400 SPRING VALLEY		111	24-131500030010000	B V ASSOC PB SUITE 405 5944 LUTHER LN DALLAS TX 75225		35,808.23
METROPOLITAN OFFICE PARK 01-2 1455 SIGMA		112	24-131500030020000	EMMY HALLIDAY PROP INC X LEDORA BURGERT 4455 SIGMA RD DALLAS TX 75244		15,351.95
METROPOLITAN COMMERCIAL PARK 01-3 1423 SIGMA		113	24-123500030030000	THOMAS ROBYN TRUST 8333 DOUGLAS 1414 DALLAS TX 75225	TR	11,210.27
HOME INTERIORS PARK 01-1 1020 SPRING VALLEY		114	24-093500010010000	HOME INTERIORS & GIFTS P O BOX 819024 DALLAS TX 75381		49,746.05
METROPOLITAN COMMERCIAL PARK 01-2 1519 SIGMA		115	24-123500030020000	CHAI W ATTN WALTER HANG 4519 SIGMA RD FARMERS BRANCH TX 75244		11,826.65
METROPOLITAN COMMERCIAL PARK 01-1 1305 MELCH		116	24-123500030010000	CHENEY JOHN A 4533 SIGMA DALLAS TX 75240		9,447.35

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LOCAL INCL.	PROP. ADD.	PID #	ACCOUNT NO	NAME 1	DRETS	ASSE	NT
	METROPOLITAN INDUSTRIAL PARK 117 01-G14 BLK 3 1720 SPRING VALLEY		24-125300030050000	TEXAS COLOR PRINTERS INC 4000 SPRING VALLEY RD DALLAS TX 75240		33,245.25	
	METROPOLITAN INDUSTRIAL PARK 118 01 G15 BLK 3 4000 SPRING VALLEY		24-128300030031300	BEAN W R 4000 SPRING VALLEY RD DALLAS TX 75240		15,441.94	
	METROPOLITAN BUSINESS PARK B 119 01 1R1 BLK B 13740 MIDWAY		24-118300020040000	HILTON & WEYAND LTD SUITE 200 2710 STEPHENS FWY DALLAS TX 75207		4,015.43	
	METROPOLITAN BUSINESS PARK B 120 01 2 BLK B 4250 SIGMA		24-118500020060000	KING ROBERT L 4240 SIGMA RD DALLAS TX 75244		2,426.58	
	METROPOLITAN BUSINESS PARK B 121 01 3 BLK C 1300 SIGMA		24-119300030020000	PF SIGMA ROAD JV SUITE 200 4300 SIGMA RD DALLAS TX 75244		1,747.89	
	METROPOLITAN BUSINESS PARK B 122 01 7 BLK C 13749 NEUTRON		24-120300030010000	KALISHER WARDY & WENDY BERN KALISHER 6405 CHURCHILL WAY DALLAS TX 75230		2,303.02	
	M C C ANDRIA 01 BLK 4440 SIGMA BLK 15	123	24-009330000240000	CANNON PROPERTIES INC SUITE 101 4440 SIGMA RD DALLAS TX 75244		1,513.50	
	M C C ANDRIA 01 BLK 13740 NEUTRON BLK 18	123 A	24-009330000180000	BCC PARTNERS 13740 NEUTRON RD FARMERS BRANCH TX 75244		1,849.00	
	METROPOLITAN OFFICE PARK 01 3 BLK A 4450 SIGMA	124	24-131300010030000	PLAZA OFFICE CTR LTD WENDY W PATTERSON 4450 SIGMA RD 130 FARMERS BRANCH, TEXAS TX 75234		1,718.64	
	METROPOLITAN OFFICE PARK 01 3 BLK B 4464 SIGMA	125	24-131500020030000	PICKETT THOMAS Y & CO INC 4464 SIGMA RD DALLAS TX 75244		1,686.14	
	METROPOLITAN COMMERCIAL PARK 01 7 BLK 2 4474 SIGMA	126	24-123500020070100	EQUITABLE LF ASSUR SOC OF 12377 MERIT DR 1400 DALLAS TX 75231		1,033.95	
	METROPOLITAN COMMERCIAL PARK 01 B BLK 1 43770 BETA	127	24-123500010080100	HARVEY CO LTD X JUANITA F LAMB 8400 E HANCOCK RD LODI CA 95240		950.63	
	METROPOLITAN COMMERCIAL PARK 01 2 BLK 1 13135 WELCH	128	24-123500010070000	NATIONAL AIRCRAFT SVC INC 13835 WELCH RD FARMERS BRANCH TX 75244		1,511.40	
	METROPOLITAN COMMERCIAL PARK 01 P164 BLK 2 13765 BETA	129	24-123600020010000	THOMAS R K & ROBYN TR DALLAS FED SAV THR BTE 14 DALLAS TX 75225		1,380.48	
	JARON THOMAS 2 01 BLK BLK 13756 BETA	130 A	24-049810010010000	GILLIS THOMAS SUITE 1414 8333 DOUGLAS AVE DALLAS TX 75225		4,522.95	

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LINE NO. COUN. DT. S. ADDR. ADD. FID # ACCOUNT NO. NAME DREBS

LINE NO.	COUN. DT. S.	ADDR. ADD.	FID #	ACCOUNT NO.	NAME	DREBS	AMOUNT	DATE
130	B	24-047000010010000	130	24-047000010010000	GILLIS THOMAS TR 615-1414 8333 DOWLAND RD DALLAS TX 75229	TX 75229	3,000.78	
131	B	24-123500010000100	131	24-123500010000100	VENTURE ONE P O BOX 800077 DALLAS TX 75280	TX 75280	932.73	
132	B	24-118500020070000	132	24-118500020070000	LARGE PAUL CO THE 1771 CARRA RD DALLAS TX 75240	TX 75240	1,485.68	
133	B	24-119500030070000	133	24-119500030070000	DANN SALES 13730 CARRA RD DALLAS TX 75244	TX 75244	2,111.51	
134	B	24-120500030070000	134	24-120500030070000	YANBAY LEFT 43745 NEUTRON BR FARMERS BRANCH, TEXAS DALLAS TX 75234	TX 75234	1,993.47	
135	B	24-120600040000000	135	24-120600040000000	HOELLING-ROBERTY-K P O BOX 824 DESBORO TX 75115	TX 75115	976.82	
136	B	24-131500010020000	136	24-131500010020000	GREEN TODD TRISTEE ET AL X DANN HARRISON HOLDEN 4340 WESTWAY AVE DALLAS TX 75208	TX 75208	1,580.96	
137	B	24-131500020070000	137	24-131500020070000	FRINGM WILLIAMS H JR & DREIS A 1635-ROBERTS-WK DALLAS TX 75208	TX 75208	1,671.37	
138	B	24-123500020060000	138	24-123500020060000	THOMAS GILLIS BLACK HOLLOWAY 4444 DALLAS TX 75225	TX 75225	2,755.59	
139	B	24-123500010020000	139	24-123500010020000	VENTURE ONE ET AL P O BOX 800077 DALLAS TX 75280	TX 75280	1,306.53	
141	B	24-123500010020100	141	24-123500010020100	CARRATT RICHARD C ET AL 13271 WELCH RD DALLAS TX 75240	TX 75240	232.24	
142	B	24-118500020080000	142	24-118500020080000	MAR PRODUCTIONS INC SUITE 109 4221 N OGDENWAY BLVD IRVING TX 75039	TX 75039	1,271.11	
143	B	24-082000000000000	143	24-082000000000000	CARRA ROAD JV SUITE 782 8144 WALNUT HILL DALLAS TX 75231	TX 75231	1,807.53	
144	B	24-120600030000000	144	24-120600030000000	NEUTRON TELEPHONE-68 916 100 1670 N DALLAS PKY DALLAS TX 75248	TX 75248	1,219.45	
145	B	24-120500040010000	145	24-120500040010000	WELCH AND CEJAVE WTR LTD 2403 LOMA VIRTA DALLAS TX 75243	TX 75243	2,163.41	

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FILE NO.	PROP. ADD.	PID #	ACCOUNT NO	NAME	DRESS	ASSE	NT
METROPOLITAN OFFICE PARK UT 5 13725 INEGA	BK A	146	24-131000010050000	HOSTICK MARY CAMERON K-RED-RIVER-CONSTRUCTION 13725 INEGA RD FARMERS BRANCH, TEXAS	75234	812.53	
METROPOLITAN OFFICE PARK UT 6 13740 INEGA	BK B	147	24-131500020080000	DILLARD LIVING TRUST SUITE 800 8300 DOUGLAS AVE DALLAS	TX 75225	1,306.80	
METROPOLITAN BUSINESS PARK B UT 102 13700 MIDWAY	BK B	148	24-118500020030000	MILTON & MEYARD LTD SUITE 200 2710 STEPHENS Fwy DALLAS	TX 75207	5,841.28	
METROPOLITAN BUSINESS PARK B UT 5 13703 GAMMA	BK B	147	24-118500020050000	M K TRADING 4554 INWARYS LN DALLAS	TX 75227	2,042.67	
METROPOLITAN BUSINESS PARK B UT 8 13702 GAMMA	BK C	150	24-119500030080000	MAXWELL JAMES T & CARROLL 13702 GAMMA RD DALLAS	TX 75244	1,081.28	
METROPOLITAN BUSINESS PARK B UT 4 13717 NEUTRON	BK C	151	24-120500030050000	MOORE D-H CORP 13717 NEUTRON RD DALLAS	TX 75244	1,597.90	
METROPOLITAN BUSINESS PARK B UT 4 13744 NEUTRON	BK D	152	24-120500040070000	JOHNSON MARVIN L 5477 WHT TREE DR DALLAS	TX 75248	943.00	
METROPOLITAN OFFICE PARK UT 1 13711 INEGA	BK A	153	24-131500010070000	SESTER E E & COMPANY K MCB BANK (DALLAS) P O BOX 831700 DALLAS	TX 75283	1,578.84	
METROPOLITAN OFFICE PARK UT 8 13710 INEGA	BK B	154	24-131500020010000	DILLARD LIVING TRUST ETAL 8300 DOUGLAS AVE STE 800 DALLAS	TX 75225	1,343.20	
METROPOLITAN COMMERCIAL PARK UT 4 13717 BETA	BK 2	153	24-123500020040000	THORND-GILLES 8333 DOUGLAS 1414 DALLAS	TX 75225	2,944.22	TR
METROPOLITAN COMMERCIAL PARK UT 4 13655 MELCH	BK 1	157	24-123500010040000	E & S JV 1100 TOWER EAST 2700 STEPHENS FRWY DALLAS	TX 75207	1,928.29	TR
METROPOLITAN BUSINESS PARK B UT 1 13633 GAMMA	BK B	158	24-118500020010000	RIDGEHUNT COMPANY TIE 13633 GAMMA RD DALLAS	TX 75244	941.74	
METROPOLITAN BUSINESS PARK B UT 6 13700 GAMMA	BK D	157	24-119500030060000	ROADWAY PFTTER INC 140 TURTLE-CREEK-VILLAGE 3838 DAK LAMN AVE NO 1500 DALLAS	TX 75219	1,116.53	
METROPOLITAN BUSINESS PARK B UT 3 13703 NEUTRON	BK C	146	24-120500030030000	CROWELL PPTY INC 1414 TWO TURTLE CREEK VLG DALLAS	TX 75219	1,344.46	
METROPOLITAN BUS PK SEC 3 RE UT 4 13636 NEUTRON	BK B	161	24-120600040040000	COMMERCIAL TECHNOLOGY INC 13636 NEUTRON DALLAS	TX 75244	948.87	

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TRIAL IN S.	TROP. ADD.	PID F	ACCOUNT NO	NAME	DRESD	AMT.	ENT
METROPOLITAN OFFICE PARK 01 2 3641 OMEGA	M.K. A	162	24-131300010010000	OMEGA ROAD PROPERTIES LC 4300 ALPHA RD DALLAS TX 75244		1,142.80	
METROPOLITAN OFFICE PARK 01 4 3640 OMEGA	M.K. B	163	24-131500020040000	HOGGEB CHARLES H ET AL 13642 OMEGA RD DALLAS TX 75244		1,177.04	
METROPOLITAN COMMERCIAL PARK 01 3 3649 BETA	M.K. 2	164	24-123500020030000	LICHTBOURN W B 13649 BETA RD FARMERS BRANCH, TEXAS 75234		1,112.94	
METROPOLITAN COMMERCIAL PARK 01 3 3645 MELON	M.K. 1	166	24-123500010030100	DECOR JAMES H JR ETAL JR R FARRIC & FRAMES 13645 MELON RD FARMERS BRANCH TX 75244		701.49	
METROPOLITAN BUSINESS PARK B 01 10.1 3610 MIDWAY	M.K. B TRACT 10.1	167	24-118500020100100	HILTON & MEYARD LTD SUITE 200 2710 STEPHENS FWY DALLAS TX 75207		2,233.04	
METROPOLITAN BUSINESS PARK B 01 1R10 3614 MIDWAY	M.K. B	168	24-118500020100000	HILTON & MEYARD LTD SUITE 200 2710 STEPHENS FWY DALLAS TX 75207		256.62	
METROPOLITAN BUSINESS PARK B 01 1R7 3612 MIDWAY	M.K. B 2.353 AC	169	24-118500020090000	HILTON & MEYARD LTD SUITE 200 2710 STEPHENS FWY DALLAS TX 75207		1,320.25	
METROPOLITAN BUSINESS PARK B 01 5 3624 GAMMA	M.K. C	171	24-119500030050000	ROADWAY PROPERTIES INC TWO TURTLE CREEK VILLAGE 3628 OAK LAWN AVE NO 1500 DALLAS TX 75219		944.12	
METROPOLITAN BUSINESS PARK B 01 3 3619 NEUTRON	M.K. C	172	24-120500030040000	PINK FAMILY PB THE S HAROLD PINK 112426 GOODNIGHT LN DALLAS TX 75220		2,354.92	
METROPOLITAN BUSINESS PARK B 01 3 3618 NEUTRON	M.K. D	173	24-120500040040000	NEUTRON B H INC BRUSH AVE P O BOX 751 BUTLER PA 16003		1,985.36	
METROPOLITAN OFFICE PARK 01 6 3633 OMEGA	M.K. A	174	24-131500010040000	PETERSON JOHN R 3027 TOLMENS DALLAS TX 75229		931.95	
METROPOLITAN OFFICE PARK 01 2P 3640 OMEGA	M.K. B	175	24-131500020040100	TRANS NATIONAL LEASING P O BOX 802613 DALLAS TX 75280		1,304.15	
METROPOLITAN COMMERCIAL PARK 01 2 3645 BETA	M.K. 2A	176	24-123500020020100	ARNOLD E F 13645 BETA FARMERS BRANCH TX 75244		591.99	
METROPOLITAN COMMERCIAL PARK 01 1 3645 MELON	M.K. 1	170	24-123500010010000	ALPHA TWO LTD P O BOX 427 ADDISON TX 75001		3,093.74	
300 JENNIN 01 3 3620 GAMMA	M.K. C	179	24-096400000100000	JOHNSON JAMES W EMERSON 5111 BOCA RATON DR DALLAS TX 75229		1,487.00	

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11/24/74	11/24/74	11/24/74	11/24/74	11/24/74	11/24/74	11/24/74	11/24/74	11/24/74	11/24/74
TRF. DFG.	TRF. ADD.	PID #	ACCOUNT NO	NAME	DREDS			AMSE	INT
13604 GAMA	M.K. C	100	24-119500030030000	J VENTURE K HARVIN JONES 7707 MASON BELLS DR DALLAS TX 75230				3,003.57	
13601 NEUTRON	M.K. E	101	24-120500030020000	J VENTURE K HARVIN JONES 7707 MASON BELLS DR DALLAS TX 75230				2,971.91	
13616 NEUTRON	M.K. D	102	24-120500040030000	LUKE RALPH & BEVERLY 2101 HUNTINGTON DR FLAND TX 75075				914.29	
1445 ALPHA	M.K. A	103	24-131500010040000	COLE JOHN L TR STE 603 LR 109 12700 MERIT DR DALLAS TX 75231		TR		1,839.90	
13620 DRFGA	M.K. B	104	24-131500020050000	TRANS NATIONAL LEASING IN P O BOX 802615 DALLAS TX 75380				916.69	
13443 BETA	M.K. 2	105	24-123500020020000	ARNOLD E F 13643 BETA RD FARMERS BRANCH, TEXAS TX 75234				922.88	
1301 ALPHA	M.K. 1	106	24-123500010140000	CRAINER W W INC ALLEN LEGAL & REAL ES DEPT 5200 W HOWARD ST BRUKIE IL 60077				1,211.64	
13404 MIDWAY	M.K. B	107	24-118500020020000	MILTON & MEYARD LTD SUITE 200 2710 STEPHENS FWY DALLAS TX 75207				3,692.71	
1407 ALPHA	M.K. B	108	24-120500040020000	BANTANDER ALPHA RD LTD SUITE 1340 2911 TURTLE CREEK BLVD DALLAS TX 75219				1,945.95	
1455 ALPHA	M.K. B	109	24-131500020020000	TRANS NATIONAL LEASING P O BOX 802615 DALLAS TX 75380				1,020.31	
13410 BETA	M.K. 2	111	24-123500020010000	THOMAS GILLIS TR 8333 DOUGLAS 1414 DALLAS TX 75225		TR		1,776.91	
12-00-MIDWAY	M.K. A	112	24-119500010010000	ALPHA MIDWAY LTD PB SUITE 410 2301 CEDAR SPRINGS DALLAS TX 75201				5,844.04	
1230 ALPHA	M.K. A	113	24-119500010020000	ZICHY THYBSEN REAL ESTATE SUITE 340 2501 CEDAR SPRINGS DALLAS TX 75201				2,742.26	
1232 ALPHA	M.K. A	114	24-119500010030000	ZICHY THYBSEN REAL ESTATE SUITE 340 2501 CEDAR SPRINGS RD DALLAS TX 75201				3,242.07	
1200 ALPHA	M.K. A	115	24-120400010010000	DALLAS PATHOLOGY LEASING BENEFITS PLAN 4350 ALPHA RD STE 101 DALLAS TX 75224				4,384.01	

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LEGAL DES.	STRT. ADD.	PED #	ACCOUNT NO	NAME	ADDRESS	ASSR	ENT
METROPOLITAN IND PK #2 LOT 1 1205 MC EMEN	BLK 2	211	24-127500020110000	THOMAS WILLIS TR	8333 DOUGLAS 1414 DALLAS TX 75225	TR	2,428.93
METROPOLITAN INDUSTRIAL PARK LOT 12 1105 MC EMEN	BLK 2	212	24-127500020100000	BILLINGSLEY TRUST JV	SUITE 3700 2001 BRYAN TOMER DALLAS TX 75201		4,188.84
METROPOLITAN IND PK #2 LOT 11 1259 MC EMEN	BLK 2	213	24-127500020090000	THOMAS R K	8333 DOUGLAS 1414 DALLAS TX 75225	TR	1,748.86
METROPOLITAN IND PK #2 LOT 78B 1425 MC EMEN	BLK 2	214	24-127500020070000	COSMOS GIFTS CORPORATION	4425 MC EMEN RD FARMERS BRANCH, TEXAS 75234		2,347.27
METROPOLITAN INDUSTRIAL PARK LOT 3 1131 MC EMEN	BLK 2	215	24-127500020030000	PROVIDENT BANK DALLAS	3407 LBJ Fwy DALLAS TX 75380		4,839.27
METROPOLITAN IND PK #2 LOT 4 1445 MC EMEN	BLK 2	216	24-127500020060000	JACKSON MFG CO	P O BOX 801329 DALLAS TX 75380		2,547.93
METROPOLITAN INDUSTRIAL PARK LOT 5 1105 MC EMEN	BLK 2	217	24-127500020050000	BH LIMITED PARTNERSHIP	707 HASLETT RD WILLIAM STON HI 48195		2,931.12
METROPOLITAN IND PK #2 LOT 2 1545 MC EMEN	BLK 2	219	24-127500020040000	MEEMEN PROPERTIES INC	SUITE 901 84-NOTRE-DAME ST-WORK MONTREAL CANADA H2400 00000		2,417.37
METROPOLITAN IND PK #2 LOT 4 1142 MIDWAY	BLK 3	220	24-127500030080000	CROW TRANELLI, CO	SUITE 3200 2001 BRYAN ST DALLAS TX 75201		7,753.35
METROPOLITAN IND PK #2 LOT 7 1310 MC EMEN	BLK 3	221	24-127500030010000	CROW TRANELLI COMPANY	3500 LTV TOMER 2001 ROSS AVE DALLAS TX 75201		2,042.73
METROPOLITAN IND PK #2 LOT 5 1434 MC EMEN	BLK 3	222	24-127500030100000	CROW TRANELLI COMPANY	3500 LTV TOMER 2001 ROSS AVE DALLAS TX 75201		1,461.94
METROPOLITAN IND PK #2 LOT 6 1422 MC EMEN	BLK 3	223	24-127500030090000	CROW TRANELLI, COMPANY	3500 LTV TOMER 2001 ROSS AVE DALLAS TX 75201		3,284.92
METROPOLITAN IND PK #2 LOT 3 1550 MC EMEN	BLK 3	224	24-127500030010100	THOMAS GILLIS	8333 DOUGLAS 1414 DALLAS TX 75225	TR	3,441.55
METROPOLITAN IND PK #2 LOT 2 1600 MC EMEN	BLK 3	225	24-127500030040100	METER & METER GENL PB	4707 LBJ FREEWAY FARMERS BRANCH, TEXAS 75234	JR	2,131.63
WIRTH FIE 116 R 1610 MC EMEN	BLK	226	24-127800000010000	METROPOLITAN	8333 DOUGLAS 1414 DALLAS TX 75225		4,021.51

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FILE NO.	LOC. ADD.	FID #	ACCOUNT NO	NAME	DRESS	ASSE.	INT
METROPOLITAN IND PK 22	01-9 1635 MCFARIN	BLK 4	227	24-127500040090000	MUSGRAVE JESS L 1-ED SMITH & ASSOCIATES 4635 HOEMEN RD FARMERS BRANCH, TEXAS 75234		1,471.25
METROPOLITAN INDUSTRIAL PARK	01-3 1711 MC EWEH	BLK 4	270	24-127500040010000	THOMAS GILLES 8333 DUNGLAS 1414 DALLAS TX 75225		8,946.00
METROPOLITAN INDUSTRIAL PARK	01-1R-D 1725 MC EWEH	BLK	220 A	24-134540000010000	METROPOLITAN SUITE 1414 8333 DUNGLAS DALLAS TX 75225		1,892.01
METROPOLITAN INDUSTRIAL PARK	01-3.5 1400 SIMONTON	BLK 1	229	24-125500010030500	JACKSON WILLIAM R KILL JACKSON ASSOC INC 3305 WILEY HARRIS RD CARRILLTON TX 75006		3,895.61
METROPOLITAN INDUSTRIAL PARK	01-C4 1670 SIMONTON	BLK 4	230	24-125500010030400	JONES MARVIN 7707 MAXSON BELLS BR DALLAS TX 75230		3,081.18
METROPOLITAN INDUSTRIAL PARK	01 C3 1770 SIMONTON	BLK 1	231	24-125500040020100	A G O D DALLAS INDUSTRIAL INC 1215 4TH AVE STE 2400 SEATTLE WA 98161		7,832.58
METROPOLITAN INDUSTRIAL PARK	01 C1 1714 SIMONTON	BLK 1	212	24-125500010030000	CROM TRAMMEL J. CO SUITE 3200 2001 BRYAN ST DALLAS TX 75201		9,737.39
METROPOLITAN INDUSTRIAL PARK	01 R 1724 MCFARIN	BLK 2	233	24-125500020020400	WELCH ROAD ASSOCIATES SUITE 1900 2977-BIRMINGHAM Fwy DALLAS TX 75207		2,742.80
SUITE SWAH	01 B 1721 SIMONTON	BLK 2	234	24-233600020040700	AMERICAN PRODUCE CO 4721 SIMONTON RD FARMERS BRANCH TX 75244		6,927.01
METROPOLITAN INDUSTRIAL PARK	01 2.7 1871 SIMONTON	BLK 2	232	24-125500020020700	BRINKMAN EFRP THE 4215 HOEMEN RD DALLAS TX 75244		8,089.15
METROPOLITAN INDUSTRIAL PARK	01 C.6 1630 ALPHA	BLK 2	236	24-125500020000600	CLARK HAROLD INVESTMENT P O BOX 670366 DALLAS TX 75267		3,301.00
METROPOLITAN INDUSTRIAL PARK	01 C.B 1700 ALPHA	BLK 2	237	24-125500020000800	HERIT INVESTMENT PTNR LP 1 TOM WITTENBRAKER 3415 WESTMINSTER STE 202 DALLAS TX 75205	EST	2,601.51
METROPOLITAN INDUSTRIAL PARK	01 C.5 1720 ALPHA	BLK 2	238	24-125500020000500	HANDOCK LUCY A GEORGE FRUIT 2100 BRYAN FWR STE 2011 DALLAS TX 75201		4,779.40
METROPOLITAN IND PK 1	01 BLK 1800 ALPHA	BLK	239	24-125500020020000	HELFSMAN CARL H L KENNETH P DANIELA 4800 ALPHA RD DALLAS TX 75244		7,454.41
METROPOLITAN IND PK 1	01 BLK 1800 ALPHA	BLK	239 A	24-12550002C1R0000	NEWS TEXAN INC 1 SUPERIOR CARPET CO P O BOX 855217 DALLAS TX 75268		9,106.82

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LOCAL DES.	PROP. ADD.	PID #	ACCOUNT NO	NAME	DRETS	AMOUNT
METROPOLITAN INDUSTRIAL PARK UT 614 1707 ALPINE	BLK 3	240	24-122500030140000	UNIVAR CORPORATION VAN WATERS-A-ROGERS-INC P O BOX 34325 SEATTLE WA 98124		26,607.11
WAMA PLAZA 1111 3 4145 ALPINE	BLK 0	241	24-125500030200000	ACTINA LIFE INSURANCE CO CITY PLACE HARTFORD CT 06156		10,801.01
METROPOLITAN INDUSTRIAL PARK UT 1-3 4650 MALL	BLK 3	242	24-126500030010300	HECHY H A TRUSTEE FOR PRINCIPAL MUT LIFE INS CO 711 HIGH BY DCB WITNES	IA 50372	3,047.78
METROPOLITAN INDUSTRIAL PARK UT C-3 4650 MALL	BLK 3	243	24-126500030030200	A C S B DALLAS INDUSTRIAL INC 1215 4TH AVE STE 2400 SEATTLE WA 98161		4,860.56
UT C-3 1700 MALL	BLK 3	244	24-009560030050100	A C S B DALLAS INDUSTRIAL INC 1215 4TH AVE STE 2400 SEATTLE WA 98161		4,902.34
METROPOLITAN INDUSTRIAL PARK UT C-6 13010 MELCH	BLK 3	245	24-126500030030700	METRO INDUSTRIAL PR I K AMERIDXP REALTY 16413 ADDISON RD BTE 200 DALLAS TX 75248		2,761.70
METROPOLITAN INDUSTRIAL PARK UT C-7 1641 MALL	BLK 3	246	24-126560030030700	BIN LIFE ASSURANCE COMPANY OF CANADA 1 BIN LIFE EXECUTIVE PARK WELLESLEY HILLS MA 02181		2,956.11
METROPOLITAN INDUSTRIAL PARK UT C-8A BLK 3	BLK 3	247	24-125500030BA0000	ARROTT LABORATORIES TAX DIV D367/PP60 ONE ARROTT PARK RD ARROTT PARK IL 60064		4,031.31
METROPOLITAN INDUSTRIAL PARK BL 69 13000 DEX	BLK 3	248	24-126500030030700	VANDERLINDH MARTIN SUITE 224 1450 PRESTON SQUARE DALLAS TX 75230		1,351.37
METROPOLITAN INDUSTRIAL PARK UT 11 1725 MALL	BLK 3	249	24-126500030030700	VANDERLINDH MARTIN SUITE 224 1450 PRESTON FOREST SQ DALLAS TX 75230		1,967.10
METROPOLITAN INDUSTRIAL PARK UT C10 4630 OLIN	BLK 3	250	24-126500030031000	METROPOLITAN MH 77 EQUIT SUITE 1900 2777 STEPHENS FWY DALLAS TX 75207		8,671.96
METROPOLITAN INDUSTRIAL PARK UT 16K 4424 ALPINE	BLK	251	24-12650003C12A0000	CENTURY A C MAINTENANCE SUPPLY 1480 S BHERMAN ST STE 214 RICHARDSON TX 75081		2,801.23
METROPOLITAN INDUSTRIAL PARK UT 13912 DEX	BLK	252	24-126500030031400	NORWOOD BELMONT OFW LITTLEFIELD REDE 106 E SIXTH ST STE 530 AUSTIN TX 78701		5,807.37
METROPOLITAN BUSINESS PARK B UT 2 1501 SPRING VALLEY	BLK E	253	24-122500060020000	GOVERNMENT EMPLOYEES INS W EDWARD WALTER II P O BOX 50100 DALLAS TX 75250		8,956.28
METROPOLITAN BUSINESS PARK B UT 1 24055 FRODOX	BLK E	254	24-122500070130000	CROSSMAN STANLEY L 13412 MIDWAY RD STE 230 DALLAS TX 75240		1,640.96

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LOCAL DIS	FRFP. ADD.	FID #	ACCOUNT INT	NAME	DORSER	AREA	DATE	ENT	ASSA	ENT
1784 ANN 4080 PROITH	MLK	255	24-049900000020000	CH PROPERTY MGT INC 140 CARBEN CT HARTFORD	CT	06154		563.65		
1784 ANN 4080 PROITH	MLK	256	24-049900000040000	C-B GROUP 513 FIRMINT AVE LOS ANGELES	CA	90071		11,578.90		
1784 ANN 4080 PROITH	MLK	257	24-130500030060000	INNOVAC CORPORATION 48 WARREN ST P O BOX 727 CALVERA FALLS	NY	11804		6,431.40		
1784 ANN 4080 PROITH	MLK	258	24-130500030050000	HOME INTERIORS & GIFTS IN P O BOX 824 MEEBIO	TX	75148		7,722.41		
1784 ANN 4080 PROITH	MLK	259	65-114653710390000	FARMERS BRANCH CITY OF 13000 WILKINSON BOSSON HWY FARMERS BRANCH, TEXAS	TX	75234				
1784 ANN 4080 PROITH	MLK	260	24-237800010010000	EMERSON GROUP INC P O BOX 1085 DALLAS	TX	75000		3,186.29		
1784 ANN 4080 PROITH	MLK	261	24-122500070120000	CROSMAN STANLEY L 12412 HUBBARD RD DALLAS	TX	75240		1,291.53		
1784 ANN 4080 PROITH	MLK	262	24-049900000010000	EM PROPERTY MGT INC 140 CARBEN CT HARTFORD	CT	06154		4,534.85		
1784 ANN 4080 PROITH	MLK	263	24-130400030079900	A C B B DALLAS I INDUSTRIAL INC 1215 4TH AVE STE 2400 SEATTLE	WA	98161		5,483.43		
1784 ANN 4080 PROITH	MLK	264	24-237500010056100	14012 MELCH-JOINT-VENTURE SUITE 23 5707 MEXIMNEY AVE DALLAS	TX	75205		6,812.57		
1784 ANN 4080 PROITH	MLK	265	24-2375000500020100	T ROME PRICK REALTY INCOME FUND IV 11 S LASSALLE ST CHICAGO	IL	60643		4,607.72		
1784 ANN 4080 PROITH	MLK	266	24-122500070110000	GOVERNMENT EMPLOYEES ASSOCIATION CLUBFANT WASHINGTON PLAZA WASHINGTON	DC	20076		2,724.84		
1784 ANN 4080 PROITH	MLK	267	24-122500040050000	EMERY JEANNE FLOREN 44-ST LAURENT PLACE DALLAS	TX	75223		2,172.30		
1784 ANN 4080 PROITH	MLK	268	24-164800000000000	BYBEE FARM INC P O BOX 814228 DALLAS	TX	75381		6,994.57		
1784 ANN 4080 PROITH	MLK	269	24-164800000000000	BYBEE FARM INC P O BOX 814229 DALLAS	TX	75381		9,102.61		

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LEGAL BLDG.	PROP. ADDR.	FID #	ACCOUNT NO	NAME	ADDRESS	ASSR	ENT
METROPOLITAN IND PK SEC4 3RD 01 4 14310 GILLES	M.K. 3	270	24-130600030080100	BYSCD FOOD SYSTEMS INC P O BOX 814229 DALLAS TX 75381			3,773.42
METROPOLITAN IND PK SEC4 1ST 01 10 K 14371 GILLES	M.K. 15	271	24-127700030030100	HORNOLD HOUSING DEPT INC LTD THE LITTLEFIELD BDC CONGRESS AVE W 6TH ST JUSTIN TX 78701			11,337.23
METROPOLITAN BUSINESS PARK B 01 10 14140 MIDWAY	BLK E	272	24-122500070010000	LABORERS NAT L PENSION FD P O BOX 2051 DALLAS TX 75221			3,832.91
METROPOLITAN BUSINESS PARK B 01 33 14161 MIDWAY	BLK E	273	24-122500070090000	CROSSMAN STANLEY L 13412 MIDWAY RD DALLAS TX 75240			1,641.96
METROPOLITAN BUSINESS PARK B 01 4 14700 PRITON	M.K. 1	274	24-122500040030000	HATHIS CHARLES L 5624 MELBIRE DR DALLAS TX 75230			3,030.98
METROPOLITAN IND PK SEC4 3RD 01 4 14325 GILLES	BLK 4	275	24-130600040040000	ABLON ARNOLD W 4539 N CENTRAL EXPY DALLAS TX 75205			12,142.03
METROPOLITAN IND PK SEC4 1ST 01 1172 14311 WELCH	M.K. 3	277	24-129500030010000	14311 WELCH PARTNERS LTD SUITE 501 5944 LUTHER LN DALLAS TX 75223			5,447.33
METROPOLITAN BUSINESS PARK B 01 9 14700 MIDWAY	BLK E	278	24-122500070020000	PROVIDENT MUTUAL LIFE INS 1600 MARKET ST PHILADELPHIA PA 19101			3,104.17
METROPOLITAN BUSINESS PARK B 01 4 14175 PRITON	BLK L	277	24-122700070060000	CHEBIFER & FULLER INC P C 14475 PRITON DALLAS TX 75244			1,422.17
METROPOLITAN BUSINESS PARK B 01 5 14202 PRITON	BLK F	280	24-122500060070000	LANEY CHILDRENS TR ET AL 1445 ROSS AVE STE 3200 DALLAS TX 75202			2,863.60
METROPOLITAN BUSINESS PARK B 01 16 14228 MIDWAY	BLK E	281	24-122500070140000	14228 MIDWAY RD LTD PS 2880 LBJ Fwy STE 500 FARMERS BRANCH, TEXAS 75234			3,270.89
METROPOLITAN BUSINESS PARK B 01 2 14293 PRITON	M.K. C	282	24-122500070050000	DROSSMAN CORP 13412 MIDWAY RD DALLAS TX 75240			1,291.53
METROPOLITAN BUSINESS PARK B 01 3 14209 PRITON	M.K. 4	283	24-122500070040000	MIRYAC U S INC SUITE 340 2501 CEDAR CRINCS RD DALLAS TX 75201			1,837.20
METROPOLITAN BUSINESS PARK B 01 4 14240 PRITON	BLK F	284	24-122500060120000	PRITON VENTURES CORP 14240 PRITON RD DALLAS TX 75244			1,343.36
METROPOLITAN BUSINESS PARK B 01 1 14740 MIDWAY	BLK E	285	24-122500070010000	BANK OF AMERICA TEXAS NA ATTN CONTROLLER 300 E JOHN CARPENTER Fwy IRVING TX 75062			6,849.58

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LOCAL OFF.	OFF. ADDR.	OFF. NO.	ACCOUNT NO.	NAME & ADDRESS	STATE	ZIP	AMOUNT	DATE
METROPOLITAN BUSINESS PARK B	206	24-122500070030000	MHI CORPORATION SUITE 300 14110 N DALLAS PKY DALLAS TX 75240	TX	75240	1,107.24		
METROPOLITAN BUSINESS PARK B	207	24-122500070100000	GIEBELKE JAMES A 14241 FORTON RD DALLAS TX 75240	TX	75240	1,068.49		
METROPOLITAN BUSINESS PARK B	210	24-122500070080000	GIEBELKE JAMES A P O BOX 800056 DALLAS TX 75380	TX	75380	1,239.61		
METROPOLITAN BUSINESS PARK B	207	24-122500060100000	BINKS MANUFACTURING 9201 W BELMONT AVE FRANKLIN PARK IL 60131	IL	60131	3,137.51		
METROPOLITAN BUSINESS PARK B	210	24-122500070170000	TEGUNI SYLVIA B 11298 RIBBWOOD CIR DALLAS TX 75229	TX	75229	3,046.68		
METROPOLITAN BUSINESS PARK B	291	24-122500070070000	H-I-W PC SUITE 155 4220 FORTON RD DALLAS TX 75244	TX	75244	3,265.48		
METROPOLITAN BUSINESS PARK B	292	24-122500060090000	CROSBYMAN STANLEY L 13812 MIDWAY RD DALLAS TX 75240	TX	75240	1,715.04		
METROPOLITAN IND PK BECA 3RD	293	24-130600040050000	ARLON ARNOLD M & DAVE HICKS CO INC 4519 N-CENTRAL-EMPKY DALLAS TX 75205	TX	75205	4,477.74		
METROPOLITAN BUSINESS PARK B	294	24-122500040080000	COEUR D ALENE DEV CO HINEMWELL FLAZA MINNEAPOLIS MN 55408	MN	55408	2,972.33		
METROPOLITAN IND PK BECA 3RD	295	24-130600040060000	MERIT INV PARTNERS LP K T WITTENBARGER STE 202 3415 WESTMINISTER AVE DALLAS TX 75205	TX	75205	5,371.10		
METROPOLITAN IND PK BECA 3RD	296	24-130600020040000	THOMAS GILLIS 8333 DOUGLAS AVE DALLAS TX 75225	TX	75225	9,477.20		
METROPOLITAN IND PK BECA 3RD	297	24-130600020040100	BYSCO FOOD SYSTEMS INC P O BOX 814239 DALLAS TX 75281	TX	75281	272.12		
METROPOLITAN IND PK BECA 1ST	298	24-129500020020000	PRIDE I REALTY INGORE FLUD-14 11 S LAMALLE ST CHICAGO IL 60603	IL	60603	12,948.74		
METROPOLITAN IND PK BECA 1ST	299	24-129500020019900	INC GROUP INC NO 107 4601 LANGLAND RD FARMERS BRANCH TX 75244	TX	75244	15,844.54		
JIM RYAN & WHITE	300	24-003500010020300	CARTER CROWLEY PPTIES INC ATTN CLIFTON BUKOMSKY 2711 (E) Fwy SUITE 370 FARMERS BRANCH, TEXAS 75224	TX	75224	10,329.13		

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LEGAL DES.	PROP. ADD.	FID #	ACCOUNT NO	NAME	DRBBS	MAIL	MAIL #/1/7/74	FORM #	ASFA	JNT
MILLINGTONE FARMS BLK A 14001 BELTWOOD PARKWAY		302	24-231600010040000	PREFENTIAL INC 14001 BELTWOOD PARKWAY DALLAS TX 75244					5,573.54	
MORROW A WHITE BLK 1 14001 BELTWOOD PARKWAY		303	24-003000010020100	PHINEAS JOINT VENT SUITE 200 2600 W LOWERS LN DALLAS TX 75209					1,470.57	
METROPOLITAN BUSINESS PARK B BLK F 14000 MIDWAY		304	24-122500040010000	FOREST CENTRAL PROP TR 1000 TURTLE CREEK VLE 1500 DALLAS TX 75219					6,321.97	
MIDCOURT CENTER BLK 14052 FROUN--31051B-ACB		305	24-148000000000000	SOUTHLAND TRUST ID SUITE 300 7001 PRESTON RD DALLAS TX 75205					6,504.17	
METROPOLITAN IND PK SEC 4 3RD BLK A 14337 GILLIS 1.23 AC		306	24-130400040040100	FARMERS BRANCH CITY OF 15000 WELTON-JOBSON Fwy FARMERS BRANCH, TEXAS 75234						
MELBURN BUSINESS PARK 187-1 BLK B 14400 MIDWAY		307	24-066500020000000	MURPHY ELECTRONICS INC 14410 MIDWAY RD P O BOX 461207 DALLAS TX 75240					2,872.39	
MIDCOURT BUSINESS CENTER BLK A 14001 BELTWOOD PARKWAY		308	24-157700000010000	SOUTHERN LTD SOUTHWEST PARTIES GROUP 701 CENTER ST STE 200 DALLAS TX 75202					6,197.60	
MELBURN BUS PK 151A 2ND BLK 14340 BELTWOOD		310	24-008500080010000	DALLAS SEMICONDUCTOR CORP 4350 BELTWOOD Fwy FARMERS BRANCH TX 75244					11,851.18	
MELBURN BUSINESS PARK 2ND 1 BLK 1A 14301 BELTWOOD PARKWAY		311	24-009500020010000	TUESDAY MORNING INC 14431 HANCOCK RD DALLAS TX 75244					14,428.99	
MELBURN BUSINESS PARK 187-1 BLK B 14430 MIDWAY		312	24-008700020030000	HIGHWAY CENTER LTD THE KATY BLOC SITE 200 701 CENTER ST DALLAS TX 75202					6,327.80	
MELBURN BUSINESS PARK 187 I BLK B 14350 BELTWOOD PARKWAY		313	24-008500020010000	GENERAL AMERICAN LIFE INS ONE LINCOLN CENTRE 5400 LBJ Fwy SUITE 567 DALLAS TX 75240					2,362.01	
MELBURN BUSINESS CENTER BLK A 14341 BELTWOOD PARKWAY		314	24-1355400000010000	M J ENTERPRISES LTD PS II P O BOX 801206 DALLAS TX 75286					9,021.00	
MELBURN BUSINESS PARK 187-1 BLK C 14153 GILLIS		315	24-073250000000000	DALLAS SEMICONDUCTOR CORP 14431 BELTWOOD PARKWAY DALLAS TX 75244					5,380.89	
MELBURN BUSINESS PARK 187-1 BLK A 14001 BELTWOOD PARKWAY		316	24-0073000040010000	DALLAS SEMICONDUCTOR CORP 4350 BELTWOOD Fwy SOUTH DALLAS TX 75244					17,375.30	
MELBURN BUSINESS PARK 187 I BLK A 14000 MIDWAY		317	24-0085100300010000	MELBURN MIDWAY JV ENTIT X REAL ESTATE TAX SERVICE P O BOX 822110 RICHMOND TX 75083					8,980.54	

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LEGAL U.S. PROP. ADD.	PTD	ACCOUNT NO	NAME	ADDRESS	REG	ENT
BELTWOOD BUSINESS PARK 1ST I BLK A 1215 BELTWOOD PARKWAY	318	24-008500010020000	GENERAL AMERICAN LIFE INS ONE LINCOLN CENTER 5400 LBJ FRWY SUITE 547 DALLAS TX 75240			2,440.10
BELTWOOD BUSINESS PARK 1ST I BLK C 1304 BELTWOOD PARKWAY	319	24-008500030020000	BURNAL JIN 4304 BELTWOOD PKWY DALLAS TX 75244			1,177.44
PARKWAY BLK 1379 BELTWOOD PARKWAY	320	24-107000000010200	LAWSON PRODUCTS INC 4335 BELTWOOD PKWY N DALLAS TX 75240			2,340.26
BELTWOOD BUSINESS PARK 1ST I BLK C 1354 BELTWOOD PARKWAY	321	24-008500030040100	ENGLISH O B APT 707 4500 ROLAND AVE DALLAS TX 75219			1,350.80
BELTWOOD BUSINESS PARK 1ST I BLK C 1372 BELTWOOD PARKWAY	322	24-008500030040000	ENGLISH O B APT 707 4500 ROLAND AVE DALLAS TX 75219			2,685.13
BELTWOOD BUSINESS PARK 2ND I BLK E 1444 BELTWOOD	323	24-009500050030000	METNI-FOMAS H MD 5272 RAVINE DR DALLAS TX 75220			1,944.13
BELTWOOD BUSINESS PARK 1ST I BLK A 1501 BELTWOOD PARKWAY	324	24-008500010010000	SERVOMATION CORP 4301 BELTWOOD FARMERS BRANCH, TEXAS 75234			8,060.68
BELTWOOD BUSINESS PARK 1ST I BLK A 1500 BELTWOOD PARKWAY	325	24-008500010050000	CUNNINGHAM HUGH W 4309 BELTWOOD PKY DALLAS TX 75244			2,597.68
PARKWAY BLK 1535 BELTWOOD PARKWAY	326	24-107000000010000	LAWSON PRODUCTS INC ATTN-VICTOR CALVEZ 1644 E FOLLY DEL PLAINS IL 60018			1,712.39
BELTWOOD BUSINESS PARK 2ND I BLK D 1552 BELTWOOD PARKWAY	327	24-009500010020000	HOLLEMAN ASA DAN CLIFT 123 JIMMIE ST DALLAS TX 75203			3,294.42
BELTWOOD TRISTAN CENTER BLK A 1603 BELTWOOD PARKWAY	328	24-0095300A0000000	ENGLISH O B APT 707 4500 ROLAND AVE DALLAS TX 75219			5,899.65
BELTWOOD BUSINESS PARK 2ND I BLK E 1640 BELTWOOD	329	24-009500050040000	BELTWOOD I & II JV 14510 E BELTWOOD PKY FARMERS BRANCH TX 75244			2,628.32
BELTWOOD BUSINESS PARK 2ND I BLK E 1640 BELTWOOD PARKWAY	330	24-009500050020000	BELTWOOD I & II JV 14580 E BELTWOOD PKY FARMERS BRANCH TX 75244			2,032.45
MOBIL SERV BLDG 520 PC 348 BLK 1377 HINWAY	331	48-067034810150000	MOBIL RESEARCH & DEV 2 MOBIL ADMIN BLDG INC P O BOX 290 DALLAS TX 75221			119,921.74
WEST 520 PC 265 BLK DT 1K11	332	65-052026510150200	PARKSIDE CENTER INC P O BOX 290 DALLAS TX 75221			115,127.28

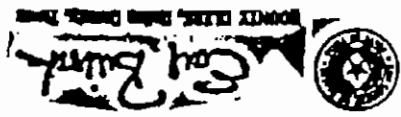
1/1

93228 2311



Boyle  
Boyle

93 NOV 23 AM 10:06



NOV 23 1988

POSTAGE WILL BE PAID BY ADDRESSEE  
FIRST CLASS PERMIT NO. 100 DALLAS, TEXAS  
NOV 23 1988  
SPECIAL DELIVERY

RETURN TO. • JOHN F. BOYLE, JR.  
NAME HUTCHISON BOYLE BROOKS  
ADDRESS 3900 FIRST CITY CENTER  
CITY DALLAS, TX 75201

93228 2313



**Public Works / Engineering**

16801 Westgrove • P.O. Box 9010  
 Addison, Texas 75001  
 Telephone: (972) 450-2871 • Fax: (972) 450-2837

LETTER OF TRANSMITTAL

DATE	12/2/02	JOB NO.
ATTENTION		
RE:	Landmark Place RR Crossing	

TO John Hill  
J Cowles & Thompson

**GENTLEMAN:**

**WE ARE SENDING YOU**

- Shop Drawings
- Copy of letter
- Attached
- Prints
- Change order

Under separate cover via \_\_\_\_\_ the following items:

- Plans
- Samples
- Specifications
- \_\_\_\_\_

COPIES	DATE	NO.	DESCRIPTION
1			Meters & Bounds Description and map for the railroad crossing.

**THESE ARE TRANSMITTED as checked below:**

- For approval
- For your use
- As requested
- For review and comment
- FOR BIDS DUE \_\_\_\_\_ 19\_\_\_\_
- Approved as submitted
- Approved as noted
- Returned for corrections
- \_\_\_\_\_
- Resubmit \_\_\_\_\_ copies for approval
- Submit \_\_\_\_\_ copies for distribution
- Return \_\_\_\_\_ corrected prints
- PRINTS RETURNED AFTER LOAN TO US

REMARKS Lets go ahead and get a title  
commitment.

COPY TO \_\_\_\_\_

SIGNED: [Signature]

If enclosures are not as noted, please notify us at once.

## MEMORANDUM

---

**TO:** Jim Pierce  
**FROM:** John Hill  
**RE:** New Public Highway Crossing Agreement - Landmark Blvd.  
**DATE:** September 30, 2002

---

Jim, I have reviewed the proposed New Public Highway Crossing Agreement (Landmark Blvd.) and have the following comments:

1. The Agreement names only Dallas Garland & Northeastern Railroad (DGNO) as the "Railroad" and not Union Pacific (UP). However, UP is referred to a number of times in the Agreement (eg, see Article 3) and the Exhibits. If UP has an interest in the railroad line, then it needs to be added to the Agreement. If not, then the references to UP should be deleted.

2. Add a provision to the Recitals stating what DGNO's interest is in the railroad, eg, that "DGNO is the sole owner of the Crossing Area which is the subject of this Agreement and has full power and authority to execute this Agreement without the joinder, approval or consent of any other person or entity."

3. Article 1 – Amend as follows:

"For and in consideration of the Town's agreement to perform and abide by the terms of this Agreement, including **Exhibit A, B, and B-1**, attached hereto and hereby made a part hereof, of the payment set forth in Article 2 hereof, and of other good and valuable consideration, the sufficiency of which is hereby acknowledged, DGNO hereby grants and conveys to the Town in perpetuity (subject to the Railroad's option to terminate this Agreement for nonuse of the Crossing Area for public roadway purposes for a period of 18 consecutive months as described and provided in Section 11b) of Exhibit B to this Agreement), the right to establish, construct, maintain, repair, replace, reconstruct, renew, and use a public highway and right of way at grade over and across the Crossing Area, (together with any and all uses incidental thereto, including, without limitation, the installation, repair, maintenance, and replacement of water lines, sanitary sewer lines, drainage, and other utilities typically located underground within the public right-of-way), provided that the DGNO consents in writing to the installation of the above utilities, such consent not be unreasonably withheld, together with the right of entry to control and remove from the DGNO's right-of-way, on each side of the Crossing Area, weeds and vegetation which may obstruct the view of motorists approaching the Crossing Area, ~~and to any trains that may be also approaching the Crossing Area.~~"

4. Article 2

(a) This provides that the crossing will occur "in the middle of an existing DGNO rail yard area." Is that correct?

(b) When is the payment to be made to DGNO?

(c) Amend as follows:

“The new crossing will occur in the middle of an existing DGNO rail yard area. The crossing and other rights granted and conveyed by the Railroad herein and use thereof by the Town will cause the Railroad to incur increased rail operations and expense. To reduce the increased rail operating expense, the Town and DGNO acknowledge that occasionally the crossing may be blocked for more than five (5) minutes during night rail yard movements from 10:00 PM to 5:00 AM. As full and complete payment, compensation and satisfaction to the Railroad (i) for such increased rail operations and any and all costs, fees, charges, or expenses incurred in connection therewith or related thereto or arising out of any negative impact to the Railroad’s current and future operations from the use of the Crossing Area, and (ii) for the rights granted and conveyed herein by the Railroad, the Town agrees to pay to DGNO **THREE HUNDRED SEVENTY SEVEN THOUSAND DOLLARS (\$377,000)** ~~(\$376,000)~~, the complete and total compensation for these increased operating costs.”

5. Article 3

(a) In Paragraph A., delete the phrase “(as defined in Section 8(a) of **Exhibit B** to this Agreement)”. Section 8(a) of Exhibit B defines the Town as including the Town’s contractors, subcontractors, officers, agents, and employees, and others acting under its or their authority. There is no reason to define “Town” that broadly in Article 3.

(b) In Paragraph D., “Towns” should be “Town’s”.

6. Article 4

The word “Contract’s” in the third line should be “Contractor’s”.

7. Article 5

(a) In the last line of Paragraph A, the word “unreasonably” is misspelled.

(b) Amend the last part of Paragraph B as follows:

“...and PROVIDED, FURTHER, that the cost of repair or replacement resulting from damage caused by non-parties that is not recoverable by DGNO (after using its best efforts to recover such cost) from the non-parties shall be borne entirely by the Town.”

8. Add a new provision:

“In the event of any action under this Contract, venue for all causes of action shall be instituted and maintained in Dallas County, Texas (State court) or the Northern District of Texas, Dallas Division (Federal court), as the case may be. The parties

agree that the laws of the State of Texas shall govern and apply to the interpretation, validity and enforcement of this Contract; and, with respect to any conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Agreement.”

9. The Agreement (or a memorandum of the Agreement) should be recorded so that the Town's interest will be shown of record ; therefore, add acknowledgments after the signatures.

### **EXHIBIT B – Public Highway Crossing**

1. Section 1

(a) In subsection a), amend the first sentence as follows:

“The Railroad makes no covenant or warranty for quiet possession or against encumbrances; the Railroad warrants and represents that it is the sole owner of the Crossing Area which is the subject of this Agreement and that it has full power and authority to execute this Agreement and to grant and convey to the Town the rights and interest described herein without the joinder, approval or consent of any other person or entity.”

(b) In subsection (b), “UP” is referred to on two occasions. If UP does not have any interest in the Crossing Area, then the reference to “UP” should be deleted.

(c) In the second sentence of subsection c), change “railroad property” to “Crossing Area”. Also, please note that subsection c) provides that the grant by DGNO is “subject to any existing encumbrances and rights (whether public or private), recorded or not, and also to any renewals thereof.” The title should be reviewed to determine what encumbrances and rights are recorded. If you will forward to me a legal description of the property which is the subject of the Crossing Agreement, I will initiate that process with a title company.

(d) Amend subsection e) as follows:

“So far as it may lawfully do so, the Town will assume, bear and pay all taxes and assessments of whatsoever nature or kind (whether general, local or special) levied or assessed upon or against the Crossing Area which are directly related to the Town's rights therein and use thereof, excepting taxes levied upon and against the property as a component part of the Railroad's operating property.”

(e) Amend subsection f) as follows:

“If any property or rights other than the ~~rights~~ <sup>right</sup> hereby granted are necessary for the construction, maintenance and use of the highway and its appurtenances, or for the performance of any work in connection with the Project, the Town will acquire all such other property and rights at its own expense and without expense

to the Railroad; provided, however, that the Railroad hereby represents that the Railroad is not aware of any such property or rights which the Town may need to acquire in order to construct, maintain and use the highway and its appurtenances.”

2. Section 2 – In subsection e), “three (3)” has been struck-through. Rather than striking through, delete it. Also, is five years an adequate amount of time for construction of the project? Amend the first sentence of subsection e) as follows:

“All construction work of the Town shall be performed diligently and completed within a reasonable time, and in any event the initial construction work to construct the highway shall be completed within five (5) years from the effective date of this Agreement; or within such further period of time as may be specified in writing by the Railroad’s Vice President-Engineering Services.”

3. Section 4 – Subsection b) states that the Railroad may, in connection with the Crossing Area, contract for the performance of its work by other than railroad forces, and that the Town is to reimburse the Railroad for the amount of the contract (unless the work is performed on a fixed price basis). What is this work that the Railroad would contract for? Is this in connection with the initial construction work only? The obvious concern is the amount of such a contract, since the Town will pay for it. Consider amending the subsection as follows:

“In connection with the Crossing Area, certain work will need to be performed exclusively by the Railroad (and the Railroad shall notify the Town of the nature of such work). The Railroad may contract for the performance of any of such its work by other than railroad forces; provided, however, that prior to so contracting, the Railroad shall give notice to the Town of its intent to do so and an estimate of the cost of such work. The Railroad shall seek to obtain a reasonable and cost effective price for such work. The Railroad shall give reasonable notice to the Town of its intent to work on the Crossing Area, and the Railroad and Town agree to work together to coordinate such work and its effect on the Crossing Area. The Railroad shall notify the Town of the contract price within ~~ten~~ (1090) days after it is awarded. Unless the Railroad’s work is to be performed on a fixed price basis, the Town shall reimburse the Railroad for the amount of the contract.”

4. Section 8 - Amend subsection a) as follows:

“All ~~References~~referenees in this ~~Section 8~~Agreement to the Town shall include, where applicable, the Town’s contractors, subcontractors, officers, agents and employees, and others acting under its or their authority; and all references in this ~~Section 8~~Agreement to work of the Town shall include work both within and outside of railroad property, provided that such work is in connection with the Crossing Area.”

5. Section 9 – Amend the first part as follows:



"If at anytime it is determined by a competent governmental authority, by the Town, or by agreement between the parties, that new or improved train activated warning devices should be installed at the Crossing Area..."

6. Section 11

(a) Amend subsection a) as follows:

"If the Town shall fail, refuse or neglect to perform and abide by the terms of this Agreement after written notice of such failure, refusal, or neglect is provided by the Railroad to the Town and the Town has not cured such failure, refusal, or neglect within a reasonable period of time after its receipt of such notice, the Railroad, in addition to any other rights and remedies, may perform any work which in the judgment of the Railroad is necessary to place the highway and appurtenances in such condition as will not menace, endanger or interfere with the Railroad's facilities or operations or jeopardize the Railroad's employees; and the Town will reimburse the Railroad for the expenses thereof."

(b) Amend subsection b) as follows:

"Nonuse by the Town of the Crossing Area for public roadway purposes continuing at any time for a period of eighteen (18) consecutive months shall, after at least ten (10) days notice to the Town (during which ten (10) day period the Town shall have the right to discontinue such nonuse), at the option of the Railroad, work a termination of this Agreement and of all rights of the Town hereunder."

**EXHIBIT C**  
**Contractor's Right of Entry Agreement**

1. This Exhibit references Union Pacific as the party in interest, not DGNO. If Union Pacific has no interest in the crossing area, this Exhibit will need to be revised.

2. Recitals – Amend as follows:

"By agreement dated \_\_\_\_\_, the Railroad granted the *Town of Addison, Texas* (hereinafter 'Licensee') the right to construct, establish, maintain, repair, renew, and use ~~at two~~ new at-grade public road crossings for Landmark Blvd. Arapaho Road on the property of the Railroad at Milepost 598.3(??), on the Dal-North Branch, at or near Addison, Dallas County, Texas.

*Place*  
~~A~~The Town's Contractor has been ~~retained~~<sup>employed</sup> by the Licensee to construct ~~at two~~ new at-grade public road crossings for Landmark Blvd. Arapaho Road (hereinafter referred to as the 'work') and has requested the Railroad to permit it to perform the work on Railroad property, to which the Railroad is agreeable, subject to the following terms and conditions."

3. Article 2

(a) The first sentence contains a reference to "Mile Post 598.3 on the Railroad's Dal-Nor Branch." Please make sure that the reference is correct.

(b) The second sentence provides that the area for performing the construction work is limited to "those portions of the Railroad's property specifically described herein." Please make sure that this is adequate for the construction of the project.

4. Article 8 Amend as follows:

"In the event of any action or litigation arising out of or connected with this Agreement, such action or litigation shall be instituted and maintained in Dallas County, Texas (State court) or in the Northern District of Texas, Dallas Division (Federal court), as the case may be, the courts of the states of Nebraska and Texas, and the parties consent to jurisdiction over their person and over the subject matter of any such litigation, in those courts, and consent to service of process issued by such courts. The parties agree that the laws of the State of Texas shall govern and apply to the interpretation, validity and enforcement of this Agreement; and, with respect to any conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Agreement."

**EXHIBIT B**  
**to Contractor's Right of Entry Agreement**

1. Section 2, Paragraph A – Amend as follows:

"The foregoing grant of right is subject and subordinate to the prior and continuing right and obligation of the Railroad to use and maintain its entire property including the right and power of the Railroad to construct, maintain, repair, renew, use, operate, change, modify or relocate tracks, roadways, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by the Railroad ~~without liability to the Contractor or to any other party for compensation or damages.~~"

2. Section 5 – In Paragraph A, the listed phone number may be for Union Pacific, and will need to be changed if UP has no interest.

It is not clear what the second sentence of Paragraph B means.

cc: Mr. Ken Dippel

# COWLES & THOMPSON

A Professional Corporation

ATTORNEYS AND COUNSELORS



JOHN M. HILL  
214.672.2170  
JHILL@COWLESTHOMPSON.COM

September 30, 2002

Mr. Jim Pierce  
Assistant Director of Public Works  
Town of Addison  
P.O. Box 9010  
Addison, TX 75001-9010

**RE: Landmark Blvd. Crossing Agreement**

Dear Jim:

As I mentioned in my e-mail to you today, enclosed is what appears to be your original of the proposed New Public Highway Crossing Agreement at Landmark Blvd.

Very truly yours,

John M. Hill

JMH/yjr  
Enclosure

**Steve Chutchian**

---

**From:** Jim Pierce  
**Sent:** Saturday, August 24, 2002 4:11 PM  
**To:** Steve Chutchian  
**Subject:** FW: Landmark Crossing Agreement

Steve: Please get a copy of all the Exhibits from the Wye crossing agreement so we can put them together with this for review. Thanks, Jim.

-----Original Message-----

**From:** Leblaydes@aol.com [mailto:Leblaydes@aol.com]  
**Sent:** Friday, August 16, 2002 10:26 AM  
**To:** jpierce@ci.addison.tx.us  
**Subject:** Landmark Crossing Agreement

Jim:

Attached is a draft Landmark Crossing Agreement. It follows the form and content of the Arapaho Agreement Addison and DGNO have already signed.  
Exhibit A to the Agreement are drawings of the crossing, you should just add drawings similar to what we have for Arapaho.  
Exhibit B has no changes from Arapaho.  
Exhibit B-1 has no changes'  
Exhibit C is the Right of Entry and will have name changes from Arapaho to Landmark.  
Exhibit A to the Right of Entry has a simple map (similar to the Arapaho Agreement)  
Exhibits B, C, and D to the Right of Entry have no changes from Arapaho.

If ya'll will review the attached Agreement and assemble the drawings for the Exhibit A, I make the small name changes on the other Exhibits. After review, let's get together to talk through questions/suggested changes. We'll then transmit to DGNO for their final review.

Lonnie

Lonnie E. Blaydes  
LEBlaydes@aol.com  
214-924-4632

*Lonnie was  
Revise to  
suit new  
agreement*

FOLDER NO. 1976-54

# NEW PUBLIC HIGHWAY CROSSING AGREEMENT

BETWEEN

**TOWN OF ADDISON, TEXAS**

AND

**DALLAS GARLAND & NORTHEASTERN  
RAILROAD**

AND

**UNION PACIFIC RAILROAD COMPANY**

COVERING  
*Landmark Place*  
~~South Quorum~~

CONSTRUCTION OF NEW ~~ARAPAHO ROAD~~ AT-GRADE  
PUBLIC ROAD CROSSING

AT OR NEAR

ADDISON,  
DALLAS COUNTY,  
TEXAS

9-3-02

Agreement Number \_\_\_\_\_

NEW PUBLIC HIGHWAY CROSSING AGREEMENT

LANDMARK BLVD.  
MILE POST - DAL-NOR BRANCH  
ADDISON, DALLAS COUNTY, TEXAS

THIS AGREEMENT, made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, by and between **DALLAS GARLAND & NORTHEASTERN RAILROAD**, a Texas corporation (hereinafter the "DGNO" or "Railroad"), and the **TOWN OF ADDISON, TEXAS**, a municipal corporation of the State of Texas to be addressed at PO Box 9010, Addison, TX 75001-9010 (hereinafter the "Town").

WITNESSETH:

RECITALS:

The Town desires to undertake as its project the construction of a new at-grade public road crossings (hereinafter the "Project").

The Town desires the right to use for the Project that portion of the right-of-way of the Railroad at MP5\_\_\_\_\_, the Dal-Nor Branch (hereinafter the "Crossing Area") shown and described on the attached prints dated \_\_\_\_\_, 2002, marked **Exhibit A**.

AGREEMENT:

NOW, THEREFORE, it is mutually agreed by and between the parties hereto as follows:

ARTICLE 1 - CROSSING APPROVAL

For and in consideration of the Town's agreement to perform and abide by the terms of this Agreement, including **Exhibit A, B, and B-1**, attached hereto and hereby made a part hereof, DGNO hereby grants to the Town, the right to establish, construct, maintain, repair, renew, and use a public highway and right of way at grade over and across the Crossing Area, (together with any and all uses incidental thereto, including, without limitation, the installation, repair, maintenance, and replacement of water lines, sanitary sewer lines, drainage, and other utilities typically located underground within public right of way), provided that the DGNO consents in writing to the installation of the above utilities, such consent to not be unreasonably withheld, together with the right of entry to control and remove from the DGNO's right-of-way, on each side of the Crossing Area, weeds and vegetation which may obstruct the view of motorists approaching the Crossing Area, and to any trains that may be also be approaching the Crossing Area.

ARTICLE 2 - RAIL OPERATIONS COST

The new crossing will occur in the middle of an existing DGNO rail yard area. The crossing will cause the railroad to incur increased rail operations and expense. To reduce the increased rail operating expense, the Town and DGNO acknowledge that occasionally the crossing may be blocked for more than five (5) minutes during night rail yard movements from 10:00 PM to 5:00 AM. The Town agrees to pay to DGNO **THREE HUNDRED SEVENTY SEVEN THOUSAND DOLLARS (\$376,000)**, the complete and total compensation for these increased operating costs.

\$ 377,000

ARTICLE 3 - CERTIFICATE OF INSURANCE

A. Before any work on the Premises begins, the Town (as defined in Section 8 (a) of **Exhibit B** to this Agreement) will provide DGNO with a Certificate issued by its insurance carrier providing the

insurance coverage required pursuant to **Exhibit B-1** of this Agreement in a policy containing the following endorsement:

“Union Pacific Railroad Company and Dallas Garland & Northeastern Railroad are named as additional insured with respect to all liabilities arising out of Insured’s performance of the work required for the Project.”

B. The Town WARRANTS that this agreement has been thoroughly reviewed by its insurance agent(s)/broker(s) and that said agents(s)/broker(s) has been instructed to procure insurance coverage and an endorsement as required herein.

C. All insurance correspondence shall be directed to: ( \_\_\_\_\_ )

D. The Town may self-insure all or a portion of the insurance coverage required hereunder, subject to DGNO’s review and approval. However, the Towns contractor/subcontractor (if any) shall obtain and provide evidence of insurance coverage pursuant to **Exhibit B-1** of this agreement.

**ARTICLE 4 - IF WORK IS TO BE PERFORMED BY CONTRACTOR**

If a contractor is to perform any of the work on the Project (including initial construction and subsequent relocation or substantial maintenance and repair work), then the Town shall require its contractor to execute the Railroad’s Contract’s Right of Entry Agreement attached hereto as **Exhibit C**, including revisions thereto that DGNO is willing to approve, which approval shall not be unreasonably withheld, and hereby made a part hereof. Town acknowledges receipt of a copy of the Right of Entry Agreement and understanding of its terms, provisions, and requirements, and will inform its contractor of the need to execute the Agreement. Under no circumstances will Town’s contractor be allowed onto the Railroad’s premises without first executing the Contractor’s Right of Entry Agreement.

**ARTICLE 5 - WORK TO BE PERFORMED BY THE RAILROAD**

A. DGNO may make any and all changes, alterations or relocations, whether temporary or permanent, and may provide flagging and other protective services and devices, which in DGNO’s judgment may be or become necessary or expedient within the right-of-way because of the Project, provided, however, that this right to make such changes, alterations or relocations shall not be a right to eliminate, or unreasonably interfere with the crossing rights of the Town.

B. The Railroad, shall, at the sole cost and expense of the Town, maintain, repair, and replace the warning devices installed hereunder: PROVIDED, HOWEVER, that this provision shall not negate DGNO’s eligibility for any further federal, state or local or other public funds that may become available for the maintenance of said devices; and PROVIDED, FURTHER, that the cost of repair or replacement resulting from damage caused by non-parties that is not recoverable by DGNO from the non-parties shall be borne entirely by the Town.

C. The Town agrees to pay the Dallas Garland & Northeastern Railroad for the work performed and materials supplied by the Dallas Garland & Northeastern Railroad for the Project.

**ARTICLE 7 - EFFECTIVE DATE; TERM**

This Agreement shall become effective as of the date first herein written, or the date work commences on the Project, whichever is earlier, and shall continue in full force and effect until terminated as herein provided.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate as of the date.

**DALLAS GARLAND & NORTHEASTERN RAILROAD**

By \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

TOWN OF ADDISON, TEXAS

\_\_\_\_\_

By \_\_\_\_\_

Title: \_\_\_\_\_

Resolution N.: \_\_\_\_\_

Pursuant to Resolution/Order Dated: \_\_\_\_\_

(Seal)



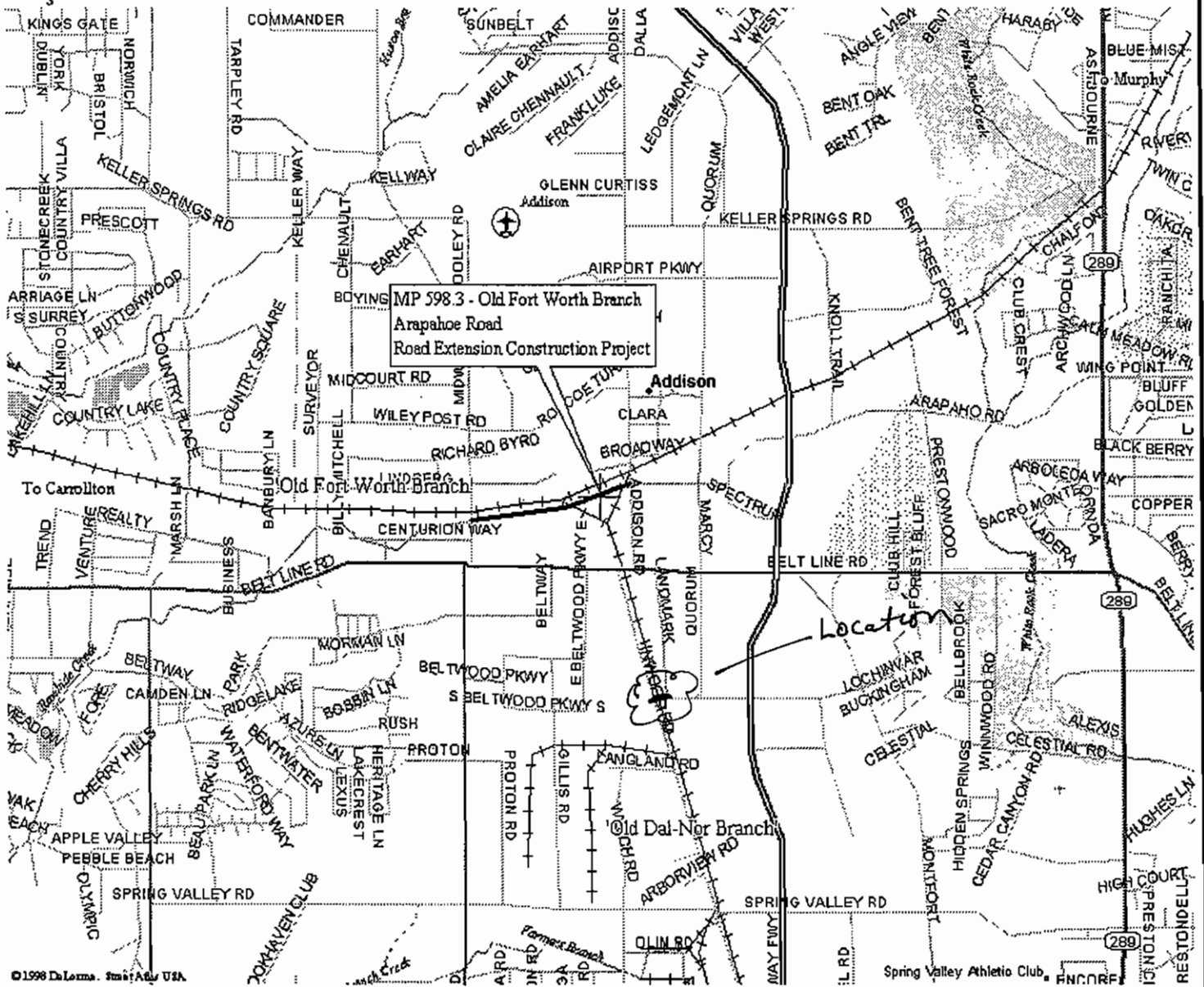
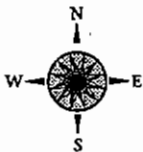


# **EXHIBIT A**

Location & Detail Prints

Need this revised

# NEW PUBLIC ROAD CROSSING CONSTRUCTION PROJECT



## RAILROAD WORK TO BE PERFORMED:

1. Flagging.

*Lonnie will get this info* →

## EXHIBIT "A"

**UNION PACIFIC RAILROAD COMPANY  
DALLAS GARLAND & NORTHEASTERN RAILROAD**

Old Fort Worth Branch

Mile Post 598.3

GPS: N 32° 57.436', W 96° 49.909'

Addison Jct., Dallas Co., TX.

Illustrative print showing location of proposed public road crossing extension construction project with the

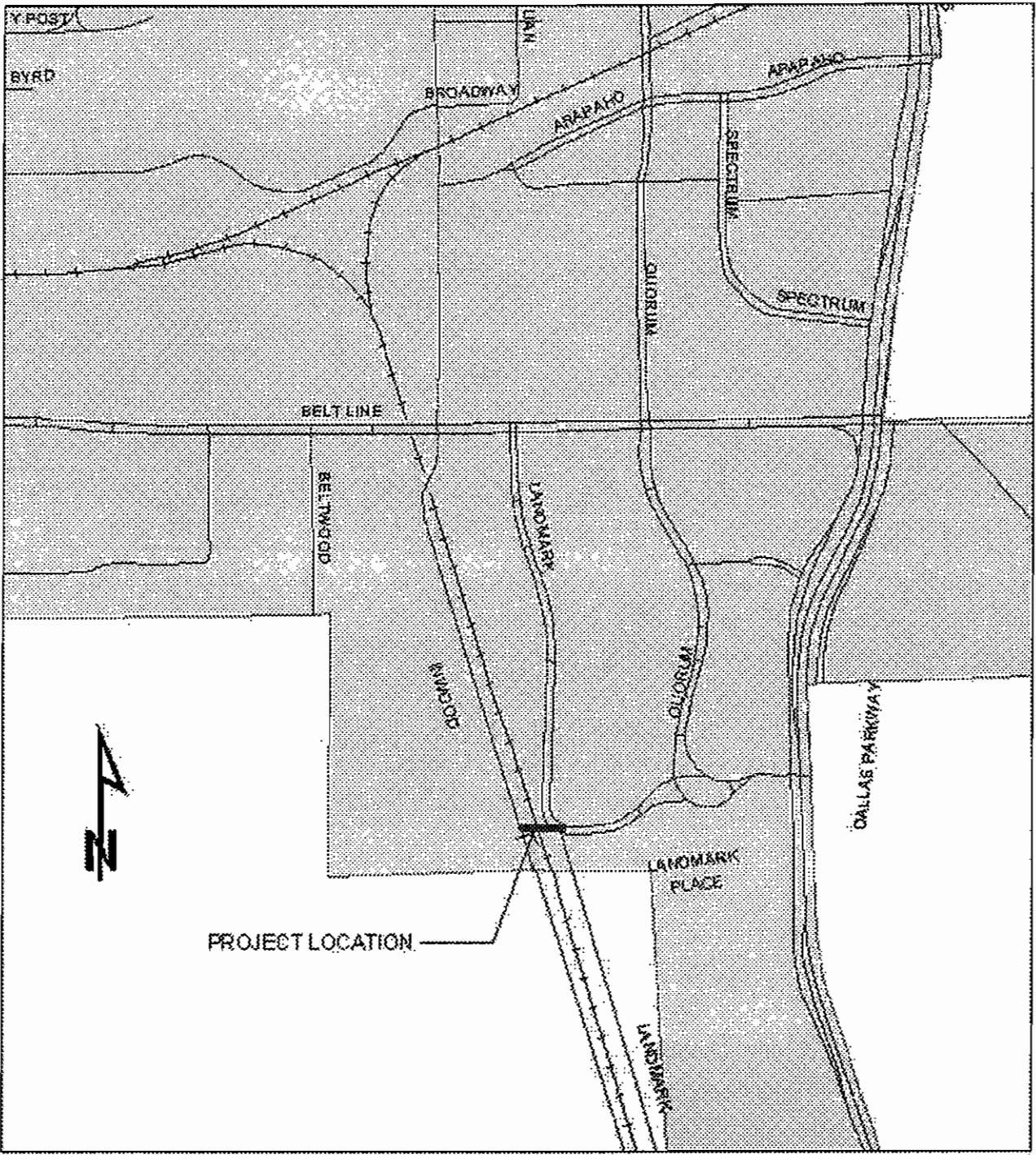
**TOWN OF ADDISON, TEXAS.**

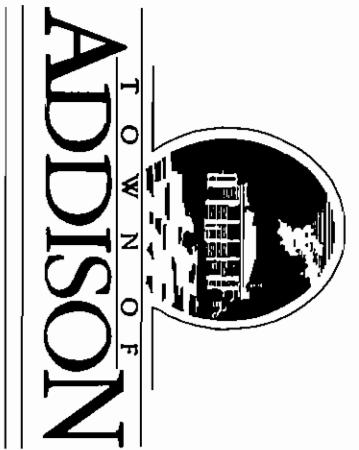
Folder No. 1976-54

Date: December 17, 2001

## WARNING

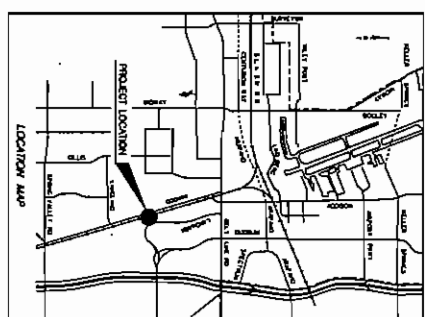
IN ALL OCCASIONS, U.P. COMMUNICATIONS DEPARTMENT MUST BE CONTACTED IN ADVANCE OF ANY WORK TO DETERMINE EXISTENCE AND LOCATION OF FIBER OPTIC CABLE. PHONE: 1-(800) 336-9193





ROADWAY, DRAINAGE AND TRAFFIC SIGNAL DESIGN PLANS  
 INWOOD / SOUTH QUORUM ACCESS - PHASE II  
 INWOOD CONNECTION

BID No.



MAYOR  
 R. Scott Wheeler

CITY COUNCIL  
 Bob Borrett  
 Frank Klein  
 Diane Molitor  
 Fred Silver  
 Glyndo Turner  
 Colby Woys

CITY MANAGER:  
 Ron Whitehead

DIRECTOR OF PUBLIC WORKS  
 Michael E. Murphy, P. E.

100% REVIEW

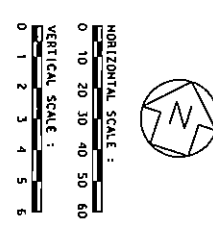
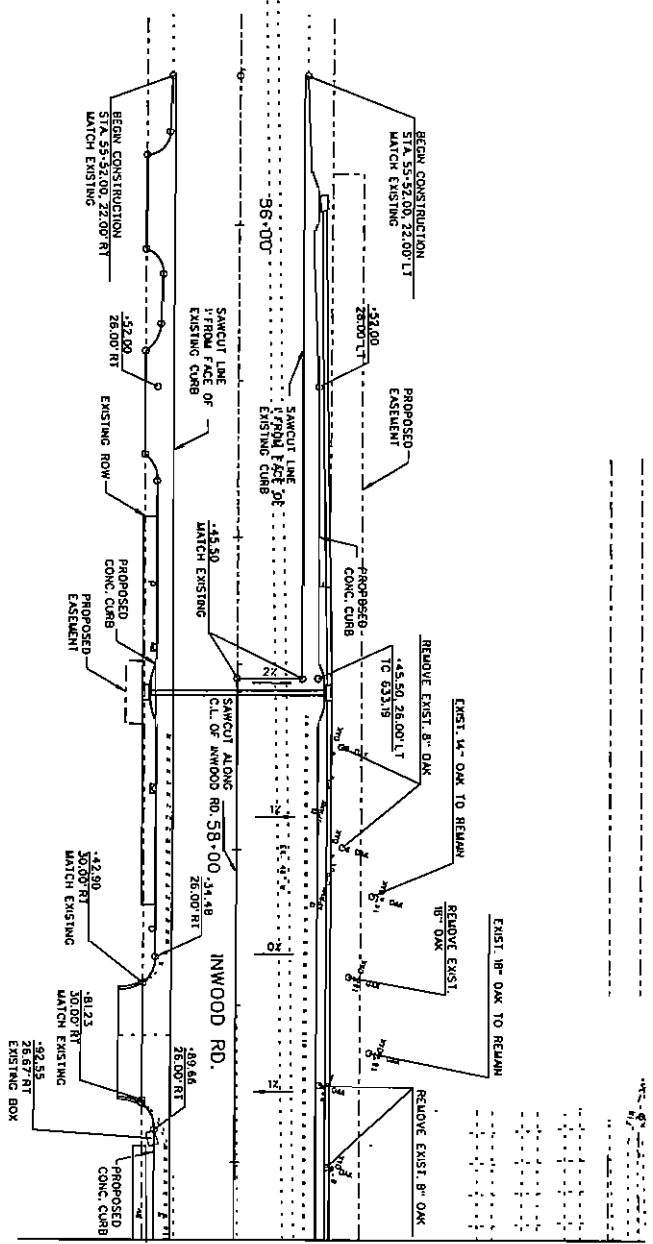
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PARSONS TRANSPORTATION GROUP, INC.  
 5495 BELT LINE ROAD, SUITE 100 • DALLAS, TEXAS 75240  
 (972) 931-9900 Fax: (972) 490-9261

SHEET No.	TITLE
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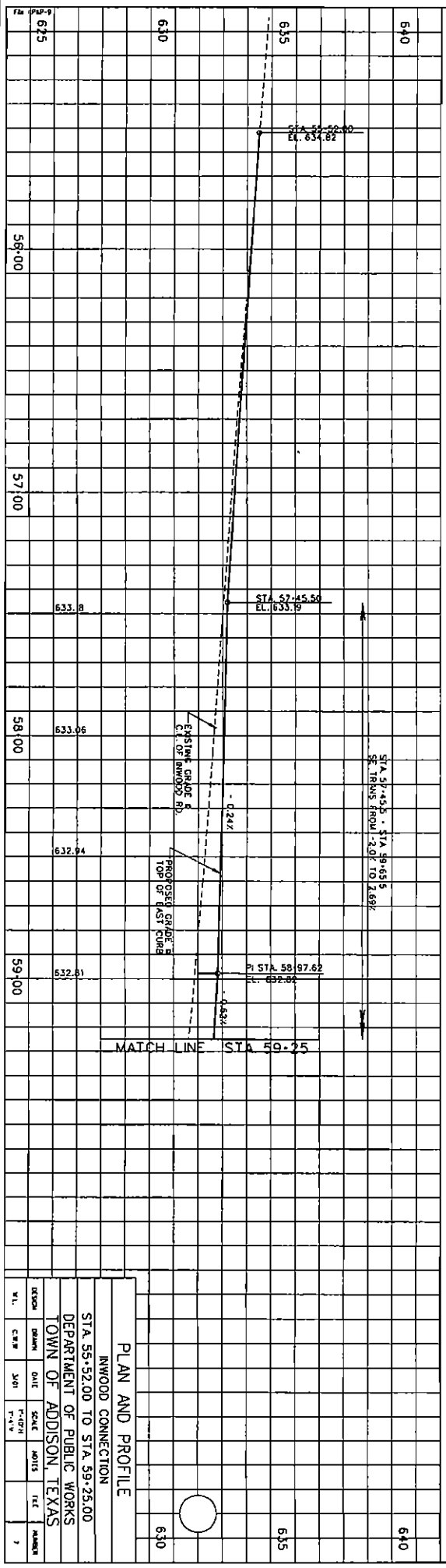
1	COVER SHEET
2-3	TYPICAL SECTIONS
4	GENERAL NOTES / QUANTITY SUMMARY
5-6	SEQUENCE OF CONSTRUCTION / TRAFFIC CONTROL PLANS
7-9	PLAN AND PROFILE SHEETS
10	DRAINAGE AREA MAP
11-12	DRAINAGE PLAN AND PROFILE SHEETS
13	SIGNING AND PAVEMENT MARKINGS
14	MISCELLANEOUS DETAILS SHEET
15	SIDEWALK RAMPS (SRD-FW-99)
16	MANHOLE TYPE M (MH-M)
17	PAVEMENT MARKINGS (PM-WAQFTW)
18	TEMPORARY EROSION CONTROL (EC(1)-93)
19-20	CROSS SECTIONS
21	SIGNAL LAYOUT PLAN
22	SIGNAL LAYOUT TABLES
23	TRAFFIC SIGNAL HEAD DETAILS
24	TRAFFIC SIGNAL POLE FOUNDATIONS
25	CONTROLLER FOUNDATION / GROUND BDX INSTALLATION
26	TRANSFORMER BASE DETAILS



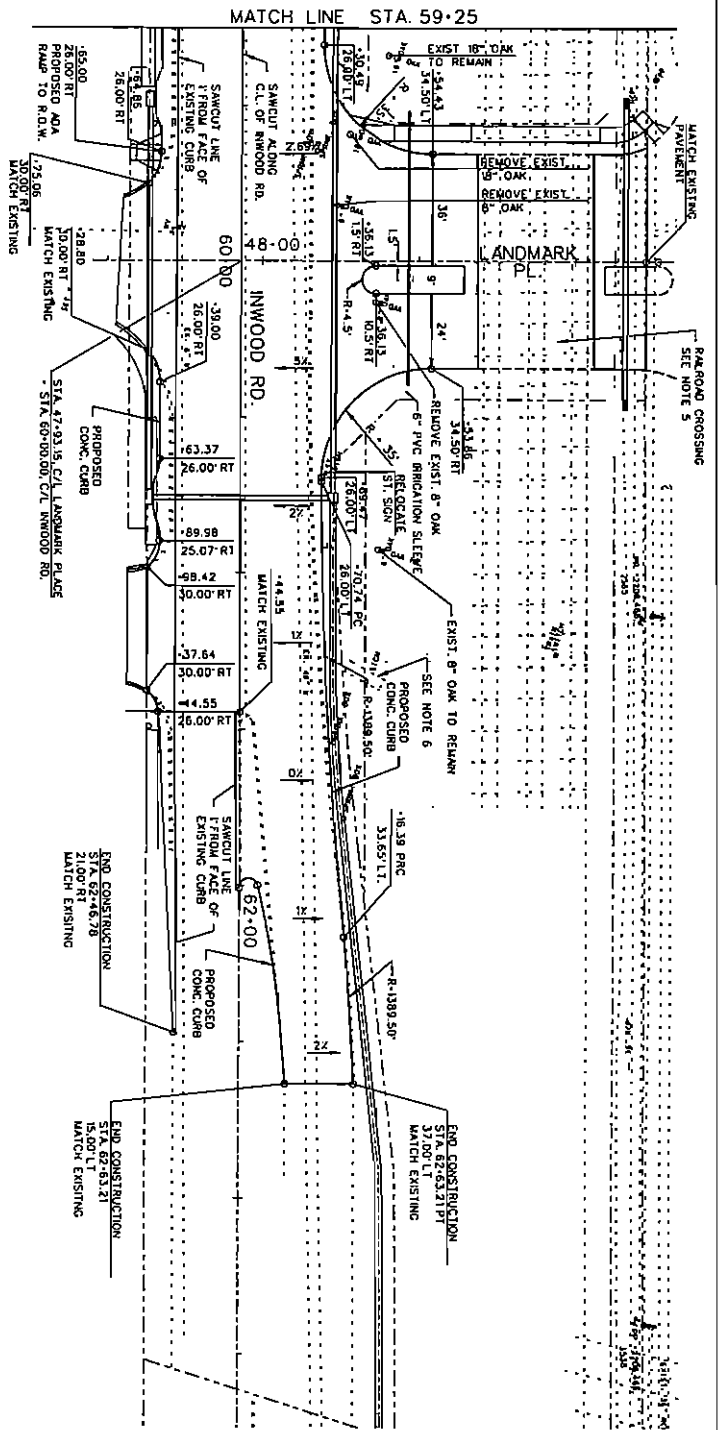
- NOTES:
1. ALL DIMENSIONS ARE FACE TO FACE OF CURB, UNLESS OTHERWISE NOTED.
  2. FOR WORKING CONTRACTOR IS TO SAWCUT EXISTING PAVEMENT FROM FACE OF EXISTING CURB AND CONSTRUCT NEW PAVEMENT TO LIMITS AS SHOWN ON THE PLAN USING A CROSS SLOPE OF 2%.
  3. ALL EXISTING TREES WITHIN THE PROJECT LIMITS SHALL BE REMOVED AND HAILED OFF BY THE CONTRACTOR THE TOWN OF ADDISON SHALL RESTORE THE PARKWAYS WITH NEW TREE PLANTINGS AND OTHER LANDSCAPING ITEMS.

**100% REVIEW**

THE TOWN OF ADDISON APPROVES THE PREPARED BY: [Signature] DATE: [Date] FOR THE TOWN OF ADDISON.



PLAN AND PROFILE						
INWOOD CONNECTION						
STA. 55+52.00 TO STA. 59+25.00						
TOWN OF ADDISON, TEXAS						
DESIGN	DRAWN	DATE	SCALE	ADITS	TITLE	NUMBER
W.L.	C.W.W.	3/01	1"=10'			2

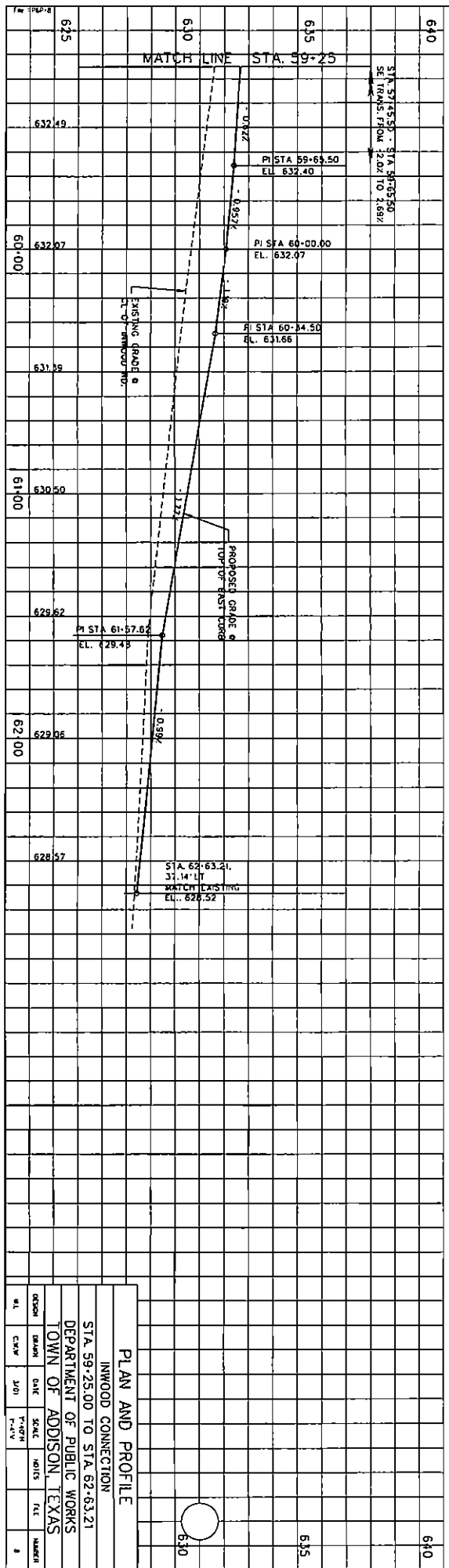


**HORIZONTAL SCALE:**  
 0 10 20 30 40 50 60  
**VERTICAL SCALE:**  
 0 1 2 3 4 5 6

- NOTES:**
1. ALL DIMENSIONS ARE FACE TO FACE OF CURB, UNLESS OTHERWISE NOTED.
  2. FOR WORKING CONTRACTOR IS TO SAWCUT EXISTING PAVEMENT FROM FACE OF EXISTING CURB AND CONSTRUCT NEW PAVEMENT TO LIMITS AS SHOWN ON THE PLAN USING A CROSS SLOPE OF 2%.
  3. SEE PLAN AND PROFILE SHEET 2 FOR PAVING DETAILS ON LANDMARK PLACE ROAD CROSSING.
  4. SEE TYPICAL SECTIONS FOR CONSTRUCTION JOINT DETAIL ON LANDMARK PLACE.
  5. CONCRETE CROSSING ON RAILROAD TRACKS ARE TO BE PROVIDED BY OTHERS.
  6. CONTRACTOR SHALL PROTECT EXISTING TOWN OF ADDISON SIGN AND FOUNDATION AND REPAIR DAMAGE OCCURS.

**100% REVIEW**

THE ENGINEER & ARCHITECT HEREBY CERTIFY THAT THIS PLAN AND PROFILE WAS PREPARED BY US OR UNDER OUR CLOSE PERSONAL SUPERVISION AND THAT WE ARE A REGISTERED PROFESSIONAL ENGINEER AND ARCHITECT IN THE STATE OF TEXAS.



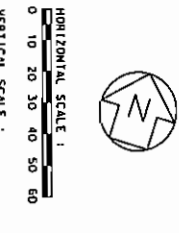
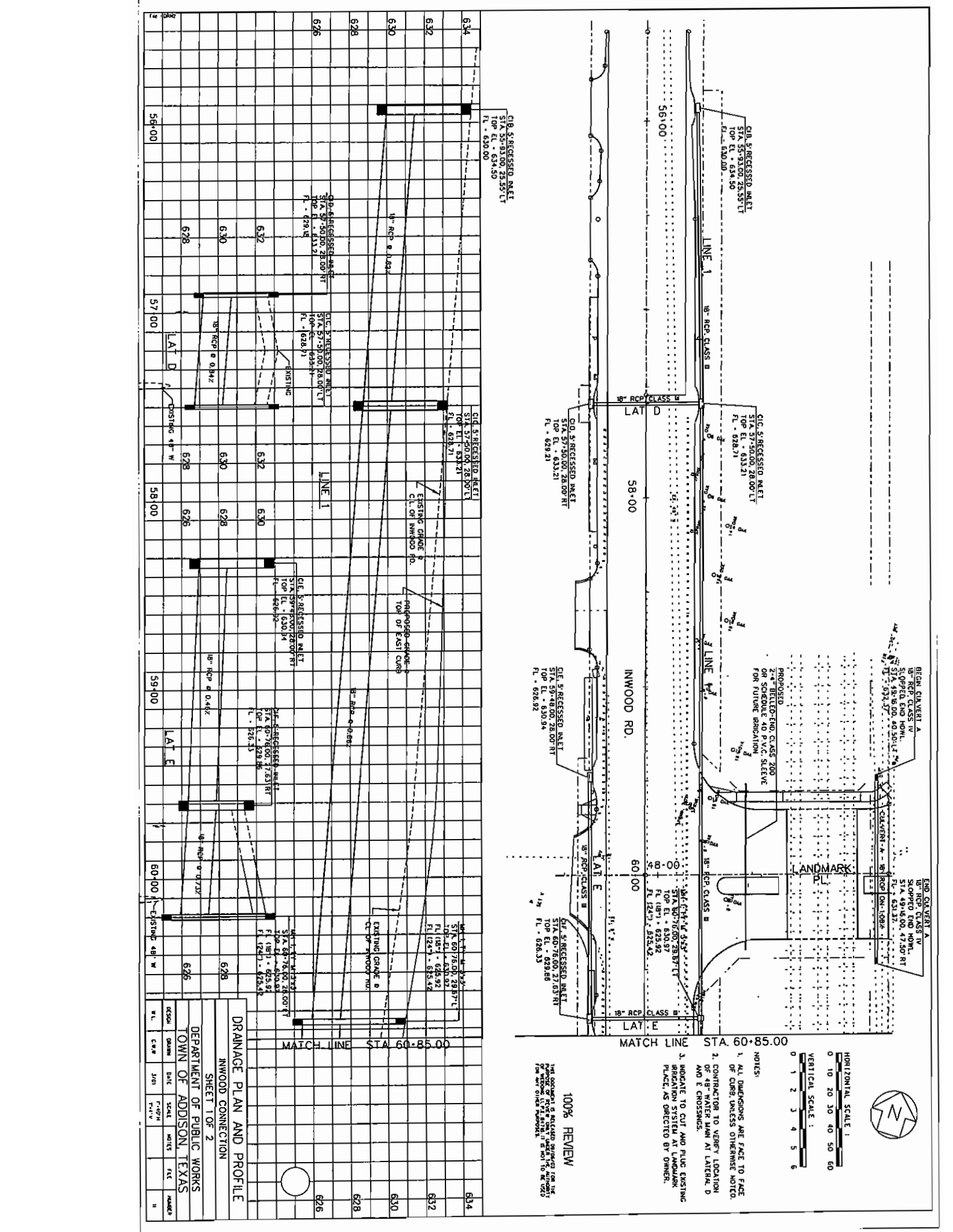
**PLAN AND PROFILE**

INWOOD CONNECTION  
 STA. 59+25.00 TO STA. 62+63.21  
 TOWN OF ADDISON, TEXAS  
 DEPARTMENT OF PUBLIC WORKS

NO.	DATE	SCALE	BY	CHECKED	DATE
1	10/15/11	AS SHOWN	JLD	WJL	10/15/11







HORIZONTAL SCALE :  
 0 10 20 30 40 50 60  
 VERTICAL SCALE :  
 0 1 2 3 4 5 6

NOTES:  
 1. ALL DIMENSIONS ARE FACE TO FACE OF CURB, UNLESS OTHERWISE NOTED.  
 2. CONTRACTOR TO VERIFY LOCATION OF ALL EXISTING UTILITY LINES AND E CROSSINGS.  
 3. INDICATE TO CUT AND PLACE EXISTING IRRIGATION SYSTEM AT LANDMARK PLACE AS DIRECTED BY OWNER.

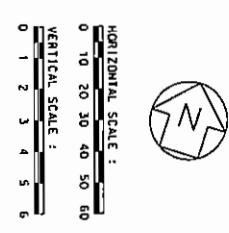
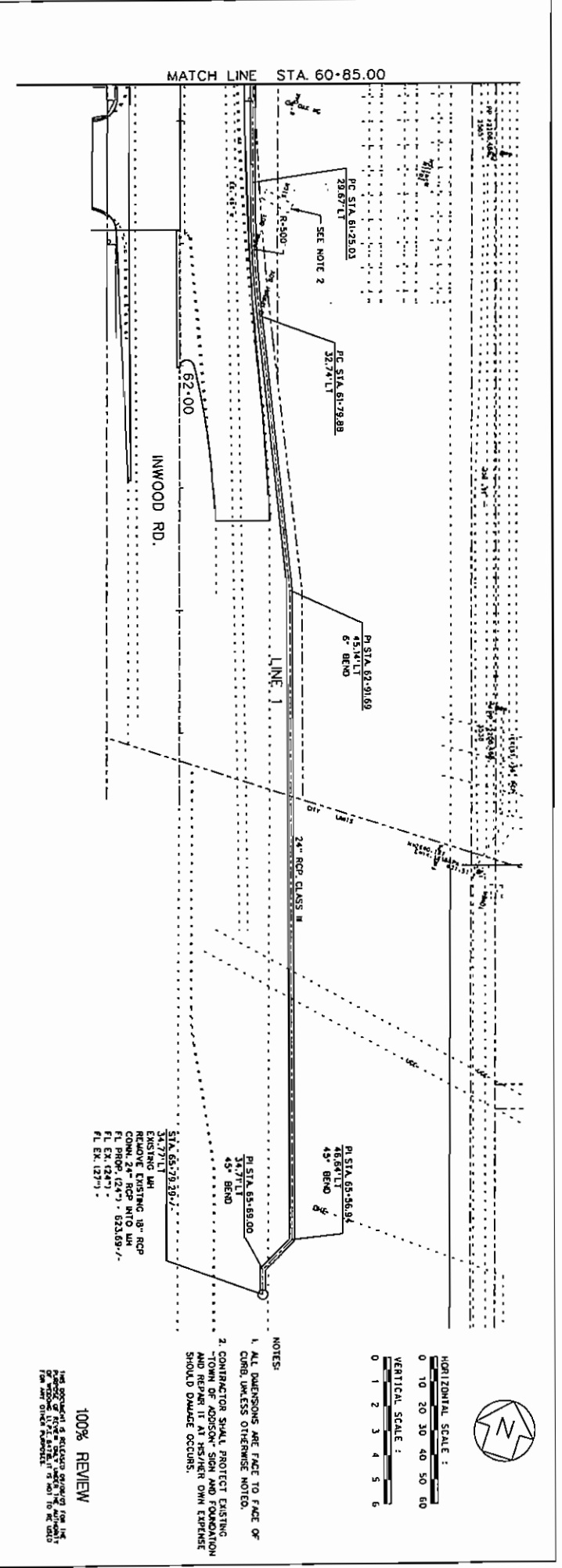
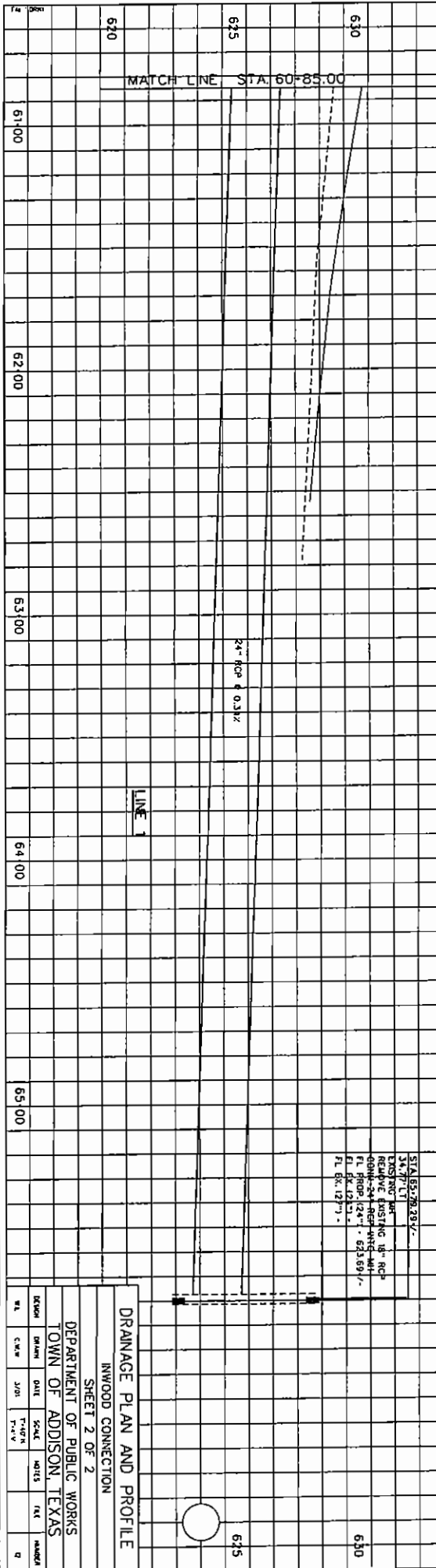
100% REVIEW

THIS DOCUMENT IS A PRELIMINARY DESIGN. THE USE OF THIS DOCUMENT FOR CONSTRUCTION SHALL BE AT THE USER'S RISK. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

**DRAINAGE PLAN AND PROFILE**  
 INWOOD CONNECTION  
 SHEET 1 OF 2

DEPARTMENT OF PUBLIC WORKS  
 TOWN OF ADDISON, TEXAS

DESIGN	DRAWN	DATE	SCALE	NOTES	FILE	NUMBER



- NOTES:
1. ALL DIMENSIONS ARE FACE TO FACE OF CURB, UNLESS OTHERWISE NOTED.
  2. CONTRACTOR SHALL PROTECT EXISTING UTILITIES AND ADJACENT PROPERTY. ANY DAMAGE TO EXISTING UTILITIES OR ADJACENT PROPERTY SHOULD BE REPAIRED BY CONTRACTOR.

100% REVIEW

THE DESIGNER'S PROFESSIONAL SEAL AND SIGNATURE ARE REQUIRED FOR THE PROVISION OF THIS PLAN. THE DESIGNER'S SEAL AND SIGNATURE ARE REQUIRED FOR THE PROVISION OF THIS PLAN. THE DESIGNER'S SEAL AND SIGNATURE ARE REQUIRED FOR THE PROVISION OF THIS PLAN.

STA. 65+26.23+/-  
 34.77' LT  
 EXISTING 18" RCP  
 REMOVE EXISTING 18" RCP  
 60" DIA. 24" RCP INTO 18" RCP  
 FL. EX. (24") = 623.89'-/-  
 FL. EX. (18") = 623.89'-/-  
 FL. EX. (24") = 623.89'-/-  
 FL. EX. (18") = 623.89'-/-

DRAINAGE PLAN AND PROFILE							
INWOOD CONNECTION							
SHEET 2 OF 2							
DEPARTMENT OF PUBLIC WORKS							
TOWN OF ADDISON, TEXAS							
NO.	DATE	SCALE	BY	CHK	APP	DATE	NO.

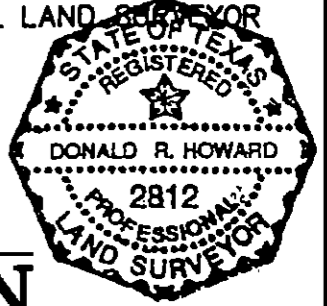




COUNTY : DALLAS  
ROADWAY : SOUTH QUORUM/INWOOD CONNECTION  
PARCEL : ROADWAY ESM'T.(RE-7)

*Donald R. Howard 11/11/00*

DONALD R. HOWARD  
REGISTERED PROFESSIONAL LAND SURVEYOR  
TEXAS REG. NO. 2812



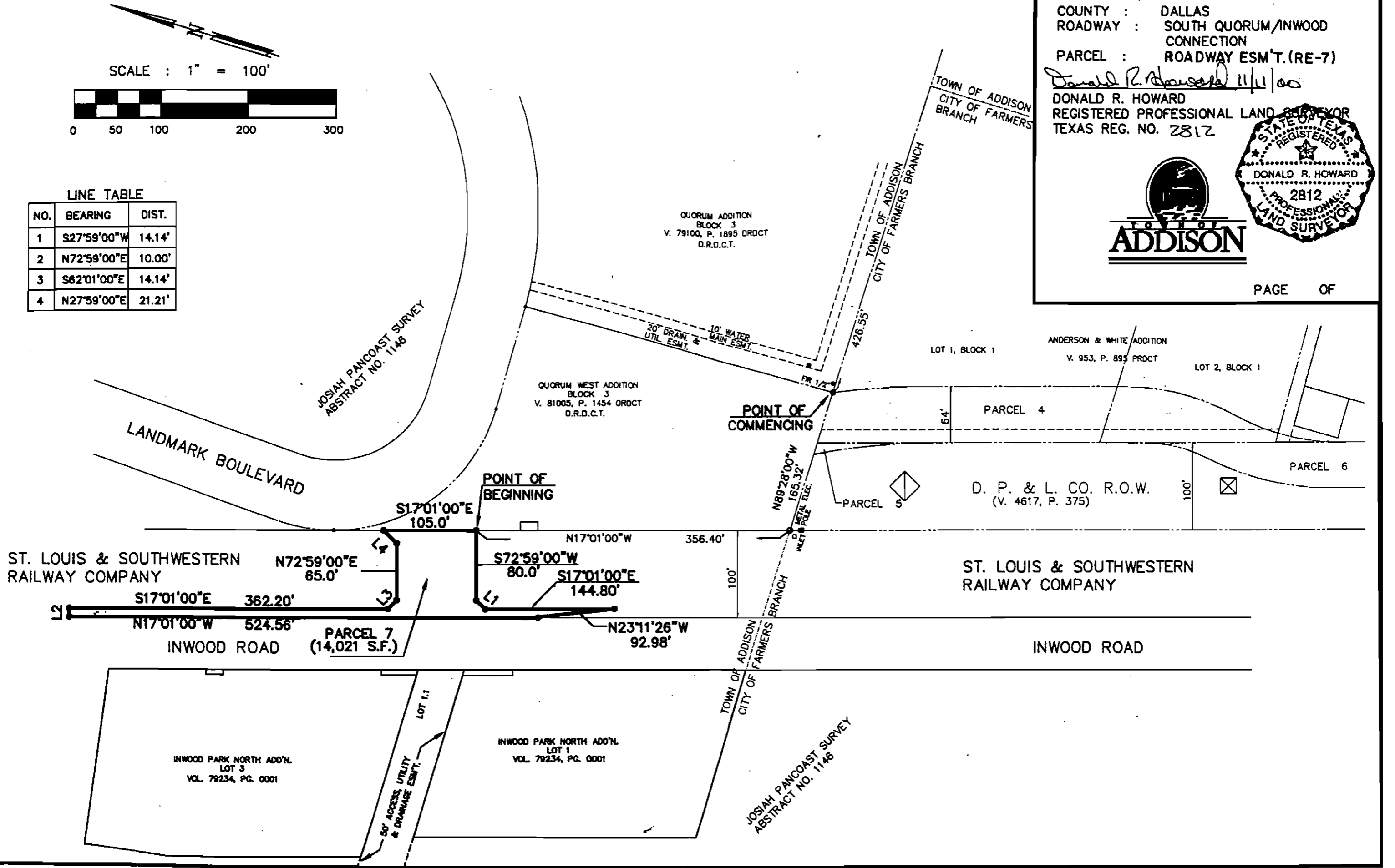
PAGE OF

SCALE : 1" = 100'



LINE TABLE

NO.	BEARING	DIST.
1	S27°59'00"W	14.14'
2	N72°59'00"E	10.00'
3	S62°01'00"E	14.14'
4	N27°59'00"E	21.21'





# **EXHIBIT B**

Terms and Conditions

## EXHIBIT B

### Public Highway Crossing

#### SECTION 1 - CONDITIONS AND COVENANTS

- a) The Railroad makes no covenant or warranty of title for quiet possession or against encumbrances. The Town shall not use or permit use of the Crossing Area for any purposes other than those described in this Agreement. Without limiting the foregoing, the Town shall not use or permit use of the Crossing Area for railroad purposes, or for gas, oil or gasoline pipe lines. Any lines constructed on the Railroad's property by or under authority of the Town for the purpose of conveying electric power or communications incidental to the Town's use of the property for highway purposes shall be constructed in accordance with specifications and requirements of the Railroad, and in such manner as not adversely to affect communication or signal lines of the Railroad or its licensees now or hereafter located upon said property. No nonparty shall be admitted by the Town to use or occupy any part of the Railroad's property without the Railroad's written consent. Nothing herein shall obligate the Railroad to give such consent.
- b) UP and the Railroad reserve the right to cross the Crossing Area with such railroad tracks as may be required for its convenience or purposes in such manner as not unreasonably to interfere with its use as a public highway. In the event UP and the Railroad shall place tracks upon the Crossing Area, the Town shall, at its sole cost and expense, modify the highway to conform with the rail line.
- c) The right hereby granted is subject to any existing encumbrances and rights (whether public or private), recorded or not, and also to any renewals thereof. Except as authorized pursuant to law or by agreement, the Town shall not damage, destroy or interfere with the property or rights of nonparties in, upon or relating to the railroad property, unless the Town at its own expense settles with and obtains releases from such nonparties.
- d) The Railroad reserves the right to use and to grant to others the right to use the Crossing Area for any purpose not inconsistent with the right hereby granted, including, but not by way of limitation, the right to construct, reconstruct, maintain, operate, repair, alter, renew and replace tracks, railroad facilities and railroad appurtenances on the property; also the right to cross the Crossing Area with all kinds of equipment in connection with a railroad use. The Railroad further reserves the right to attach signal, communication or power lines in connection with its railroad use to any highway facilities located upon the property, provided that such attachments shall comply with Town's specifications and will not interfere with the use of the Crossing Area.
- e) So far as it lawfully may do so, the Town will assume, bear and pay all taxes and assessments of whatsoever nature or kind (whether general, local or special) levied or assessed upon or against the Crossing Area, excepting taxes levied upon and against the property as a component part of the Railroad's operating property.
- f) If any property or rights other than the right hereby granted are necessary for the construction, maintenance and use of the highway and its appurtenances, or for the performance of any work in connection with the Project, the Town will acquire all such other property and rights at its own expense and without expense to the Railroad.

#### SECTION 2 - CONSTRUCTION OF HIGHWAY

- a) The Town, at its own expense, will apply for and obtain all public authority required by law, ordinance, rule or regulation for the Project, and will furnish the Railroad upon request with satisfactory evidence that such authority has been obtained.
- b) Except as may be otherwise specifically provided herein, the Town, at its own expense, will furnish all necessary labor, material and equipment, and shall construct and complete the highway and all appurtenances thereof. The appurtenances shall include, without limitation, all necessary and proper highway warning devices (except those installed by the Railroad within its right-of-way), and all necessary and proper drainage facilities, guard rails or barriers, and right of way fences between the highway and the railroad tracks. Upon completion of the Project, the Town shall remove from the Railroad's property all temporary structures and false work, and will leave the Crossing Area in a condition satisfactory to the Railroad.
- c) The Railroad will receive no ascertainable benefit from the construction of the Project, and, except as may be specifically provided herein, shall not be required to pay or contribute any part of the cost thereof. If the Project is to be financed in whole or in part by Federal funds, all construction work by the Town shall be performed, and any reimbursement to the Railroad for work it performs shall be made, in accordance with the applicable Federal acts, regulations, and this Agreement.
- d) All construction work of the Town upon the Railroad's property (including, but not limited to, construction of the highway and



all appurtenances and all related and incidental work) shall be performed and completed in a manner satisfactory to the Vice President-Engineering Services of the Railroad or his authorized representative and in accordance with detailed plans and specifications prepared by and at the expense of the Town, and approved in writing by the Railroad's Vice President-Engineering Services.

e) All construction work of the Town shall be performed diligently and completed within a reasonable time, and in any event within ~~three (3)~~ five (5) years from the effective date of this Agreement, or within such further period of time as may be specified in writing by the Railroad's Vice President-Engineering Services. No part of the Project shall be suspended, discontinued or unduly delayed without the Railroad's written consent, and subject to such reasonable conditions as the Railroad may specify. It is understood that the Railroad's tracks at and in the vicinity of the work will be in constant or frequent use during progress of the work and that movement or stoppage of trains, engines or cars may cause delays in the work of the Town. The Town hereby assumes the risk of any such delays and agrees that no claims for damage on account of any delay shall be made against the Railroad.

f) If the Project includes construction of a structure over which trains are to be operated, or for which the Railroad has any responsibility for maintenance, the Town shall furnish the Railroad permanent reproducible prints of all design and shop drawings as soon as possible after approval by the Vice President-Engineering Services of the Railroad or his authorized representative. Upon completion of construction, the Town shall furnish the Railroad two sets of "as constructed" prints and, in addition, upon request of the Vice President-Engineering Services of the Railroad, "as constructed" permanent reproducible prints of all or any portion of the structure.

### SECTION 3 - INJURY AND DAMAGE TO PROPERTY

If the Town, in the performance of any work contemplated by this Agreement or by the failure to do or perform anything for which the Town is responsible under the provisions of this Agreement, shall injure, damage or destroy any property of the Railroad or of any other person lawfully occupying or using the property of the Railroad, such property shall be replaced or repaired by the Town at the Town's own expense, or by the Railroad at the expense of the Town, and to the satisfaction of the Railroad's Vice President-Engineering Services.

### SECTION 4 - PAYMENT FOR WORK BY THE RAILROAD COMPANY

a) Bills for work and materials shall be paid by the Town promptly upon receipt thereof. The Railroad will submit to the Town current bills for flagging and other protective services and devices during progress of the Project. The Railroad will submit final billing for flagging and other protective services within one hundred and twenty (120) days after completion of the Project, provided the Town advises the Railroad of the commencement of the 120-day period by giving the Railroad written notification of completion of the Project.

b) In connection with the Crossing Area, the Railroad may contract for the performance of any of its work by other than railroad forces. The Railroad shall give reasonable notice to the Town of its intent to work on the Crossing Area, and the Railroad and Town agree to work together to coordinate such work and its effect on the Crossing Area. The Railroad shall notify the Town of the contract price within ninety (90) days after it is awarded. Unless the Railroad's work is to be performed on a fixed price basis, the Town shall reimburse the Railroad for the amount of the contract.

### SECTION 5 - MAINTENANCE

a) If the Project involves a grade crossing:

1) The Town shall, at its own sole expense, maintain, repair, and renew, or cause to be maintained, repaired and renewed, the entire Crossing Area, except the portions between the track tie ends, which shall be maintained by and at the expense of the Railroad.

2) If, in the future, the Town elects to have the surfacing material between the track tie ends, or between tracks if there is more than one railroad track across the Crossing Area, replaced with paving or some surfacing material other than timber planking, the Railroad, at the Town's expense, shall install such replacement surfacing, and in the future, to the extent repair or replacement of the surfacing is necessitated by repair or rehabilitation of the Railroad's tracks through the Crossing Area, the Town shall bear the expense of such repairs or replacement.

b) If the Project involves a public highway crossing under the Railroad's tracks:

1) The Town shall, at its own sole expense, maintain, repair, and renew, or cause to be maintained, repaired and renewed,

the entire substructure of the highway-railroad grade separation structure.

2) The Railroad shall, at its own sole expense, maintain and repair, or cause to be maintained and repaired, the entire superstructure of the highway-railroad grade separation structure.

c) If the Project involves a public highway crossing over the Railroad's tracks, the Town shall, at its own sole expense, maintain, repair, and renew, or cause to be maintained, repaired, and renewed, the entire highway-railroad grade separation structure.

#### SECTION 6 - CHANGES IN GRADE

If at any time the Railroad shall elect, or be required by competent authority to, raise or lower the grade of all or any portion of the track or tracks located on the Crossing Area, the Town shall, at its own expense, conform the public highway in the Crossing Area to conform with the change of grade of the trackage.

#### SECTION 7 - REARRANGEMENT OF WARNING DEVICES

If the change or rearrangement of any warning device installed hereunder is necessitated for public or Railroad convenience or on account of improvements for either railroad, highway or both, the parties will apportion the expense incidental thereto between themselves by negotiation, agreement or by the order of a competent authority before the change or rearrangement is undertaken.

#### SECTION 8 - SAFETY MEASURES; PROTECTION OF RAILROAD COMPANY OPERATIONS

It is understood and recognized that safety and continuity of the Railroad's operations and communications are of the utmost importance; and in order that the same may be adequately safeguarded, protected and assured, and in order that accidents may be prevented and avoided, it is agreed with respect to all of said work of the Town that the work will be performed in a safe manner and in conformity with the following standards:

a) Definitions. All references in this Agreement to the Town shall include the Town's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority; and all references in this Agreement to work of the Town shall include work both within and outside of railroad property.

b) Compliance With Laws. The Town shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work. The Town shall use only such methods as are consistent with safety, both as concerns the Town, the Town's agents and employees, the officers, agents, employees and property of the Railroad and the public in general. The Town (without limiting the generality of the foregoing) shall comply with all applicable state and federal occupational safety and health acts and regulations. All Federal Railroad Administration regulations shall be followed when work is performed on the Railroad's premises. If any failure by the Town to comply with any such laws, regulations, and enactments, shall result in any fine, penalty, cost or charge being assessed, imposed or charged against the Railroad, the Town shall reimburse and indemnify the Railroad for any such fine, penalty, cost, or charge, including without limitation attorney's fees, court costs and expenses. The Town further agrees in the event of any such action, upon notice thereof being provided by the Railroad, to defend such action free of cost, charge, or expense to the Railroad.

c) No Interference or Delays. Recognizing that a public street and right-of-way will be constructed and used by the Town across the Crossing Area, the Town shall not unreasonably do, suffer or permit anything which will or may obstruct, endanger, interfere with, hinder or delay maintenance or operation of the Railroad's tracks or facilities, or any communication or signal lines, installations or any appurtenances thereof, or the operations of others lawfully occupying or using the Railroad's property or facilities.

d) Supervision. The Town, at its own expense, shall adequately police and supervise all work to be performed by the Town, and shall not inflict injury to persons or damage to property for the safety of whom or of which the Railroad may be responsible, or to property of the Railroad. The responsibility of the Town for safe conduct and adequate policing and supervision of the Project shall not be lessened or otherwise affected by the Railroad's approval of plans and specifications, or by the Railroad's collaboration in performance of any work, or by the presence at the work site of the Railroad's representatives, or by compliance by the Town with any requests or recommendations made by such representatives. If a representative of the Railroad is assigned to the Project, the Town will give due consideration to suggestions and recommendations made by such representative for the safety and protection of the Railroad's property and operations.

e) Suspension of Work. If at any time the Town's engineers or the Vice President-Engineering Services of the Railroad or their

respective representatives shall be of the opinion that any work of the Town is being or is about to be done or prosecuted without due regard and precaution for safety and security, the Town shall immediately suspend the work until suitable, adequate and proper protective measures are adopted and provided.

f) Removal of Debris. The Town shall not cause, suffer or permit material or debris to be deposited or cast upon, or to slide or fall upon any property or facilities of the Railroad; and any such material and debris shall be promptly removed from the Railroad's property by the Town at the Town's own expense or by the Railroad at the expense of the Town. The Town shall not cause, suffer or permit any snow to be plowed or cast upon the Railroad's property during snow removal from the Crossing Area.

g) Explosives. The Town shall not discharge any explosives on or in the vicinity of the Railroad's property without the prior consent of the Railroad's Vice President-Engineering Services, which shall not be given if, in the sole discretion of the Railroad's Vice President-Engineering Services, such discharge would be dangerous or would interfere with the Railroad's property or facilities. For the purposes hereof, the "vicinity of the Railroad's property" shall be deemed to be any place on the Railroad's property or in such close proximity to the Railroad's property that the discharge of explosives could cause injury to the Railroad's employees or other persons, or cause damage to or interference with the facilities or operations on the Railroad's property. The Railroad reserves the right to impose such conditions, restrictions or limitations on the transportation, handling, storage, security and use of explosives as the Railroad, in the Railroad's sole discretion, may deem to be necessary, desirable or appropriate. In addition to any conditions, restrictions or limitations as may be specifically imposed:

1) Unless the Railroad's Vice President-Engineering Services agrees otherwise, the Town shall provide no less than 48 hours' notice, excluding weekends and holidays, before discharging any explosives.

2) Any explosives loaded in holes or placed or otherwise readied for discharge on a day shall be discharged on the same day during daylight hours, and at mutually acceptable times.

3) The Town, at its own expense, shall take all precautionary measures and construct all temporary shelters necessary to guard against danger of damage, destruction or interference arising out of or connected with any blasting or any transportation, handling, storage, security or use of explosives.

4) The Town shall require explosives to be transported, handled, stored or otherwise secured and used in a manner satisfactory to the Railroad and in accordance with local, state and Federal laws, rules and regulations, including, without limitation, United States Department of Labor, Bureau of Labor Standards, Safety and Health Regulations for Construction, 29 CFR Part 1518, Subpart U -- "Blasting and the Use of Explosives"; and Occupational Safety and Health Administration Occupational Safety and Health Standards, 29 CFR Part 1910, Subpart H -- "Hazardous Materials".

h) Obstructions to View. Except as otherwise specifically provided herein, the Town shall not cause or permit the view along the tracks of the Railroad to be obstructed, nor place any combustible material on the premises, nor erect any structures thereon. If public law or regulation requires control or removal of weeds or vegetation on each side of the Crossing Area, the Town will perform such control or removal work without expense to the Railroad or, if the Town may not lawfully perform the control or removal work, reimburse the Railroad for the cost of performing such control or removal. If the crossing is not equipped with automatic train activated warning devices with gate arms:

1) The Town shall control or remove weeds and vegetation within and on each side of the Crossing Area so that the view of approaching motorists to approaching trains is not obstructed by weeds or vegetation; and

2) Insofar as it may lawfully may do so, the Town will not permit non-parties to construct sight obstructing buildings or other permanent structures on property adjacent to the right-of-way.

i) Excavation. The Town shall not excavate from existing slopes nor construct new slopes which are excessive and may create hazards of slides or falling rock, or impair or endanger the clearance between existing or new slopes and the tracks of the Railroad. The Town shall not do or cause to be done any work which will or may disturb the stability of any area or adversely affect the Railroad's tracks or facilities. The Town, at its own expense, shall install and maintain adequate shoring and cribbing for all excavation and/or trenching performed by the Town in connection with construction, maintenance or other work. The shoring and cribbing shall be constructed and maintained with materials and in a manner approved by the Railroad's Vice President-Engineering Services to withstand all stresses likely to be encountered, including any stresses resulting from vibrations caused by the Railroad's operations in the vicinity.

j) Drainage. The Town, at the Town's own expense, shall provide and maintain suitable facilities for draining the highway and its appurtenances, and shall not suffer or permit drainage water therefrom to flow or collect upon property of the Railroad. The

Town, at the Town's own expense, shall provide adequate passageway for the waters of any streams, bodies of water and drainage facilities (either natural or artificial, and including water from the Railroad's culvert and drainage facilities), so that said waters may not, because of any facilities or work of the Town, be impeded, obstructed, diverted or caused to back up, overflow or damage the property of the Railroad or any part thereof, or property of others. The Town shall not obstruct or interfere with existing ditches or drainage facilities.

k) Notice. Before commencing any work, the Town shall provide 48 hours prior notice (excluding weekends and holidays) to the Railroad's Manager-Track Maintenance.

l) Fiber Optic Cables. Fiber optic cable systems may be buried on the Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Town shall telephone the Railroad at 1-800-336-9193 (a 24-hour number) to determine if fiber optic cable is buried anywhere on the Railroad's premises to be used by the Town. If it is, Town will telephone the telecommunications company(ies) involved, arrange for a cable locator, and make arrangements for relocation or other protection of the fiber optic cable prior to beginning any work on the Railroad's premises.

#### SECTION 9 - INTERIM WARNING DEVICES

If at anytime it is determined by a competent authority, by the Town, or by agreement between the parties, that new or improved train activated warning devices should be installed at the Crossing Area, the Town shall install adequate temporary warning devices or signs and impose appropriate vehicular control measures to protect the motoring public until the new or improved devices have been installed.

#### SECTION 10 - OTHER RAILROADS

All protective and indemnifying provisions of this Agreement shall inure to the benefit of the Railroad and any other railroad company lawfully using the Railroad's property or facilities.

#### SECTION 11 - REMEDIES FOR BREACH OR NONUSE

a) If the Town shall fail, refuse or neglect to perform and abide by the terms of this Agreement, the Railroad, in addition to any other rights and remedies, may perform any work which in the judgment of the Railroad is necessary to place the highway and appurtenances in such condition as will not menace, endanger or interfere with the Railroad's facilities or operations or jeopardize the Railroad's employees; and the Town will reimburse the Railroad for the expenses thereof.

b) Nonuse by the Town of the Crossing Area for public roadway purposes continuing at any time for a period of eighteen (18) months shall, at the option of the Railroad, work a termination of this Agreement and of all rights of the Town hereunder.

c) The Town will surrender peaceable possession of the Crossing Area upon termination of this Agreement. Termination of this Agreement shall not affect any rights, obligations or liabilities of the parties, accrued or otherwise, which may have arisen prior to termination.

#### SECTION 12 - MODIFICATION - ENTIRE AGREEMENT

No waiver, modification or amendment of this agreement shall be of any force or effect unless made in writing, signed by the Town and the Railroad and specifying with particularity the nature and extent of such waiver, modification or amendment. Any waiver by the Railroad of any default by the Town shall not affect or impair any right arising from any subsequent default. This Agreement and Exhibits attached hereto and made a part hereof constitute the entire understanding between the Town and the Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work or any part thereof.

#### SECTION 13 - ASSIGNMENT; SUCCESSORS AND ASSIGNS

This Agreement shall not be assigned without the written consent of the Railroad. Subject hereto, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

## EXHIBIT B-1

### Public Road Insurance Requirements

The Town and/or its Contractor/Subcontractor shall, at its own and/or its Contractor's/Subcontractor's sole cost and expense, procure the following kinds of insurance and promptly pay when due all premiums for that insurance. The Railroad Protective Insurance described in Paragraph D below only needs to be obtained and kept in force during the duration of construction or major reconstruction of the highway located on the Premises. The other insurance coverage described in Paragraphs A, B and C below shall be kept in force by the Town during the life of this Agreement.

- A. General Public Liability insurance providing bodily injury, including death, personal injury and property damage coverage with a combined single limit of at least \$2,000,000 each occurrence or claim and a general aggregate limit of at least \$4,000,000. This insurance shall provide Broad Form Contractual Liability covering the indemnity provisions contained in this Agreement, Underground Hazard, Broad Form Property Damage, a waiver of governmental immunity (ISO Form GL 24 14 or equivalent), severability of interests and name Railroad as an additional insured with respect to all liabilities arising out of Town's obligation to Railroad in the Agreement. If coverage is purchased on a "claims made" basis it shall provide for at least a three (3) year extended reporting or discovery period, which shall be invoked should insurance covering the time period of this Agreement be cancelled.
- B. Automobile Public Liability insurance providing bodily injury and property damage with a combined single limit of at least \$2,000,000 each occurrence or claim. This insurance shall provide contractual liability by endorsement ISO Form CA 00 25 or equivalent covering all motor vehicles including hired and non-owned, mobile equipment to the extent it may be excluded from general liability insurance, severability of interests and name Railroad as an additional insured with respect to all liabilities arising out of Town's obligation to Railroad in the Agreement.
- C. Worker's Compensation insurance covering the statutory liability as determined by the compensation laws of the state(s) affected by this Agreement and Employers' Liability with a limit of at least \$1,000,000. Also compliance with all laws of states which require participation in their state workers' compensation fund.
- D. Railroad Protective Liability insurance naming Railroad as insured with a combined single limit of \$2,000,000 per occurrence with a \$6,000,000 aggregate. The policy form shall be AAR-AASHTO with broad form coverage for "Physical Damage to Property" (ISO Form GL 00 30) or as revised ISO-RIMA (Form CG 00 35) and include pollution arising out of fuels and lubricants brought to the job site (ISO Form CG 2831 or equivalent). If the Lloyd's London policy form is used, limits shall be \$3,000,000 per occurrence with a \$9,000,000 aggregate and the Extended Claims Made Date shall be determined by adding the length of the original policy period plus one year to the policy expiration date.

The Town and/or its Contractor(s)/Subcontractor(s) hereby waive their right of subrogation, as respects the above insurance policy(ies), against Railroad for payments made to or on behalf of employees of Town or its agents or its Contractor(s)/Subcontractor(s) and for loss of their owned or leased property or property under their care, custody and control while on or near Railroad's right-of-way or other real property. Town's and/or its Contractor's/Subcontractor's insurance shall be primary with respect to any insurance carried by Railroad.

Town and/or its Contractor(s)/Subcontractor(s) shall furnish to Railroad certificate(s) of insurance evidencing the required coverage and endorsement(s) and upon request a certified duplicate original of any of those policies. The insurance company(ies) issuing such policy(ies) shall notify Railroad in writing of any material alteration including any change in the retroactive date in any "claims-made" policies or substantial reduction of aggregate limits, if such limits apply, or cancellation thereof at least thirty (30) days prior thereto.

The insurance policy(ies) shall be written by a reputable insurance company or companies acceptable to Railroad or with a current Best's Insurance Guide Rating of B and Class VII or better. Such insurance company shall be authorized to transact business in the state(s) affected by this Agreement.



# **EXHIBIT C**

Contractor's Right of Entry Agreement

# UNION PACIFIC RAILROAD COMPANY

Real Estate Department

R. D. Uhrich  
Assistant Vice President  
J. A. Anthony  
Director - Contracts  
D. D. Brown  
Director - Real Estate  
M. W. Casey  
General Director - Special Properties  
J. P. Gade  
Director - Facility Management



1800 Farnam Street  
Omaha, Nebraska 68102  
Fax: (402) 997-3601

J. L. Hawkins  
General Director - Real Estate Operations  
M. E. Heenan  
Director - Real Estate Operations  
D. H. Lightwine  
Director - Real Estate  
T. K. Love  
Director - Real Estate

*Lonnie will  
advise*

December 17, 2001

Folder No. 1976-54

To the Contractor:

Before Union Pacific Railroad can permit you to perform work on its property for the construction of <sup>a</sup> ~~two~~ new at-grade public road crossings, it will be necessary to complete two originals of the enclosed Right of Entry Agreement as follows:

1. Fill in the complete legal name of the contractor in the space provided on Page 1 of the Contractor's Right of Entry Agreement. If a corporation, give the state of incorporation. If a partnership, give the names of all partners.
2. Fill in the date construction will begin and be completed in Article 5, Paragraph A.
3. Fill in the name of the contractor in the space provided in the signature block at the end of the Contractor's Right of Entry Agreement. If the contractor is a corporation, the person signing on its behalf must be an elected corporate officer.
4. Return all copies of the Contractor's Right of Entry Agreement together with your Certificate of Insurance as required in Exhibit B-1, in the attached, self-addressed envelope.
5. Check made payable to the Union Pacific Railroad Company in the amount of \$500.00. If you require formal billing, you may consider this letter as a formal bill. In compliance with the Internal Revenue Services' new policy regarding their Form 1099, I certify that 13-6400825 is the Railroad Company's correct Federal Taxpayer Identification Number and that Union Pacific Railroad Company is doing business as a corporation.

After approval of the Right of Entry Agreement and insurance certificate, one fully executed counterpart of the agreement will be returned to you. In no event should you begin work until you have received your counterpart of the fully executed agreement.

Under Exhibit B-1 of the enclosed Contractor's Right of Entry, you are required to procure Railroad Protective Liability Insurance (RPLI) for the duration of this project. As a service to you, Union Pacific is making this coverage available to you. You are not required to purchase this coverage from the Railroad and are encouraged to shop the market for the best available rate. If you decide; however, that acquiring this coverage from the Railroad is of benefit to you, simply complete contact Ms. Nancy Savage at 402-271-2215.

If you have any questions concerning the agreement, please contact me at (402) 271-3620. Have a safe day!

Sincerely,

PAUL G. FARRELL  
MANAGER CONTRACTS



**CONTRACTOR'S RIGHT OF ENTRY AGREEMENT**

THIS AGREEMENT is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_, by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation to be addressed at 1416 Dodge Street, WP001, Omaha, Nebraska 68179 (hereinafter the "Railroad"), and

\_\_\_\_\_ a(n) \_\_\_\_\_ (hereinafter the "Town's Contractor").

**RECITALS:**

By agreement dated \_\_\_\_\_, the Railroad granted the *Town of Addison* (hereinafter "Licensee") the right to construct ~~two~~ <sup>a</sup> new at-grade public road crossings for ~~Arapaho Road~~ <sup>Landmark Place</sup> on the property of the Railroad at Milepost 598.3, on the Dal-Nor Branch, at or near Addison, Dallas County, Texas.

The Town's Contractor has been employed by the Licensee to construct ~~two~~ <sup>a</sup> new at-grade public road crossings for ~~Arapaho Road~~ <sup>Landmark Place</sup> (hereinafter referred to as the "work") and has requested the Railroad to permit it to perform the work on Railroad property, to which the Railroad is agreeable, subject to the following terms and conditions.

**AGREEMENT:**

IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

**ARTICLE 1 - DEFINITION OF CONTRACTOR**

For purposes of this agreement, all references in this agreement to the Town's Contractor shall include the Town's Contractor's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority.

**ARTICLE 2 - RIGHT GRANTED; PURPOSE**

The Railroad hereby grants to the Town's Contractor the right, during the term hereinafter stated and upon and subject to each and all of the terms, provisions and conditions herein contained, to enter upon and have ingress to and egress from the portion of the Railroad's property at Mile Post 598.3 on the Railroad's Dal-Nor Branch at or near Addison, TX, for the purpose of constructing two new at-grade public road crossings hereinabove described. The right herein granted to Town's Contractor is limited to those portions of the Railroad's property specifically described herein, or designated by the Railroad representative named in Article 4.

**ARTICLE 3 - TERMS AND CONDITIONS CONTAINED IN EXHIBITS B AND B-1**

The terms and conditions contained in Exhibits B and B-1, hereto attached, are hereby made a part of this agreement.

**ARTICLE 4 - ALL EXPENSES TO BE BORNE BY CONTRACTOR; RAILROAD REPRESENTATIVE**

The Town's Contractor shall bear any and all costs and expenses associated with any work performed by the Town's Contractor, or any costs or expenses incurred by the Railroad relating to this agreement. All work performed by Town's Contractor on Railroad's property shall be performed in a manner satisfactory to the respective local Superintendent of Transportation Services of the Railroad or his authorized representative (hereinafter the Railroad Representative).

**ARTICLE 5 - TERM; TERMINATION**

a). The grant of right herein made to Town's Contractor shall commence on \_\_\_\_\_, and continue until \_\_\_\_\_, unless sooner terminated as herein provided, or at such time as Town's Contractor has completed its work on Railroad's property, whichever is earlier. Town's Contractor agrees to notify the Railroad Representative in writing when it has completed its work on Railroad property.

b). This agreement may be terminated by either party on ten (10) days written notice to the other party.

**ARTICLE 6 - CERTIFICATE OF INSURANCE**

a). Before commencing any work, the Town's Contractor will provide the Railroad with a Certificate issued by its insurance carrier providing the insurance coverage required pursuant to Exhibit B-1 of this agreement in a policy which contains the following type of endorsement:

Union Pacific Railroad Company is named as additional insured with respect to all liabilities arising out of Insured's, as Town's Contractor, performance of any work on the property of the Railroad.

b). Town's Contractor warrants that this agreement has been thoroughly reviewed by its insurance agent(s)/broker(s) and that said agent(s)/broker(s) has been instructed to procure insurance coverage and an endorsement as required herein.

c). All insurance correspondence shall be directed to:

Union Pacific Railroad Company  
Real Estate Department  
1416 Dodge Street, WP001  
Omaha, Nebraska 68179-1100  
Folder No. 1976-54

**ARTICLE 7 - PROTECTION OF FIBER OPTIC CABLE SYSTEMS**

Fiber optic cable systems may be buried on Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Prior to beginning any work, the Town's Contractor shall telephone the Railroad at 1-800-336-9193 (a 24-hour number) to determine if fiber optic cable is buried anywhere on the property set forth herein. If it is, the Town's Contractor shall also comply with and be subject to the provisions contained in Section 6 of Exhibit A.

**ARTICLE 8 - ENFORCEABILITY; CHOICE OF LAW; CHOICE OF FORUM**

Litigation arising out of or connected with this agreement may be instituted and maintained in the courts of the states of Nebraska and Texas, and the parties consent to jurisdiction over their person and over the subject matter of any such litigation, in those courts, and consent to service of process issued by such courts.

**ARTICLE 9 - ADMINISTRATIVE FEE**

Applicant shall pay to the Railroad **FIVE HUNDRED DOLLARS (\$500.00)** as reimbursement for clerical, administrative and handling expense in connection with the processing of this Agreement.

**ARTICLE 10 - SPECIAL PROVISIONS**

None.

IN WITNESS WHEREOF, the parties hereto have executed this agreement in duplicate as the date first herein written.

**UNION PACIFIC RAILROAD COMPANY**

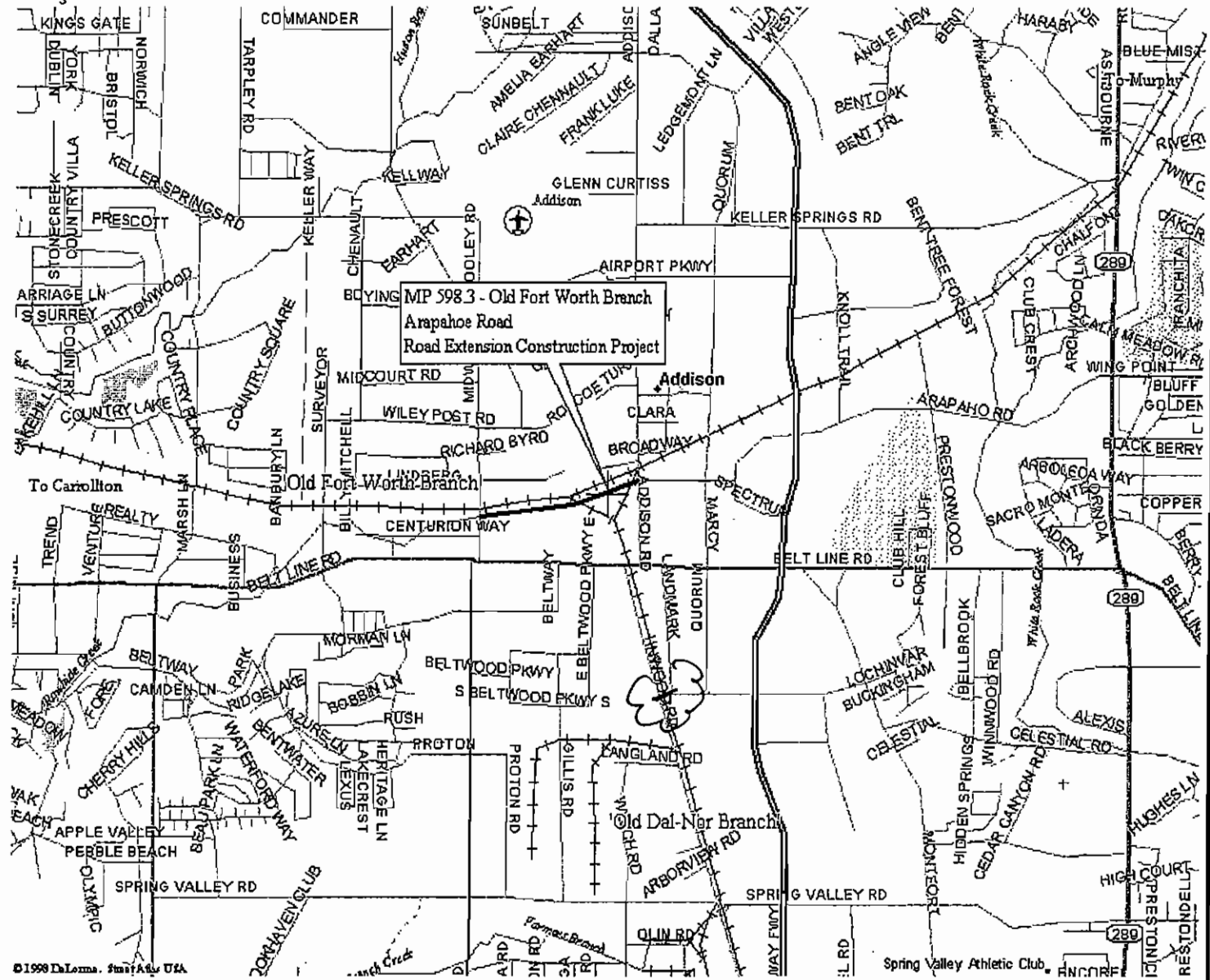
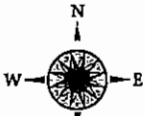
By \_\_\_\_\_  
MANAGER-CONTRACTS

WITNESS: \_\_\_\_\_  
(Name of Contractor)

\_\_\_\_\_  
By \_\_\_\_\_  
Title: \_\_\_\_\_

Need Revised map

# NEW PUBLIC ROAD CROSSING CONSTRUCTION PROJECT



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## RAILROAD WORK TO BE PERFORMED:

1. Flagging.

## EXHIBIT "A"

### UNION PACIFIC RAILROAD COMPANY DALLAS GARLAND & NORTHEASTERN RAILROAD

Old Fort Worth Branch

Mile Post 598.3

GPS: N 32° 57.436', W 96° 49.909'

Addison Jct., Dallas Co., TX.

Illustrative print showing location of proposed public road crossing extension construction project with the

**TOWN OF ADDISON, TEXAS.**

Folder No. 1976-54

Date: December 17, 2001

### WARNING

IN ALL OCCASIONS, U.P. COMMUNICATIONS DEPARTMENT MUST BE CONTACTED IN ADVANCE OF ANY WORK TO DETERMINE EXISTENCE AND LOCATION OF FIBER OPTIC CABLE. PHONE: 1-(800) 336-9193

## EXHIBIT B

*No changes  
from here  
on*

### TO CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

#### Section 1. NOTICE OF COMMENCEMENT OF WORK - FLAGGING.

A. The Contractor agrees to notify the Railroad Representative at least ten (10) working days in advance of Contractor commencing its work and at least ten (10) working days in advance of proposed performance of any work by the Contractor in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of Railroad's track(s) at any time, for any reason, unless and until a Railroad flagman is provided to watch for trains. Upon receipt of such ten (10)-day notice, the Railroad Representative will determine and inform the Contractor whether a flagman need be present and whether the Contractor need implement any special protective or safety measures. If flagging or other special protective or safety measures are performed by the Railroad, such services will be provided at Contractor's expense with the understanding that if the Railroad provides any flagging or other services, the Contractor shall not be relieved of any of its responsibilities or liabilities set forth herein. Contractor shall promptly pay to Railroad all charges connected with such services within thirty (30) days after presentation of a bill.

B. The rate of pay per hour for each man will be the prevailing hourly rate in effect for an eight hour day for the class of men used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect on the day of execution of this agreement. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays; two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between the Railroad and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized Governmental Agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, the Contractor shall pay on the basis of the new rates and charges.

C. Reimbursement to the Railroad will be required covering the full eight hour day during which any flagman is furnished, unless he can be assigned to other Railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Railroad work. Reimbursement will also be required for any day not actually worked by said flagman following his assignment to work on the project for which the Railroad is required to pay the flagman and which could not reasonably be avoided by the Railroad by assignment of such flagman to other work, even though the Contractor may not be working during such time. When it becomes necessary for the Railroad to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, the Contractor must provide the Railroad a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5)-days notice of cessation is not given, the Contractor will still be required to pay flagging charges for the five (5)-day notice period required by union agreement to be given to the employee, even though flagging is not required for that period. An additional ten (10) days notice must then be given to the Railroad if flagging service are needed again after such five day cessation notice has been given Railroad.

#### Section 2. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED

A. The foregoing grant of right is subject and subordinate to the prior and continuing right and obligation of the Railroad to use and maintain its entire property including the right and power of the Railroad to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, roadways, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by the Railroad without liability to the Contractor or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of the Railroad's property, and others) and the right of the Railroad to renew and extend the same, and is made without covenant of title or for quiet enjoyment.

#### Section 3. NO INTERFERENCE WITH OPERATIONS OF RAILROAD AND ITS TENANTS.

A. The Contractor shall conduct its operations so as not to interfere with the continuous and uninterrupted use and operation of the railroad tracks and property of the Railroad, including without limitation, the operations of the Railroad's lessees, licensees or others, unless specifically authorized in advance by the Railroad Representative. Nothing shall be done or permitted to be done by the Contractor at any time that would in any manner impair the safety of such operations. When not in use, Contractor's

machinery and materials shall be kept at least fifty (50) feet from the centerline of the Railroad's nearest track, and there shall be no vehicular crossings of Railroad's tracks except at existing open public crossings.

B. Operations of the Railroad and work performed by the Railroad personnel and delays in the work to be performed by the Contractor caused by such railroad operations and work are expected by the Contractor, and Contractor agrees that the Railroad shall have no liability to Contractor, its subcontractors or any other person or entity for any such delays. The Contractor shall coordinate its activities with those of the Railroad and third parties so as to avoid interference with railroad operations. The safe operation of the Railroad takes precedence over any work to be performed by the Contractor.

Section 4. LIENS.

The Contractor shall pay in full all persons who perform labor or provide materials for the work to be performed by Contractor. The Contractor shall not create, permit or suffer any mechanic's or materialmen's liens of any kind or nature to be created or enforced against any property of the Railroad for any such work performed. The Contractor shall indemnify and hold harmless the Railroad from and against any and all liens, claims, demands, costs or expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials furnished. If the Contractor fails to promptly cause any lien to be released of record, the Railroad may, at its election, discharge the lien or claim of lien at Contractor's expense.

Section 5. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

A. Fiber optic cable systems may be buried on the Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Contractor shall telephone the Railroad during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried anywhere on the Railroad's premises to be used by the Contractor. If it is, Contractor will telephone the telecommunications company(ies) involved, make arrangements for a cable locator and, if applicable, for relocation or other protection of the fiber optic cable. The Contractor shall not commence any work until all such protection or relocation (if applicable) has been accomplished.

B. In addition to other indemnity provisions in this Agreement, the Contractor shall indemnify, defend and hold the Railroad harmless from and against all costs, liability and expense whatsoever (including, without limitation, attorneys' fees, court costs and expenses) arising out of any act or omission of the Contractor, its contractor, agents and/or employees, that causes or contributes to (1) any damage to or destruction of any telecommunications system on Railroad's property, and/or (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on Railroad's property. Contractor shall not have or seek recourse against Railroad for any claim or cause of action for alleged loss of profits or revenue or loss of service or other consequential damage to a telecommunication company using Railroad's property or a customer or user of services of the fiber optic cable on Railroad's property.

Section 6. PERMITS - COMPLIANCE WITH LAWS.

In the prosecution of the work covered by this agreement, the Contractor shall secure any and all necessary permits and shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work including, without limitation, all applicable Federal Railroad Administration regulations.

Section 7. SAFETY.

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of the work performed by the Contractor. The Contractor shall be responsible for initiating, maintaining and supervising all safety, operations and programs in connection with the work. The Contractor shall at a minimum comply with the Railroad's safety standards listed in Exhibit D, hereto attached, to ensure uniformity with the safety standards followed by the Railroad's own forces. As a part of the Contractor's safety responsibilities, the Contractor shall notify the Railroad if the Contractor determines that any of the Railroad's safety standards are contrary to good safety practices. The Contractor shall furnish copies of Exhibit D to each of its employees before they enter on the job site.

B. Without limitation of the provisions of paragraph A above, the Contractor shall keep the job site free from safety and health hazards and ensure that its employees are competent and adequately trained in all safety and health aspects of the job.

C. The Contractor shall have proper first aid supplies available on the job site so that prompt first aid services may be provided to any person injured on the job site. The Contractor shall promptly notify the Railroad of any U.S. Occupational Safety and Health Administration reportable injuries. The Contractor shall have a nondelegable duty to control its employees while they are on the job site or any other property of the Railroad, and to be certain they do not use, be under the influence of, or have in their possession any alcoholic beverage, drug or other substance that may inhibit the safe performance of any work.

D. If and when requested by the Railroad, the Contractor shall deliver to the Railroad a copy of the Contractor's safety plan for conducting the work (the "Safety Plan"). Railroad shall have the right, but not the obligation, to require the Contractor to correct any deficiencies in the Safety Plan. The terms of this agreement shall control if there are any inconsistencies between this agreement and the Safety Plan.

Section 8. INDEMNITY.

A. To the extent not prohibited by applicable statute, the Contractor shall indemnify, defend and hold harmless the Railroad, its affiliates, and its and their officers, agents and employees ("Indemnified Parties") from and against any and all loss, damage, injury, liability, claim, demand, cost or expense (including, without limitation, attorney's, consultant's and expert's fees, and court costs), fine or penalty (collectively, "Loss") incurred by any person (including, without limitation, any Indemnified Party, the Contractor, or any employee of the Contractor or of any Indemnified Party) arising out of or in any manner connected with (i) any work performed by the Contractor, or (ii) any act or omission of the Contractor, its officers, agents or employees, or (iii) any breach of this agreement by the Contractor.

B. The right to indemnity under this Section 8 shall accrue upon occurrence of the event giving rise to the Loss, and shall apply regardless of any negligence or strict liability of any Indemnified Party, except where the Loss is caused by the sole active negligence of an Indemnified Party as established by the final judgment of a court of competent jurisdiction. The sole active negligence of any Indemnified Party shall not bar the recovery of any other Indemnified Party.

C. The Contractor expressly and specifically assumes potential liability under this Section 8 for claims or actions brought by the Contractor's own employees. The Contractor waives any immunity it may have under worker's compensation or industrial insurance acts to indemnify the Railroad under this Section 8. Contractor acknowledges that this waiver was mutually negotiated by the parties hereto.

D. No court or jury findings in any employee's suit pursuant to any worker's compensation act or the Federal Employers' Liability Act against a party to this agreement may be relied upon or used by the Contractor in any attempt to assert liability against the Railroad.

E. The provisions of this Section 8 shall survive the completion of any work performed by the Contractor or the termination or expiration of this agreement. In no event shall this Section 8 or any other provision of this agreement be deemed to limit any liability the Contractor may have to any Indemnified Party by statute or under common law.

Section 9. RESTORATION OF PROPERTY.

In the event the Railroad authorizes the Contractor to take down any fence of the Railroad or in any manner move or disturb any of the other property of the Railroad in connection with the work to be performed by Contractor, then in that event the Contractor shall, as soon as possible and at Contractor's sole expense, restore such fence and other property to the same condition as the same were in before such fence was taken down or such other property was moved or disturbed. The Contractor shall remove all of Contractor's tools, equipment, rubbish and other materials from Railroad's property promptly upon completion of the work, restoring Railroad's property to the same state and condition as when Contractor entered thereon.

Section 10. WAIVER OF DEFAULT.

Waiver by the Railroad of any breach or default of any condition, covenant or agreement herein contained to be kept, observed and performed by the Contractor shall in no way impair the right of the Railroad to avail itself of any remedy for any subsequent breach or default.

Section 11. MODIFICATION - ENTIRE AGREEMENT.

No modification of this agreement shall be effective unless made in writing and signed by the Contractor and the Railroad. This agreement and the exhibits attached hereto and made a part hereof constitute the entire understanding between the Contractor and the Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work to be performed by the Contractor.

Section 12. ASSIGNMENT - SUBCONTRACTING.

The Contractor shall not assign or subcontract this agreement, or any interest therein, without the written consent of the Railroad. The Contractor shall be responsible for the acts and omissions of all subcontractors, and shall require all subcontractors to maintain the insurance coverage required to be maintained by the Contractor as provided in this agreement, and to indemnify the Contractor and the Railroad to the same extent as the Railroad is indemnified by the Contractor under this agreement.

## EXHIBIT C

### TO CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

Union Pacific Railroad Company  
Insurance Provisions For  
Contractor's Right of Entry Agreement

Contractor shall, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

A. Commercial General Liability insurance. This insurance shall contain broad form contractual liability with a single limit of at least \$5,000,000 each occurrence or claim and an aggregate limit of at least \$10,000,000. Coverage must be purchased on a post 1998 ISO or equivalent form, including but not limited to coverage for the following:

- Bodily injury including death and personal injury
- Property damage
- Fire legal liability (Not less than the replacement value of the portion of the premises occupied)
- Products and completed operations

The policy shall also contain the following endorsements which shall be indicated on the certificate of insurance:

- "For purposes of this insurance, Union Pacific Railroad payments related to the Federal Employers Liability Act or a Union Pacific Wage Continuation Program or similar programs are deemed not to be either payments made or obligations assumed under any Workers Compensation, disability benefits, or unemployment compensation law or similar law."
- The exclusions for railroads (except where the Job site is more than fifty feet (50') from any railroad including but not limited to tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings), and explosion, collapse and underground hazard shall be removed.
- Coverage for Contractor's (and Railroad's) employees shall not be excluded
- Waiver of subrogation

B. Business Automobile Coverage insurance. This insurance shall contain a combined single limit of at least \$5,000,000 per occurrence or claim, including but not limited to coverage for the following:

Bodily injury and property damage

Any and all motor vehicles including owned, hired and non-owned

The policy shall also contain the following endorsements which shall be indicated on the certificate of insurance:

- "For purposes of this insurance, Union Pacific Railroad payments related to the Federal Employers Liability Act or a Union Pacific Wage Continuation Program or similar programs are deemed not to be either payments made or obligations assumed under any Workers Compensation, disability benefits, or unemployment compensation law or similar law."
- The exclusions for railroads (except where the Job site is more than fifty feet (50') from any railroad including but not limited to tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings), and explosion, collapse and underground hazard shall be removed.
- Motor Carrier Act Endorsement- Hazardous materials clean up (MCS-90) if required by law.

C. Workers Compensation and Employers Liability insurance including but not limited to:

- Contractor's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement
- Employers' Liability (Part B) with limits of at least
  - \$500,000 each accident, \$500,000 disease policy limit
  - \$500,000 each employee

If Workers Compensation insurance will not cover the liability of Contractor in states that require participation in state workers' compensation fund, Contractor shall comply with the laws of such states. If Contractor is self-insured, evidence



of state approval must be provided along with evidence of excess workers compensation coverage. Coverage shall include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

The policy shall also contain the following endorsement which shall be indicated on the certificate of insurance:

- Alternate Employer Endorsement

- D. Umbrella or Excess Policies In the event Contractor utilizes Umbrella or excess policies, these policies shall "follow form" and afford no less coverage than the primary policy.
- E. Railroad Protective Liability insurance naming only the Railroad as the insured with a combined single limit of \$2,000,000 per occurrence with a \$6,000,000 aggregate. The policy shall be broad form coverage for "Physical Damage to Property" (ISO Form CG 00 35 07 98 or equivalent). A binder stating the policy is in place must be submitted to the Railroad until the original policy is forwarded to the Railroad.

#### Other Requirements

- F. Punitive damage exclusion must be deleted, which deletion shall be indicated on the certificate of insurance.
- G. Contractor agrees to waive its right of recovery, and its insurers, through policy endorsement, agree to waive their right of subrogation against Railroad. Contractor further waives its right of recovery, and its insurers also waive their right of subrogation against Railroad for loss of its owned or leased property or property under its care, custody and control. Contractor's insurance shall be primary with respect to any insurance carried by Railroad. All waivers of subrogation shall be indicated on the certificate of insurance.
- H. All policy(ies) required above (excluding Workers Compensation) shall provide severability of interests and shall name Railroad as an additional insured. Severability of interest and naming Railroad as additional insured shall be indicated on the certificate of insurance.
- I. Prior to commencing the Work, Contractor shall furnish to Railroad original certificate(s) of insurance evidencing the required coverage, endorsements, and amendments. The certificate(s) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify Railroad in writing of any cancellation or material alteration. Upon request from Railroad, a certified duplicate original of any required policy shall be furnished.
- J. Any insurance policy shall be written by a reputable insurance company acceptable to Railroad or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.
- K. Contractor WARRANTS that this Agreement has been thoroughly reviewed by Contractor's insurance agent(s)/broker(s), who have been instructed by Contractor to procure the insurance coverage required by this Agreement and acknowledges that Contractor's insurance coverage will be primary.
- L. The fact that insurance is obtained by Contractor or Railroad on behalf of Contractor shall not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Railroad shall not be limited by the amount of the required insurance coverage.

## EXHIBIT D

### TO CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

#### MINIMUM SAFETY REQUIREMENTS

The term "employees" as used herein refer to all employees of the Contractor as well as all employees of any subcontractor or agent of the Contractor.

#### I. Clothing

- A. All employees of the Contractor will be suitably dressed to perform their duties safely and in a manner that will not interfere with their vision, hearing, or free use of their hands or feet.

Specifically, the Contractor's employees must wear:

- (i) Waist-length shirts with sleeves.
  - (ii) Trousers that cover the entire leg. If flare-legged trousers are worn, the trouser bottoms must be tied to prevent catching.
  - (iii) Footwear that covers their ankles and has a defined heel. Employees working on bridges are required to wear safety-toed footwear that conforms to the American National Standards Institute (ANSI) and FRA footwear requirements.
- B. Employees shall not wear boots (other than work boots), sandals, canvas-type shoes, or other shoes that have thin soles or heels that are higher than normal.
- C. Employees must not wear loose or ragged clothing, neckties, finger rings, or other loose jewelry while operating or working on machinery.

#### II. Personal Protective Equipment

The Contractor shall require its employees to wear personal protective equipment as specified by Railroad rules, regulations, or recommended or requested by the Railroad Representative.

- (i) Hard hat that meets the American National Standard (ANSI) Z89.1 – latest revision. Hard hats should be affixed with the contractor's or subcontractor's company logo or name.
- (ii) Eye protection that meets American National Standard (ANSI) for occupational and educational eye and face protection, Z87.1 – latest revision. Additional eye protection must be provided to meet specific job situations such as welding, grinding, etc.
- (iii) Hearing protection, which affords enough attenuation to give protection from noise levels that will be occurring on the job site. Hearing protection, in the form of plugs or muffs, must be worn when employees are within:
  - 100 feet of a locomotive or roadway/work equipment
  - 15 feet of power operated tools
  - 150 feet of jet blowers or pile drivers
  - 150 feet of retarders in use (when within 10 feet, employees must wear dual ear protection – plugs and muffs)
  -
- (iv) Other types of personal protective equipment, such as respirators, fall protection equipment, and face shields, must be worn as recommended or requested by the Railroad Representative.

#### III. On Track Safety

The Contractor is responsible for compliance with the Federal Railroad Administration's Roadway Worker Protection regulations – 49CFR214, Subpart C and Railroad's On-Track Safety rules. Under 49CFR214, Subpart C, railroad contractors are responsible for the training of their employees on such regulations. In addition to the instructions contained in Roadway Worker Protection regulations, all employees must:

- (i) Maintain a distance of twenty-five (25) feet to any track unless the Railroad Representative is present to authorize movements.
- (ii) Wear an orange, reflectorized workwear approved by the Railroad Representative.
- (iii) Participate in a job briefing that will specify the type of On-Track Safety for the type of work being performed. Contractors must take special note of limits of track authority, which tracks may or may not be fouled, and clearing the track. The Contractors will also receive special instructions relating to the work zone around machines and minimum distances between machines while working or traveling.

#### IV. Equipment

- A. It is the responsibility of the Contractor to ensure that all equipment is in a safe condition to operate. If, in the opinion of the Railroad Representative, any of the Contractor's equipment is unsafe for use, the Contractor shall remove such equipment from the Railroad's property. In addition, the Contractor must ensure that the operators of all equipment are properly trained and competent in the safe operation of the equipment. In addition, operators must be:
  - Familiar and comply with Railroad's rules on lockout/tagout of equipment.
  - Trained in and comply with the applicable operating rules if operating any hy-rail equipment on-track.
  - Trained in and comply with the applicable air brake rules if operating any equipment that moves rail cars or any other railbound equipment.
- B. All self-propelled equipment must be equipped with a first-aid kit, fire extinguisher, and audible back-up warning device.
- C. Unless otherwise authorized by the Railroad Representative, all equipment must be parked a minimum of twenty-five (25) feet from any track. Before leaving any equipment unattended, the operator must stop the engine and properly secure the equipment against movement.
- D. Cranes must be equipped with three orange cones that will be used to mark the working area of the crane and the minimum clearances to overhead powerlines.

#### V. General Safety Requirements

- A. The Contractor shall ensure that all waste is properly disposed of in accordance with applicable federal and state regulations.
- B. The Contractor shall ensure that all employees participate in and comply with a job briefing conducted by the Railroad Representative, if applicable. During this briefing, the Railroad Representative will specify safe work procedures, (including On-Track Safety) and the potential hazards of the job. If any employee has any questions or concerns about the work, the employee must voice them during the job briefing. Additional job briefings will be conducted during the work as conditions, work procedures, or personnel change.
- C. All track work performed by the Contractor meets the minimum safety requirements established by the Federal Railroad Administration's Track Safety Standards 49CFR213.
- D. All employees comply with the following safety procedures when working around any railroad track:
  - (i) Always be on the alert for moving equipment. Employees must always expect movement on any track, at any time, in either direction.
  - (ii) Do not step or walk on the top of the rail, frog, switches, guard rails, or other track components.
  - (iii) In passing around the ends of standing cars, engines, roadway machines or work equipment, leave at least 20 feet between yourself and the end of the equipment. Do not go between pieces of equipment of the opening is less than one car length (50 feet).
  - (iv) Avoid walking or standing on a track unless so authorized by the employee in charge.
  - (v) Before stepping over or crossing tracks, look in both directions first.
  - (vi) Do not sit on, lie under, or cross between cars except as required in the performance of your duties and only when track and equipment have been protected against movement.
- E. All employees must comply with all federal and state regulations concerning workplace safety.

JIM - AGREEMENTS WITH ALL  
SET OF EXHIBITS, EXCEPT MAP & PLANS  
Lynn

Reed 9/23/02 ±

NEW PUBLIC HIGHWAY CROSSING AGREEMENT

LANDMARK PLACE  
MILE POST - DAL-NOR BRANCH  
ADDISON, DALLAS COUNTY, TEXAS

THIS AGREEMENT, made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, by and between **DALLAS GARLAND & NORTHEASTERN RAILROAD**, a Texas corporation (hereinafter the "DGNO" or "Railroad"), and the **TOWN OF ADDISON, TEXAS**, a municipal corporation of the State of Texas to be addressed at PO Box 9010, Addison, TX 75001-9010 (hereinafter the "Town").

WITNESSETH:

RECITALS:

The Town desires to undertake as its project the construction of a new at-grade public road crossings (hereinafter the "Project").

The Town desires the right to use for the Project that portion of the right-of-way of the Railroad at MP5\_\_\_\_, the Dal-Nor Branch (hereinafter the "Crossing Area") shown and described on the attached prints dated \_\_\_\_\_, 2002, marked **Exhibit A**.

AGREEMENT:

NOW, THEREFORE, it is mutually agreed by and between the parties hereto as follows:

**ARTICLE 1 - CROSSING APPROVAL**

For and in consideration of the Town's agreement to perform and abide by the terms of this Agreement, including **Exhibit A, B, and B-1**, attached hereto and hereby made a part hereof, DGNO hereby grants to the Town, the right to establish, construct, maintain, repair, renew, and use a public highway and right of way at grade over and across the Crossing Area, (together with any and all uses incidental thereto, including, without limitation, the installation, repair, maintenance, and replacement of water lines, sanitary sewer lines, drainage, and other utilities typically located underground within public right of way), provided that the DGNO consents in writing to the installation of the above utilities, such consent to not be unreasonably withheld, together with the right of entry to control and remove from the DGNO's right-of-way, on each side of the Crossing Area, weeds and vegetation which may obstruct the view of motorists approaching the Crossing Area, and to any trains that may be also be approaching the Crossing Area.

**ARTICLE 2 - RAIL OPERATIONS COST**

The new crossing will occur in the middle of an existing DGNO rail yard area. The crossing will cause the railroad to incur increased rail operations and expense. To reduce the increased rail operating expense, the Town and DGNO acknowledge that occasionally the crossing may be blocked for more than five (5) minutes during night rail yard movements from 10:00 PM to 5:00 AM. The Town agrees to pay to DGNO **THREE HUNDRED SEVENTY SEVEN THOUSAND DOLLARS (\$377,000)**, the complete and total compensation for these increased operating costs.

**ARTICLE 3 - CERTIFICATE OF INSURANCE**

A. Before any work on the Premises begins, the Town (as defined in Section 8 (a) of **Exhibit B** to this Agreement) will provide DGNO with a Certificate issued by its insurance carrier providing the

insurance coverage required pursuant to **Exhibit B-1** of this Agreement in a policy containing the following endorsement:

“Union Pacific Railroad Company and Dallas Garland & Northeastern Railroad are named as additional insured with respect to all liabilities arising out of Insured’s performance of the work required for the Project.”

B. The Town WARRANTS that this agreement has been thoroughly reviewed by its insurance agent (s)/broker(s) and that said agents(s)/broker(s) has been instructed to procure insurance coverage and an endorsement as required herein.

C. All insurance correspondence shall be directed to: (\_\_\_\_\_)

D. The Town may self-insure all or a portion of the insurance coverage required hereunder, subject to DGNO’s review and approval. However, the Towns contractor/subcontractor (if any) shall obtain and provide evidence of insurance coverage pursuant to **Exhibit B-1** of this agreement.

#### **ARTICLE 4 - IF WORK IS TO BE PERFORMED BY CONTRACTOR**

If a contractor is to perform any of the work on the Project (including initial construction and subsequent relocation or substantial maintenance and repair work), then the Town shall require its contractor to execute the Railroad’s Contract’s Right of Entry Agreement attached hereto as **Exhibit C**, including revisions thereto that DGNO is willing to approve, which approval shall not be unreasonably withheld, and hereby made a part hereof. Town acknowledges receipt of a copy of the Right of Entry Agreement and understanding of its terms, provisions, and requirements, and will inform its contractor of the need to execute the Agreement. Under no circumstances will Town’s contractor be allowed onto the Railroad’s premises without first executing the Contractor’s Right of Entry Agreement.

#### **ARTICLE 5 - WORK TO BE PERFORMED BY THE RAILROAD**

A. DGNO may make any and all changes, alterations or relocations, whether temporary or permanent, and may provide flagging and other protective services and devices, which in DGNO’s judgment may be or become necessary or expedient within the right-of-way because of the Project, provided, however, that this right to make such changes, alterations or relocations shall not be a right to eliminate, or unreasonably interfere with the crossing rights of the Town.

B. The Railroad, shall, at the sole cost and expense of the Town, maintain, repair, and replace the warning devices installed hereunder: PROVIDED, HOWEVER, that this provision shall not negate DGNO’s eligibility for any further federal, state or local or other public funds that may become available for the maintenance of said devices; and PROVIDED, FURTHER, that the cost of repair or replacement resulting from damage caused by non-parties that is not recoverable by DGNO from the non-parties shall be borne entirely by the Town.

C. The Town agrees to pay the Dallas Garland & Northeastern Railroad for the work performed and materials supplied by the Dallas Garland & Northeastern Railroad for the Project.

#### **ARTICLE 7 - EFFECTIVE DATE; TERM**

This Agreement shall become effective as of the date first herein written, or the date work commences on the Project, whichever is earlier, and shall continue in full force and effect until terminated as herein provided.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate as of the date.

**DALLAS GARLAND & NORTHEASTERN RAILROAD**

By \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

TOWN OF ADDISON, TEXAS

\_\_\_\_\_

By \_\_\_\_\_

Title: \_\_\_\_\_

Resolution N.: \_\_\_\_\_

Pursuant to Resolution/Order Dated: \_\_\_\_\_

(Seal)

EXHIBIT A  
MAP & PLANS



## EXHIBIT B

### Public Highway Crossing

#### SECTION 1 - CONDITIONS AND COVENANTS

- a) The Railroad makes no covenant or warranty of title for quiet possession or against encumbrances. The Town shall not use or permit use of the Crossing Area for any purposes other than those described in this Agreement. Without limiting the foregoing, the Town shall not use or permit use of the Crossing Area for railroad purposes, or for gas, oil or gasoline pipe lines. Any lines constructed on the Railroad's property by or under authority of the Town for the purpose of conveying electric power or communications incidental to the Town's use of the property for highway purposes shall be constructed in accordance with specifications and requirements of the Railroad, and in such manner as not adversely to affect communication or signal lines of the Railroad or its licensees now or hereafter located upon said property. No nonparty shall be admitted by the Town to use or occupy any part of the Railroad's property without the Railroad's written consent. Nothing herein shall obligate the Railroad to give such consent.
- b) UP and the Railroad reserve the right to cross the Crossing Area with such railroad tracks as may be required for its convenience or purposes in such manner as not unreasonably to interfere with its use as a public highway. In the event UP and the Railroad shall place tracks upon the Crossing Area, the Town shall, at its sole cost and expense, modify the highway to conform with the rail line.
- c) The right hereby granted is subject to any existing encumbrances and rights (whether public or private), recorded or not, and also to any renewals thereof. Except as authorized pursuant to law or by agreement, the Town shall not damage, destroy or interfere with the property or rights of nonparties in, upon or relating to the railroad property, unless the Town at its own expense settles with and obtains releases from such nonparties.
- d) The Railroad reserves the right to use and to grant to others the right to use the Crossing Area for any purpose not inconsistent with the right hereby granted, including, but not by way of limitation, the right to construct, reconstruct, maintain, operate, repair, alter, renew and replace tracks, railroad facilities and railroad appurtenances on the property; also the right to cross the Crossing Area with all kinds of equipment in connection with a railroad use. The Railroad further reserves the right to attach signal, communication or power lines in connection with its railroad use to any highway facilities located upon the property, provided that such attachments shall comply with Town's specifications and will not interfere with the use of the Crossing Area.
- e) So far as it lawfully may do so, the Town will assume, bear and pay all taxes and assessments of whatsoever nature or kind (whether general, local or special) levied or assessed upon or against the Crossing Area, excepting taxes levied upon and against the property as a component part of the Railroad's operating property.
- f) If any property or rights other than the right hereby granted are necessary for the construction, maintenance and use of the highway and its appurtenances, or for the performance of any work in connection with the Project, the Town will acquire all such other property and rights at its own expense and without expense to the Railroad.

#### SECTION 2 - CONSTRUCTION OF HIGHWAY

- a) The Town, at its own expense, will apply for and obtain all public authority required by law, ordinance, rule or regulation for the Project, and will furnish the Railroad upon request with satisfactory evidence that such authority has been obtained.
- b) Except as may be otherwise specifically provided herein, the Town, at its own expense, will furnish all necessary labor, material and equipment, and shall construct and complete the highway and all appurtenances thereof. The appurtenances shall include, without limitation, all necessary and proper highway warning devices (except those installed by the Railroad within its right-of-way), and all necessary and proper drainage facilities, guard rails or barriers, and right of way fences between the highway and the railroad tracks. Upon completion of the Project, the Town shall remove from the Railroad's property all temporary structures and false work, and will leave the Crossing Area in a condition satisfactory to the Railroad.
- c) The Railroad will receive no ascertainable benefit from the construction of the Project, and, except as may be specifically provided herein, shall not be required to pay or contribute any part of the cost thereof. If the Project is to be financed in whole or in part by Federal funds, all construction work by the Town shall be performed, and any reimbursement to the Railroad for work it performs shall be made, in accordance with the applicable Federal acts, regulations, and this Agreement.
- d) All construction work of the Town upon the Railroad's property (including, but not limited to, construction of the highway and

all appurtenances and all related and incidental work) shall be performed and completed in a manner satisfactory to the Vice President-Engineering Services of the Railroad or his authorized representative and in accordance with detailed plans and specifications prepared by and at the expense of the Town, and approved in writing by the Railroad's Vice President-Engineering Services.

e) All construction work of the Town shall be performed diligently and completed within a reasonable time, and in any event within ~~three~~(3) five (5) years from the effective date of this Agreement, or within such further period of time as may be specified in writing by the Railroad's Vice President-Engineering Services. No part of the Project shall be suspended, discontinued or unduly delayed without the Railroad's written consent, and subject to such reasonable conditions as the Railroad may specify. It is understood that the Railroad's tracks at and in the vicinity of the work will be in constant or frequent use during progress of the work and that movement or stoppage of trains, engines or cars may cause delays in the work of the Town. The Town hereby assumes the risk of any such delays and agrees that no claims for damage on account of any delay shall be made against the Railroad.

f) If the Project includes construction of a structure over which trains are to be operated, or for which the Railroad has any responsibility for maintenance, the Town shall furnish the Railroad permanent reproducible prints of all design and shop drawings as soon as possible after approval by the Vice President-Engineering Services of the Railroad or his authorized representative. Upon completion of construction, the Town shall furnish the Railroad two sets of "as constructed" prints and, in addition, upon request of the Vice President-Engineering Services of the Railroad, "as constructed" permanent reproducible prints of all or any portion of the structure.

### SECTION 3 - INJURY AND DAMAGE TO PROPERTY

If the Town, in the performance of any work contemplated by this Agreement or by the failure to do or perform anything for which the Town is responsible under the provisions of this Agreement, shall injure, damage or destroy any property of the Railroad or of any other person lawfully occupying or using the property of the Railroad, such property shall be replaced or repaired by the Town at the Town's own expense, or by the Railroad at the expense of the Town, and to the satisfaction of the Railroad's Vice President-Engineering Services.

### SECTION 4 - PAYMENT FOR WORK BY THE RAILROAD COMPANY

a) Bills for work and materials shall be paid by the Town promptly upon receipt thereof. The Railroad will submit to the Town current bills for flagging and other protective services and devices during progress of the Project. The Railroad will submit final billing for flagging and other protective services within one hundred and twenty (120) days after completion of the Project, provided the Town advises the Railroad of the commencement of the 120-day period by giving the Railroad written notification of completion of the Project.

b) In connection with the Crossing Area, the Railroad may contract for the performance of any of its work by other than railroad forces. The Railroad shall give reasonable notice to the Town of its intent to work on the Crossing Area, and the Railroad and Town agree to work together to coordinate such work and its effect on the Crossing Area. The Railroad shall notify the Town of the contract price within ninety (90) days after it is awarded. Unless the Railroad's work is to be performed on a fixed price basis, the Town shall reimburse the Railroad for the amount of the contract.

### SECTION 5 - MAINTENANCE

a) If the Project involves a grade crossing:

1) The Town shall, at its own sole expense, maintain, repair, and renew, or cause to be maintained, repaired and renewed, the entire Crossing Area, except the portions between the track tie ends, which shall be maintained by and at the expense of the Railroad.

2) If, in the future, the Town elects to have the surfacing material between the track tie ends, or between tracks if there is more than one railroad track across the Crossing Area, replaced with paving or some surfacing material other than timber planking, the Railroad, at the Town's expense, shall install such replacement surfacing, and in the future, to the extent repair or replacement of the surfacing is necessitated by repair or rehabilitation of the Railroad's tracks through the Crossing Area, the Town shall bear the expense of such repairs or replacement.

b) If the Project involves a public highway crossing under the Railroad's tracks:

1) The Town shall, at its own sole expense, maintain, repair, and renew, or cause to be maintained, repaired and renewed,

the entire substructure of the highway-railroad grade separation structure.

2) The Railroad shall, at its own sole expense, maintain and repair, or cause to be maintained and repaired, the entire superstructure of the highway-railroad grade separation structure.

c) If the Project involves a public highway crossing over the Railroad's tracks, the Town shall, at its own sole expense, maintain, repair, and renew, or cause to be maintained, repaired, and renewed, the entire highway-railroad grade separation structure.

#### SECTION 6 - CHANGES IN GRADE

If at any time the Railroad shall elect, or be required by competent authority to, raise or lower the grade of all or any portion of the track or tracks located on the Crossing Area, the Town shall, at its own expense, conform the public highway in the Crossing Area to conform with the change of grade of the trackage.

#### SECTION 7 - REARRANGEMENT OF WARNING DEVICES

If the change or rearrangement of any warning device installed hereunder is necessitated for public or Railroad convenience or on account of improvements for either railroad, highway or both, the parties will apportion the expense incidental thereto between themselves by negotiation, agreement or by the order of a competent authority before the change or rearrangement is undertaken.

#### SECTION 8 - SAFETY MEASURES; PROTECTION OF RAILROAD COMPANY OPERATIONS

It is understood and recognized that safety and continuity of the Railroad's operations and communications are of the utmost importance; and in order that the same may be adequately safeguarded, protected and assured, and in order that accidents may be prevented and avoided, it is agreed with respect to all of said work of the Town that the work will be performed in a safe manner and in conformity with the following standards:

a) Definitions. All references in this Agreement to the Town shall include the Town's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority; and all references in this Agreement to work of the Town shall include work both within and outside of railroad property.

b) Compliance With Laws. The Town shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work. The Town shall use only such methods as are consistent with safety, both as concerns the Town, the Town's agents and employees, the officers, agents, employees and property of the Railroad and the public in general. The Town (without limiting the generality of the foregoing) shall comply with all applicable state and federal occupational safety and health acts and regulations. All Federal Railroad Administration regulations shall be followed when work is performed on the Railroad's premises. If any failure by the Town to comply with any such laws, regulations, and enactments, shall result in any fine, penalty, cost or charge being assessed, imposed or charged against the Railroad, the Town shall reimburse and indemnify the Railroad for any such fine, penalty, cost, or charge, including without limitation attorney's fees, court costs and expenses. The Town further agrees in the event of any such action, upon notice thereof being provided by the Railroad, to defend such action free of cost, charge, or expense to the Railroad.

c) No Interference or Delays. Recognizing that a public street and right-of-way will be constructed and used by the Town across the Crossing Area, the Town shall not unreasonably do, suffer or permit anything which will or may obstruct, endanger, interfere with, hinder or delay maintenance or operation of the Railroad's tracks or facilities, or any communication or signal lines, installations or any appurtenances thereof, or the operations of others lawfully occupying or using the Railroad's property or facilities.

d) Supervision. The Town, at its own expense, shall adequately police and supervise all work to be performed by the Town, and shall not inflict injury to persons or damage to property for the safety of whom or of which the Railroad may be responsible, or to property of the Railroad. The responsibility of the Town for safe conduct and adequate policing and supervision of the Project shall not be lessened or otherwise affected by the Railroad's approval of plans and specifications, or by the Railroad's collaboration in performance of any work, or by the presence at the work site of the Railroad's representatives, or by compliance by the Town with any requests or recommendations made by such representatives. If a representative of the Railroad is assigned to the Project, the Town will give due consideration to suggestions and recommendations made by such representative for the safety and protection of the Railroad's property and operations.

e) Suspension of Work. If at any time the Town's engineers or the Vice President-Engineering Services of the Railroad or their

respective representatives shall be of the opinion that any work of the Town is being or is about to be done or prosecuted without due regard and precaution for safety and security, the Town shall immediately suspend the work until suitable, adequate and proper protective measures are adopted and provided.

f) Removal of Debris. The Town shall not cause, suffer or permit material or debris to be deposited or cast upon, or to slide or fall upon any property or facilities of the Railroad; and any such material and debris shall be promptly removed from the Railroad's property by the Town at the Town's own expense or by the Railroad at the expense of the Town. The Town shall not cause, suffer or permit any snow to be plowed or cast upon the Railroad's property during snow removal from the Crossing Area.

g) Explosives. The Town shall not discharge any explosives on or in the vicinity of the Railroad's property without the prior consent of the Railroad's Vice President-Engineering Services, which shall not be given if, in the sole discretion of the Railroad's Vice President-Engineering Services, such discharge would be dangerous or would interfere with the Railroad's property or facilities. For the purposes hereof, the "vicinity of the Railroad's property" shall be deemed to be any place on the Railroad's property or in such close proximity to the Railroad's property that the discharge of explosives could cause injury to the Railroad's employees or other persons, or cause damage to or interference with the facilities or operations on the Railroad's property. The Railroad reserves the right to impose such conditions, restrictions or limitations on the transportation, handling, storage, security and use of explosives as the Railroad, in the Railroad's sole discretion, may deem to be necessary, desirable or appropriate. In addition to any conditions, restrictions or limitations as may be specifically imposed:

1) Unless the Railroad's Vice President-Engineering Services agrees otherwise, the Town shall provide no less than 48 hours' notice, excluding weekends and holidays, before discharging any explosives.

2) Any explosives loaded in holes or placed or otherwise readied for discharge on a day shall be discharged on the same day during daylight hours, and at mutually acceptable times.

3) The Town, at its own expense, shall take all precautionary measures and construct all temporary shelters necessary to guard against danger of damage, destruction or interference arising out of or connected with any blasting or any transportation, handling, storage, security or use of explosives.

4) The Town shall require explosives to be transported, handled, stored or otherwise secured and used in a manner satisfactory to the Railroad and in accordance with local, state and Federal laws, rules and regulations, including, without limitation, United States Department of Labor, Bureau of Labor Standards, Safety and Health Regulations for Construction, 29 CFR Part 1518, Subpart U -- "Blasting and the Use of Explosives"; and Occupational Safety and Health Administration Occupational Safety and Health Standards, 29 CFR Part 1910, Subpart H -- "Hazardous Materials".

h) Obstructions to View. Except as otherwise specifically provided herein, the Town shall not cause or permit the view along the tracks of the Railroad to be obstructed, nor place any combustible material on the premises, nor erect any structures thereon. If public law or regulation requires control or removal of weeds or vegetation on each side of the Crossing Area, the Town will perform such control or removal work without expense to the Railroad or, if the Town may not lawfully perform the control or removal work, reimburse the Railroad for the cost of performing such control or removal. If the crossing is not equipped with automatic train activated warning devices with gate arms:

1) The Town shall control or remove weeds and vegetation within and on each side of the Crossing Area so that the view of approaching motorists to approaching trains is not obstructed by weeds or vegetation; and

2) Insofar as it may lawfully may do so, the Town will not permit non-parties to construct sight obstructing buildings or other permanent structures on property adjacent to the right-of-way.

i) Excavation. The Town shall not excavate from existing slopes nor construct new slopes which are excessive and may create hazards of slides or falling rock, or impair or endanger the clearance between existing or new slopes and the tracks of the Railroad. The Town shall not do or cause to be done any work which will or may disturb the stability of any area or adversely affect the Railroad's tracks or facilities. The Town, at its own expense, shall install and maintain adequate shoring and cribbing for all excavation and/or trenching performed by the Town in connection with construction, maintenance or other work. The shoring and cribbing shall be constructed and maintained with materials and in a manner approved by the Railroad's Vice President-Engineering Services to withstand all stresses likely to be encountered, including any stresses resulting from vibrations caused by the Railroad's operations in the vicinity.

j) Drainage. The Town, at the Town's own expense, shall provide and maintain suitable facilities for draining the highway and its appurtenances, and shall not suffer or permit drainage water therefrom to flow or collect upon property of the Railroad. The

Town, at the Town's own expense, shall provide adequate passageway for the waters of any streams, bodies of water and drainage facilities (either natural or artificial, and including water from the Railroad's culvert and drainage facilities), so that said waters may not, because of any facilities or work of the Town, be impeded, obstructed, diverted or caused to back up, overflow or damage the property of the Railroad or any part thereof, or property of others. The Town shall not obstruct or interfere with existing ditches or drainage facilities.

k) Notice. Before commencing any work, the Town shall provide 48 hours prior notice (excluding weekends and holidays) to the Railroad's Manager-Track Maintenance.

l) Fiber Optic Cables. Fiber optic cable systems may be buried on the Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Town shall telephone the Railroad at 1-800-336-9193 (a 24-hour number) to determine if fiber optic cable is buried anywhere on the Railroad's premises to be used by the Town. If it is, Town will telephone the telecommunications company(ies) involved, arrange for a cable locator, and make arrangements for relocation or other protection of the fiber optic cable prior to beginning any work on the Railroad's premises.

#### SECTION 9 - INTERIM WARNING DEVICES

If at anytime it is determined by a competent authority, by the Town, or by agreement between the parties, that new or improved train activated warning devices should be installed at the Crossing Area, the Town shall install adequate temporary warning devices or signs and impose appropriate vehicular control measures to protect the motoring public until the new or improved devices have been installed.

#### SECTION 10 - OTHER RAILROADS

All protective and indemnifying provisions of this Agreement shall inure to the benefit of the Railroad and any other railroad company lawfully using the Railroad's property or facilities.

#### SECTION 11 - REMEDIES FOR BREACH OR NONUSE

a) If the Town shall fail, refuse or neglect to perform and abide by the terms of this Agreement, the Railroad, in addition to any other rights and remedies, may perform any work which in the judgment of the Railroad is necessary to place the highway and appurtenances in such condition as will not menace, endanger or interfere with the Railroad's facilities or operations or jeopardize the Railroad's employees; and the Town will reimburse the Railroad for the expenses thereof.

b) Nonuse by the Town of the Crossing Area for public roadway purposes continuing at any time for a period of eighteen (18) months shall, at the option of the Railroad, work a termination of this Agreement and of all rights of the Town hereunder.

c) The Town will surrender peaceable possession of the Crossing Area upon termination of this Agreement. Termination of this Agreement shall not affect any rights, obligations or liabilities of the parties, accrued or otherwise, which may have arisen prior to termination.

#### SECTION 12 - MODIFICATION - ENTIRE AGREEMENT

No waiver, modification or amendment of this agreement shall be of any force or effect unless made in writing, signed by the Town and the Railroad and specifying with particularity the nature and extent of such waiver, modification or amendment. Any waiver by the Railroad of any default by the Town shall not affect or impair any right arising from any subsequent default. This Agreement and Exhibits attached hereto and made a part hereof constitute the entire understanding between the Town and the Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work or any part thereof.

#### SECTION 13 - ASSIGNMENT; SUCCESSORS AND ASSIGNS

This Agreement shall not be assigned without the written consent of the Railroad. Subject hereto, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

## EXHIBIT B-1

### Public Road Insurance Requirements

The Town and/or its Contractor/Subcontractor shall, at its own and/or its Contractor's/Subcontractor's sole cost and expense, procure the following kinds of insurance and promptly pay when due all premiums for that insurance. The Railroad Protective Insurance described in Paragraph D below only needs to be obtained and kept in force during the duration of construction or major reconstruction of the highway located on the Premises. The other insurance coverage described in Paragraphs A, B and C below shall be kept in force by the Town during the life of this Agreement.

- A. General Public Liability insurance providing bodily injury, including death, personal injury and property damage coverage with a combined single limit of at least \$2,000,000 each occurrence or claim, and a general aggregate limit of at least \$4,000,000. This insurance shall provide Broad Form Contractual Liability covering the indemnity provisions contained in this Agreement, Underground Hazard, Broad Form Property Damage, a waiver of governmental immunity (ISO Form GL 24 14 or equivalent), severability of interests and name Railroad as an additional insured with respect to all liabilities arising out of Town's obligation to Railroad in the Agreement. If coverage is purchased on a "claims made" basis it shall provide for at least a three (3) year extended reporting or discovery period, which shall be invoked should insurance covering the time period of this Agreement be cancelled.
- B. Automobile Public Liability insurance providing bodily injury and property damage with a combined single limit of at least \$2,000,000 each occurrence or claim. This insurance shall provide contractual liability by endorsement ISO Form CA 00 25 or equivalent covering all motor vehicles including hired and non-owned, mobile equipment to the extent it may be excluded from general liability insurance, severability of interests and name Railroad as an additional insured with respect to all liabilities arising out of Town's obligation to Railroad in the Agreement.
- C. Worker's Compensation insurance covering the statutory liability as determined by the compensation laws of the state(s) affected by this Agreement and Employers' Liability with a limit of at least \$1,000,000. Also compliance with all laws of states which require participation in their state workers' compensation fund.
- D. Railroad Protective Liability insurance naming Railroad as insured with a combined single limit of \$2,000,000 per occurrence with a \$6,000,000 aggregate. The policy form shall be AAR-AASHTO with broad form coverage for "Physical Damage to Property" (ISO Form GL 00 30) or as revised ISO-RIMA (Form CG 00 35) and include pollution arising out of fuels and lubricants brought to the job site (ISO Form CG 2831 or equivalent). If the Lloyd's London policy form is used, limits shall be \$3,000,000 per occurrence with a \$9,000,000 aggregate and the Extended Claims Made Date shall be determined by adding the length of the original policy period plus one year to the policy expiration date.

The Town and/or its Contractor(s)/Subcontractor(s) hereby waive their right of subrogation, as respects the above insurance policy(ies), against Railroad for payments made to or on behalf of employees of Town or its agents or its Contractor(s)/Subcontractor(s) and for loss of their owned or leased property or property under their care, custody and control while on or near Railroad's right-of-way or other real property. Town's and/or its Contractor's/Subcontractor's insurance shall be primary with respect to any insurance carried by Railroad.

Town and/or its Contractor(s)/Subcontractor(s) shall furnish to Railroad certificate(s) of insurance evidencing the required coverage and endorsement(s) and upon request a certified duplicate original of any of those policies. The insurance company(ies) issuing such policy(ies) shall notify Railroad in writing of any material alteration including any change in the retroactive date in any "claims-made" policies or substantial reduction of aggregate limits, if such limits apply, or cancellation thereof at least thirty (30) days prior thereto.

The insurance policy(ies) shall be written by a reputable insurance company or companies acceptable to Railroad or with a current Best's Insurance Guide Rating of B and Class VII or better. Such insurance company shall be authorized to transact business in the state(s) affected by this Agreement.

# **EXHIBIT C**

Contractor's Right of Entry Agreement

September 18, 2002

To the Contractor:

Before DGNO can permit you to perform work for the construction of the new at-grade public road crossing, it will be necessary to complete two originals of the enclosed Right of Entry Agreement as follows:

1. Fill in the complete legal name of the contractor in the space provided on Page 1 of the Contractor's Right of Entry Agreement. If a corporation, give the state of incorporation. If a partnership, give the names of all partners.
2. Fill in the date construction will begin and be completed in Article 5, Paragraph A.
3. Fill in the name of the contractor in the space provided in the signature block at the end of the Contractor's Rights of Entry Agreement. If the contractor is a corporation, the person signing on its behalf must be an elected officer.
4. Return all copies of the Contractor's Right of Entry Agreement together with your Certificate of Insurance as required in Exhibit B-1, to:

Dallas Garland & Northeastern Railroad

After approval of the Right of Entry Agreement and insurance certificate, one fully executed counterpart of the agreement will be returned to you. In no event should you begin work until you have received your counterpart of the fully executed agreement.

Under Exhibit B-1 of the enclosed Contractor's Right of Entry, you are required to procure Railroad Protective Liability Insurance (RPLI) for the duration of this project.

If you have any questions concerning this agreement, please contact me at

Sincerely,



## **CONTRACTOR'S RIGHT OF ENTRY AGREEMENT**

THIS AGREEMENT is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 200 \_\_, By and between **DALLAS GARLAND & NORTHEASTERN RAILROAD**, a Texas corporation to be addressed in care of RailAmerica, 4040 Broadway, Suite 200, San Antonio, TX 78209 (hereinafter the "Railroad"), and \_\_\_\_\_, a(n) \_\_\_\_\_ (hereinafter the "Town's Contractor").

### **RECITALS:**

By agreement dated \_\_\_\_\_, the Railroad granted the *Town of Addison* (hereinafter "Licensee") the right to construct a new at-grade public road crossings for Landmark Place on the property of the Railroad at Milepost \_\_\_\_\_, on the Dal-Nor Branch, at or near Addison, Dallas County, Texas.

The Town's Contractor has been employed by the Licensee to construct a new at-grade public road crossing for Landmark Place (hereinafter referred to as the "work") and has requested the Railroad to permit it to perform the work on Railroad property, to which the Railroad is agreeable, subject to the following terms and conditions.

### **AGREEMENT:**

IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

#### **ARTICLE 1 - DEFINITION OF CONTRACTOR**

For purposes of this agreement, all references in this agreement to the Town's Contractor shall include the Town's Contractor's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority.

#### **ARTICLE 2 - RIGHTS GRANTED; PURPOSE**

The Railroad hereby grants to the Town's Contractor the right, during the term hereinafter stated and upon and subject to each and all of the terms, provisions and conditions herein contained, to enter upon and have ingress to and egress from the portion of the Railroad's property at Mile Post \_\_\_\_\_ on the Railroad's Dal-Nor Branch at or near Addison, TX, for the purpose of constructing a new at-grade public road crossing hereinabove described. The right herein granted to Town's Contractor is limited to those portions of the Railroad's property specifically described herein, or designated by the Railroad representative named in Article 4.

#### **ARTICLE 3 - TERMS AND CONDITIONS CONTAINED IN EXHIBITS B AND B-1**

The terms and conditions contained in Exhibits B and B-1, hereto attached, are hereby made a part of this agreement.

#### **ARTICLE 4 - ALL EXPENSES TO BE BORNE BY CONTRACTOR; RAILROAD REPRESENTATIVE**

The Town's Contractor shall bear any and all costs and expenses associated with any work performed by the Town's Contractor, or any costs or expenses incurred by the Railroad relating to this agreement. All work performed by Town's Contractor on Railroad's property shall be performed in a manner satisfactory to the respective local Superintendent of Transportation Services of the Railroad or

his authorized representative (hereinafter the Railroad Representative).

**ARTICLE 5 - TERM; TERMINATION**

a). The grant of right herein made to Town's Contractor shall commence on \_\_\_\_\_, and continue until \_\_\_\_\_, unless sooner terminated as herein provided, or at such time as Town's Contractor has completed its work on Railroad's property, whichever is earlier. Town's Contractor agrees to notify the Railroad Representative in writing when it has completed its work on Railroad property.

b). This agreement may be terminated by either party on ten (10) days written notice to the other party.

**ARTICLE 6 - CERTIFICATE OF INSURANCE**

a). Before commencing any work, the Town's Contractor will provide the Railroad with a Certificate issued by its insurance carrier providing the insurance coverage required pursuant to Exhibit B-1 of this agreement in a policy which contains the following type of endorsement:

Union Pacific Railroad Company is named as additional insured with respect to all liabilities arising out of Insured's, as Town's Contractor, performance of any work on the property of the Railroad.

b). Town's Contractor warrants that this agreement has been thoroughly reviewed by its insurance agent(s)/broker(s) and that said agent(s)/broker(s) has been instructed to procure insurance coverage and an endorsement as required herein.

c). All insurance correspondence shall be directed to:

RailAmerica  
4040 Broadway, Suite 200  
San Antonio, TX 78209

**ARTICLE 7 - PROTECTION OF FIBER OPTIC CABLE SYSTEMS**

Fiber optic cable systems may be buried on Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Prior to beginning any work, the Town's Contractor shall telephone the Railroad at 1-800-336-9193 (a 24-hour number) to determine if fiber optic cable is buried anywhere on the property set forth herein. If it is, the Town's Contractor shall also comply with and be subject to the provisions contained in Section 6 of Exhibit A.

**ARTICLE 8 - ENFORCEABILITY; CHOICE OF LAW; CHOICE OF FORUM**

Litigation arising out of or connected with this agreement may be instituted and maintained in the courts of the state of Texas, and the parties consent to jurisdiction over their person and over the subject matter of any such litigation, in those courts, and consent to service of process issued by such courts.

ARTICLE 9 - **SPECIAL PROVISIONS**

None.

IN WITNESS WHEREOF, the parties hereto have executed this agreement in duplicate as the date first herein written.

**DALLAS GARLAND & NORTHEASTERN RAILROAD**

By \_\_\_\_\_

Title: \_\_\_\_\_

WITNESS:

\_\_\_\_\_  
(Name of Contractor)

\_\_\_\_\_

By \_\_\_\_\_  
Title: \_\_\_\_\_

EXHIBIT 'A'

TO RIGHT OF ENTRY -  
MAP

## EXHIBIT B

### TO CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

#### Section 1. NOTICE OF COMMENCEMENT OF WORK - FLAGGING.

A. The Contractor agrees to notify the Railroad Representative at least ten (10) working days in advance of Contractor commencing its work and at least ten (10) working days in advance of proposed performance of any work by the Contractor in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of Railroad's track(s) at any time, for any reason, unless and until a Railroad flagman is provided to watch for trains. Upon receipt of such ten (10)-day notice, the Railroad Representative will determine and inform the Contractor whether a flagman need be present and whether the Contractor need implement any special protective or safety measures. If flagging or other special protective or safety measures are performed by the Railroad, such services will be provided at Contractor's expense with the understanding that if the Railroad provides any flagging or other services, the Contractor shall not be relieved of any of its responsibilities or liabilities set forth herein. Contractor shall promptly pay to Railroad all charges connected with such services within thirty (30) days after presentation of a bill.

B. The rate of pay per hour for each man will be the prevailing hourly rate in effect for an eight hour day for the class of men used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect on the day of execution of this agreement. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays; two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between the Railroad and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized Governmental Agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, the Contractor shall pay on the basis of the new rates and charges.

C. Reimbursement to the Railroad will be required covering the full eight hour day during which any flagman is furnished, unless he can be assigned to other Railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Railroad work. Reimbursement will also be required for any day not actually worked by said flagman following his assignment to work on the project for which the Railroad is required to pay the flagman and which could not reasonably be avoided by the Railroad by assignment of such flagman to other work, even though the Contractor may not be working during such time. When it becomes necessary for the Railroad to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, the Contractor must provide the Railroad a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5)-days notice of cessation is not given, the Contractor will still be required to pay flagging charges for the five (5)-day notice period required by union agreement to be given to the employee, even though flagging is not required for that period. An additional ten (10) days notice must then be given to the Railroad if flagging service are needed again after such five day cessation notice has been given Railroad.

#### Section 2. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED

A. The foregoing grant of right is subject and subordinate to the prior and continuing right and obligation of the Railroad to use and maintain its entire property including the right and power of the Railroad to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, roadways, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by the Railroad without liability to the Contractor or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of the Railroad's property, and others) and the right of the Railroad to renew and extend the same, and is made without covenant of title or for quiet enjoyment.

#### Section 3. NO INTERFERENCE WITH OPERATIONS OF RAILROAD AND ITS TENANTS.

A. The Contractor shall conduct its operations so as not to interfere with the continuous and uninterrupted use and operation of the railroad tracks and property of the Railroad, including without limitation, the operations of the Railroad's lessees, licensees or others, unless specifically authorized in advance by the Railroad Representative. Nothing shall be done or permitted to be done by the Contractor at any time that would in any manner impair the safety of such operations. When not in use, Contractor's

machinery and materials shall be kept at least fifty (50) feet from the centerline of the Railroad's nearest track, and there shall be no vehicular crossings of Railroad's tracks except at existing open public crossings.

B. Operations of the Railroad and work performed by the Railroad personnel and delays in the work to be performed by the Contractor caused by such railroad operations and work are expected by the Contractor, and Contractor agrees that the Railroad shall have no liability to Contractor, its subcontractors or any other person or entity for any such delays. The Contractor shall coordinate its activities with those of the Railroad and third parties so as to avoid interference with railroad operations. The safe operation of the Railroad takes precedence over any work to be performed by the Contractor.

#### Section 4. LIENS.

The Contractor shall pay in full all persons who perform labor or provide materials for the work to be performed by Contractor. The Contractor shall not create, permit or suffer any mechanic's or materialmen's liens of any kind or nature to be created or enforced against any property of the Railroad for any such work performed. The Contractor shall indemnify and hold harmless the Railroad from and against any and all liens, claims, demands, costs or expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials furnished. If the Contractor fails to promptly cause any lien to be released of record, the Railroad may, at its election, discharge the lien or claim of lien at Contractor's expense.

#### Section 5. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

A. Fiber optic cable systems may be buried on the Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Contractor shall telephone the Railroad during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried anywhere on the Railroad's premises to be used by the Contractor. If it is, Contractor will telephone the telecommunications company(ies) involved, make arrangements for a cable locator and, if applicable, for relocation or other protection of the fiber optic cable. The Contractor shall not commence any work until all such protection or relocation (if applicable) has been accomplished.

B. In addition to other indemnity provisions in this Agreement, the Contractor shall indemnify, defend and hold the Railroad harmless from and against all costs, liability and expense whatsoever (including, without limitation, attorneys' fees, court costs and expenses) arising out of any act or omission of the Contractor, its contractor, agents and/or employees, that causes or contributes to (1) any damage to or destruction of any telecommunications system on Railroad's property, and/or (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on Railroad's property. Contractor shall not have or seek recourse against Railroad for any claim or cause of action for alleged loss of profits or revenue or loss of service or other consequential damage to a telecommunication company using Railroad's property or a customer or user of services of the fiber optic cable on Railroad's property.

#### Section 6. PERMITS - COMPLIANCE WITH LAWS.

In the prosecution of the work covered by this agreement, the Contractor shall secure any and all necessary permits and shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work including, without limitation, all applicable Federal Railroad Administration regulations.

#### Section 7. SAFETY.

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of the work performed by the Contractor. The Contractor shall be responsible for initiating, maintaining and supervising all safety, operations and programs in connection with the work. The Contractor shall at a minimum comply with the Railroad's safety standards listed in Exhibit D, hereto attached, to ensure uniformity with the safety standards followed by the Railroad's own forces. As a part of the Contractor's safety responsibilities, the Contractor shall notify the Railroad if the Contractor determines that any of the Railroad's safety standards are contrary to good safety practices. The Contractor shall furnish copies of Exhibit D to each of its employees before they enter on the job site.

B. Without limitation of the provisions of paragraph A above, the Contractor shall keep the job site free from safety and health hazards and ensure that its employees are competent and adequately trained in all safety and health aspects of the job.

C. The Contractor shall have proper first aid supplies available on the job site so that prompt first aid services may be provided to any person injured on the job site. The Contractor shall promptly notify the Railroad of any U.S. Occupational Safety and Health Administration reportable injuries. The Contractor shall have a nondelegable duty to control its employees while they are on the job site or any other property of the Railroad, and to be certain they do not use, be under the influence of, or have in their possession any alcoholic beverage, drug or other substance that may inhibit the safe performance of any work.

D. If and when requested by the Railroad, the Contractor shall deliver to the Railroad a copy of the Contractor's safety plan for conducting the work (the "Safety Plan"). Railroad shall have the right, but not the obligation, to require the Contractor to correct any deficiencies in the Safety Plan. The terms of this agreement shall control if there are any inconsistencies between this agreement and the Safety Plan.

Section 8. INDEMNITY.

A. To the extent not prohibited by applicable statute, the Contractor shall indemnify, defend and hold harmless the Railroad, its affiliates, and its and their officers, agents and employees ("Indemnified Parties") from and against any and all loss, damage, injury, liability, claim, demand, cost or expense (including, without limitation, attorney's, consultant's and expert's fees, and court costs), fine or penalty (collectively, "Loss") incurred by any person (including, without limitation, any Indemnified Party, the Contractor, or any employee of the Contractor or of any Indemnified Party) arising out of or in any manner connected with (i) any work performed by the Contractor, or (ii) any act or omission of the Contractor, its officers, agents or employees, or (iii) any breach of this agreement by the Contractor.

B. The right to indemnity under this Section 8 shall accrue upon occurrence of the event giving rise to the Loss, and shall apply regardless of any negligence or strict liability of any Indemnified Party, except where the Loss is caused by the sole active negligence of an Indemnified Party as established by the final judgment of a court of competent jurisdiction. The sole active negligence of any Indemnified Party shall not bar the recovery of any other Indemnified Party.

C. The Contractor expressly and specifically assumes potential liability under this Section 8 for claims or actions brought by the Contractor's own employees. The Contractor waives any immunity it may have under worker's compensation or industrial insurance acts to indemnify the Railroad under this Section 8. Contractor acknowledges that this waiver was mutually negotiated by the parties hereto.

D. No court or jury findings in any employee's suit pursuant to any worker's compensation act or the Federal Employers' Liability Act against a party to this agreement may be relied upon or used by the Contractor in any attempt to assert liability against the Railroad.

E. The provisions of this Section 8 shall survive the completion of any work performed by the Contractor or the termination or expiration of this agreement. In no event shall this Section 8 or any other provision of this agreement be deemed to limit any liability the Contractor may have to any Indemnified Party by statute or under common law.

Section 9. RESTORATION OF PROPERTY.

In the event the Railroad authorizes the Contractor to take down any fence of the Railroad or in any manner move or disturb any of the other property of the Railroad in connection with the work to be performed by Contractor, then in that event the Contractor shall, as soon as possible and at Contractor's sole expense, restore such fence and other property to the same condition as the same were in before such fence was taken down or such other property was moved or disturbed. The Contractor shall remove all of Contractor's tools, equipment, rubbish and other materials from Railroad's property promptly upon completion of the work, restoring Railroad's property to the same state and condition as when Contractor entered thereon.

Section 10. WAIVER OF DEFAULT.

Waiver by the Railroad of any breach or default of any condition, covenant or agreement herein contained to be kept, observed and performed by the Contractor shall in no way impair the right of the Railroad to avail itself of any remedy for any subsequent breach or default.

Section 11. MODIFICATION - ENTIRE AGREEMENT.

No modification of this agreement shall be effective unless made in writing and signed by the Contractor and the Railroad. This agreement and the exhibits attached hereto and made a part hereof constitute the entire understanding between the Contractor and the Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work to be performed by the Contractor.

Section 12. ASSIGNMENT - SUBCONTRACTING.

The Contractor shall not assign or subcontract this agreement, or any interest therein, without the written consent of the Railroad. The Contractor shall be responsible for the acts and omissions of all subcontractors, and shall require all subcontractors to maintain the insurance coverage required to be maintained by the Contractor as provided in this agreement, and to indemnify the Contractor and the Railroad to the same extent as the Railroad is indemnified by the Contractor under this agreement.

## EXHIBIT C

### TO CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

Contractor shall, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

A. Commercial General Liability insurance. This insurance shall contain broad form contractual liability with a single limit of at least \$5,000,000 each occurrence or claim and an aggregate limit of at least \$10,000,000. Coverage must be purchased on a post 1998 ISO or equivalent form, including but not limited to coverage for the following:

- Bodily injury including death and personal injury
- Property damage
- Fire legal liability (Not less than the replacement value of the portion of the premises occupied)
- Products and completed operations

The policy shall also contain the following endorsements which shall be indicated on the certificate of insurance:

- "For purposes of this insurance, Union Pacific Railroad payments related to the Federal Employers Liability Act or a Union Pacific Wage Continuation Program or similar programs are deemed not to be either payments made or obligations assumed under any Workers Compensation, disability benefits, or unemployment compensation law or similar law."
- The exclusions for railroads (except where the Job site is more than fifty feet (50') from any railroad including but not limited to tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings), and explosion, collapse and underground hazard shall be removed.
- Coverage for Contractor's (and Railroad's) employees shall not be excluded
- Waiver of subrogation

B. Business Automobile Coverage insurance. This insurance shall contain a combined single limit of at least \$5,000,000 per occurrence or claim, including but not limited to coverage for the following:

Bodily injury and property damage

Any and all motor vehicles including owned, hired and non-owned

The policy shall also contain the following endorsements which shall be indicated on the certificate of insurance:

- "For purposes of this insurance, Union Pacific Railroad payments related to the Federal Employers Liability Act or a Union Pacific Wage Continuation Program or similar programs are deemed not to be either payments made or obligations assumed under any Workers Compensation, disability benefits, or unemployment compensation law or similar law."
- The exclusions for railroads (except where the Job site is more than fifty feet (50') from any railroad including but not limited to tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings), and explosion, collapse and underground hazard shall be removed.
- Motor Carrier Act Endorsement- Hazardous materials clean up (MCS-90) if required by law.

C. Workers Compensation and Employers Liability insurance including but not limited to:

- Contractor's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement
- Employers' Liability (Part B) with limits of at least
  - \$500,000 each accident, \$500,000 disease policy limit
  - \$500,000 each employee

If Workers Compensation insurance will not cover the liability of Contractor in states that require participation in state workers' compensation fund, Contractor shall comply with the laws of such states. If Contractor is self-insured, evidence



of state approval must be provided along with evidence of excess workers compensation coverage. Coverage shall include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

The policy shall also contain the following endorsement which shall be indicated on the certificate of insurance:

- Alternate Employer Endorsement

- D. Umbrella or Excess Policies In the event Contractor utilizes Umbrella or excess policies, these policies shall "follow form" and afford no less coverage than the primary policy.
- E. Railroad Protective Liability insurance naming only the Railroad as the insured with a combined single limit of \$2,000,000 per occurrence with a \$6,000,000 aggregate. The policy shall be broad form coverage for "Physical Damage to Property" (ISO Form CG 00 35 07 98 or equivalent). A binder stating the policy is in place must be submitted to the Railroad until the original policy is forwarded to the Railroad.

#### Other Requirements

- F. Punitive damage exclusion must be deleted, which deletion shall be indicated on the certificate of insurance.
- G. Contractor agrees to waive its right of recovery, and its insurers, through policy endorsement, agree to waive their right of subrogation against Railroad. Contractor further waives its right of recovery, and its insurers also waive their right of subrogation against Railroad for loss of its owned or leased property or property under its care, custody and control. Contractor's insurance shall be primary with respect to any insurance carried by Railroad. All waivers of subrogation shall be indicated on the certificate of insurance.
- H. All policy(ies) required above (excluding Workers Compensation) shall provide severability of interests and shall name Railroad as an additional insured. Severability of interest and naming Railroad as additional insured shall be indicated on the certificate of insurance.
- I. Prior to commencing the Work, Contractor shall furnish to Railroad original certificate(s) of insurance evidencing the required coverage, endorsements, and amendments. The certificate(s) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify Railroad in writing of any cancellation or material alteration. Upon request from Railroad, a certified duplicate original of any required policy shall be furnished.
- J. Any insurance policy shall be written by a reputable insurance company acceptable to Railroad or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.
- K. Contractor WARRANTS that this Agreement has been thoroughly reviewed by Contractor's insurance agent(s)/broker(s), who have been instructed by Contractor to procure the insurance coverage required by this Agreement and acknowledges that Contractor's insurance coverage will be primary.
- L. The fact that insurance is obtained by Contractor or Railroad on behalf of Contractor shall not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Railroad shall not be limited by the amount of the required insurance coverage.

## EXHIBIT D

### TO CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

#### MINIMUM SAFETY REQUIREMENTS

The term "employees" as used herein refer to all employees of the Contractor as well as all employees of any subcontractor or agent of the Contractor.

#### I. Clothing

- A. All employees of the Contractor will be suitably dressed to perform their duties safely and in a manner that will not interfere with their vision, hearing, or free use of their hands or feet.

Specifically, the Contractor's employees must wear:

- (i) Waist-length shirts with sleeves.
- (ii) Trousers that cover the entire leg. If flare-legged trousers are worn, the trouser bottoms must be tied to prevent catching.
- (iii) Footwear that covers their ankles and has a defined heel. Employees working on bridges are required to wear safety-toed footwear that conforms to the American National Standards Institute (ANSI) and FRA footwear requirements.

- B. Employees shall not wear boots (other than work boots), sandals, canvas-type shoes, or other shoes that have thin soles or heels that are higher than normal.

- C. Employees must not wear loose or ragged clothing, neckties, finger rings, or other loose jewelry while operating or working on machinery.

#### II. Personal Protective Equipment

The Contractor shall require its employees to wear personal protective equipment as specified by Railroad rules, regulations, or recommended or requested by the Railroad Representative.

- (i) Hard hat that meets the American National Standard (ANSI) Z89.1 – latest revision. Hard hats should be affixed with the contractor's or subcontractor's company logo or name.
- (ii) Eye protection that meets American National Standard (ANSI) for occupational and educational eye and face protection, Z87.1 – latest revision. Additional eye protection must be provided to meet specific job situations such as welding, grinding, etc.
- (iii) Hearing protection, which affords enough attenuation to give protection from noise levels that will be occurring on the job site. Hearing protection, in the form of plugs or muffs, must be worn when employees are within:
  - 100 feet of a locomotive or roadway/work equipment
  - 15 feet of power operated tools
  - 150 feet of jet blowers or pile drivers
  - 150 feet of retarders in use (when within 10 feet, employees must wear dual ear protection – plugs and muffs)
  -
- (iv) Other types of personal protective equipment, such as respirators, fall protection equipment, and face shields, must be worn as recommended or requested by the Railroad Representative.

#### III. On Track Safety

The Contractor is responsible for compliance with the Federal Railroad Administration's Roadway Worker Protection regulations – 49CFR214, Subpart C and Railroad's On-Track Safety rules. Under 49CFR214, Subpart C, railroad contractors are responsible for the training of their employees on such regulations. In addition to the instructions contained in Roadway Worker Protection regulations, all employees must:

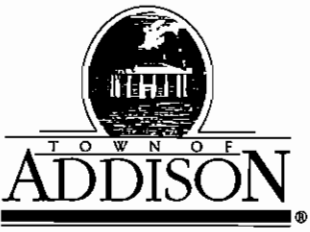
- (i) Maintain a distance of twenty-five (25) feet to any track unless the Railroad Representative is present to authorize movements.
- (ii) Wear an orange, reflectorized workwear approved by the Railroad Representative.
- (iii) Participate in a job briefing that will specify the type of On-Track Safety for the type of work being performed. Contractors must take special note of limits of track authority, which tracks may or may not be fouled, and clearing the track. The Contractors will also receive special instructions relating to the work zone around machines and minimum distances between machines while working or traveling.

#### IV. Equipment

- A. It is the responsibility of the Contractor to ensure that all equipment is in a safe condition to operate. If, in the opinion of the Railroad Representative, any of the Contractor's equipment is unsafe for use, the Contractor shall remove such equipment from the Railroad's property. In addition, the Contractor must ensure that the operators of all equipment are properly trained and competent in the safe operation of the equipment. In addition, operators must be:
  - Familiar and comply with Railroad's rules on lockout/tagout of equipment.
  - Trained in and comply with the applicable operating rules if operating any hy-rail equipment on-track.
  - Trained in and comply with the applicable air brake rules if operating any equipment that moves rail cars or any other railbound equipment.
- B. All self-propelled equipment must be equipped with a first-aid kit, fire extinguisher, and audible back-up warning device.
- C. Unless otherwise authorized by the Railroad Representative, all equipment must be parked a minimum of twenty-five (25) feet from any track. Before leaving any equipment unattended, the operator must stop the engine and properly secure the equipment against movement.
- D. Cranes must be equipped with three orange cones that will be used to mark the working area of the crane and the minimum clearances to overhead powerlines.

#### V. General Safety Requirements

- A. The Contractor shall ensure that all waste is properly disposed of in accordance with applicable federal and state regulations.
- B. The Contractor shall ensure that all employees participate in and comply with a job briefing conducted by the Railroad Representative, if applicable. During this briefing, the Railroad Representative will specify safe work procedures, (including On-Track Safety) and the potential hazards of the job. If any employee has any questions or concerns about the work, the employee must voice them during the job briefing. Additional job briefings will be conducted during the work as conditions, work procedures, or personnel change.
- C. All track work performed by the Contractor meets the minimum safety requirements established by the Federal Railroad Administration's Track Safety Standards 49CFR213.
- D. All employees comply with the following safety procedures when working around any railroad track:
  - (i) Always be on the alert for moving equipment. Employees must always expect movement on any track, at any time, in either direction.
  - (ii) Do not step or walk on the top of the rail, frog, switches, guard rails, or other track components.
  - (iii) In passing around the ends of standing cars, engines, roadway machines or work equipment, leave at least 20 feet between yourself and the end of the equipment. Do not go between pieces of equipment of the opening is less than one car length (50 feet).
  - (iv) Avoid walking or standing on a track unless so authorized by the employee in charge.
  - (v) Before stepping over or crossing tracks, look in both directions first.
  - (vi) Do not sit on, lie under, or cross between cars except as required in the performance of your duties and only when track and equipment have been protected against movement.
- E. All employees must comply with all federal and state regulations concerning workplace safety.



# LETTER OF TRANSMITTAL

**Public Works / Engineering**  
16801 Westgrove • P.O. Box 9010  
Addison, Texas 75001  
Telephone: (972) 450-2871 • Fax: (972) 450-2837

DATE	9-12-02	JOB NO.	
ATTENTION			
RE: <u>Landmark Place</u>			
<u>Railroad Crossing</u>			

TO John Hall  
Cowles & Thompson

**GENTLEMAN:**

**WE ARE SENDING YOU**

- Shop Drawings
- Prints
- Copy of letter
- Attached
- Change order
- Under separate cover via \_\_\_\_\_ the following items:
- Plans
- Samples
- Specifications
- \_\_\_\_\_

COPIES	DATE	NO.	DESCRIPTION
1			Draft of proposed Landmark Crossing Agreement

**THESE ARE TRANSMITTED as checked below:**

- For approval
- For your use
- As requested
- For review and comment
- FOR BIDS DUE \_\_\_\_\_ 19\_\_\_\_\_
- Approved as submitted
- Approved as noted
- Returned for corrections
- \_\_\_\_\_
- Resubmit \_\_\_\_\_ copies for approval
- Submit \_\_\_\_\_ copies for distribution
- Return \_\_\_\_\_ corrected prints
- PRINTS RETURNED AFTER LOAN TO US

**REMARKS**

John - Please review & comment. This  
"tracks" the Arapaho agreement  
So with the minor edits I indicated,  
I think it should be good to go.  
Next step will be to go to Council

**COPY TO** \_\_\_\_\_

**SIGNED:** Jim Lewis

*If enclosures are not as noted, please notify us at once.*

## Steve Chutchian

---

**From:** Jim Pierce  
**Sent:** Saturday, August 24, 2002 4:11 PM  
**To:** Steve Chutchian  
**Subject:** FW: Landmark Crossing Agreement

Steve: Please get a copy of all the Exhibits from the Wye crossing agreement so we can put them together with this for review. Thanks, Jim.

-----Original Message-----

**From:** Leblaydes@aol.com [mailto:Leblaydes@aol.com]  
**Sent:** Friday, August 16, 2002 10:26 AM  
**To:** jpierce@ci.addison.tx.us  
**Subject:** Landmark Crossing Agreement

Jim:

Attached is a draft Landmark Crossing Agreement. It follows the form and content of the Arapaho Agreement Addison and DGNO have already signed.

Exhibit A to the Agreement are drawings of the crossing, you should just add drawings similar to what we have for Arapaho.

Exhibit B has no changes from Arapaho.

Exhibit B-1 has no changes'

Exhibit C is the Right of Entry and will have name changes from Arapaho to Landmark.

Exhibit A to the Right of Entry has a simple map (similar to the Arapaho Agreement)

Exhibits B, C, and D to the Right of Entry have no changes from Arapaho.

If ya'll will review the attached Agreement and assemble the drawings for the Exhibit A, I make the small name changes on the other Exhibits. After review, let's get together to talk through questions/suggested changes. We'll then transmit to DGNO for their final review.

Lonnie

Lonnie E. Blaydes  
LEBlaydes@aol.com  
214-924-4632

*Concise -  
Revise to  
suit new  
agreement*

FOLDER NO. 1976-54  
*?*

**NEW PUBLIC HIGHWAY CROSSING  
AGREEMENT**

BETWEEN

**TOWN OF ADDISON, TEXAS**

AND

**DALLAS GARLAND & NORTHEASTERN  
RAILROAD**

AND

**UNION PACIFIC RAILROAD COMPANY**

COVERING  
*Landmark Place*  
~~South Quorum~~

CONSTRUCTION OF NEW ~~ARAPAHO ROAD~~ AT-GRADE  
PUBLIC ROAD CROSSING

AT OR NEAR

**ADDISON,  
DALLAS COUNTY,  
TEXAS**

7-2-02

Agreement Number \_\_\_\_\_

NEW PUBLIC HIGHWAY CROSSING AGREEMENT

LANDMARK BLVD.  
MILE POST - DAL-NOR BRANCH  
ADDISON, DALLAS COUNTY, TEXAS

THIS AGREEMENT, made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, by and between **DALLAS GARLAND & NORTHEASTERN RAILROAD**, a Texas corporation (hereinafter the "DGNO" or "Railroad"), and the **TOWN OF ADDISON, TEXAS**, a municipal corporation of the State of Texas to be addressed at PO Box 9010, Addison, TX 75001-9010 (hereinafter the "Town").

WITNESSETH:

RECITALS:

The Town desires to undertake as its project the construction of a new at-grade public road crossings (hereinafter the "Project").

The Town desires the right to use for the Project that portion of the right-of-way of the Railroad at MP5\_\_\_\_, the Dal-Nor Branch (hereinafter the "Crossing Area") shown and described on the attached prints dated \_\_\_\_\_, 2002, marked **Exhibit A**.

AGREEMENT:

NOW, THEREFORE, it is mutually agreed by and between the parties hereto as follows:

**ARTICLE 1 - CROSSING APPROVAL**

For and in consideration of the Town's agreement to perform and abide by the terms of this Agreement, including **Exhibit A, B, and B-1**, attached hereto and hereby made a part hereof, DGNO hereby grants to the Town, the right to establish, construct, maintain, repair, renew, and use a public highway and right of way at grade over and across the Crossing Area, (together with any and all uses incidental thereto, including, without limitation, the installation, repair, maintenance, and replacement of water lines, sanitary sewer lines, drainage, and other utilities typically located underground within public right of way), provided that the DGNO consents in writing to the installation of the above utilities, such consent to not be unreasonably withheld, together with the right of entry to control and remove from the DGNO's right-of-way, on each side of the Crossing Area, weeds and vegetation which may obstruct the view of motorists approaching the Crossing Area, and to any trains that may be also be approaching the Crossing Area.

**ARTICLE 2 - RAIL OPERATIONS COST**

The new crossing will occur in the middle of an existing DGNO rail yard area. The crossing will cause the railroad to incur increased rail operations and expense. To reduce the increased rail operating expense, the Town and DGNO acknowledge that occasionally the crossing may be blocked for more than five (5) minutes during night rail yard movements from 10:00 PM to 5:00 AM. The Town agrees to pay to DGNO **THREE HUNDRED SEVENTY SEVEN THOUSAND DOLLARS (\$376,000)**, the complete and total compensation for these increased operating costs.

\$ 377,000

**ARTICLE 3 - CERTIFICATE OF INSURANCE**

A. Before any work on the Premises begins, the Town (as defined in Section 8 (a) of **Exhibit B** to this Agreement) will provide DGNO with a Certificate issued by its insurance carrier providing the

insurance coverage required pursuant to **Exhibit B-1** of this Agreement in a policy containing the following endorsement:

“Union Pacific Railroad Company and Dallas Garland & Northeastern Railroad are named as additional insured with respect to all liabilities arising out of Insured’s performance of the work required for the Project.”

B. The Town WARRANTS that this agreement has been thoroughly reviewed by its insurance agent(s)/broker(s) and that said agents(s)/broker(s) has been instructed to procure insurance coverage and an endorsement as required herein.

C. All insurance correspondence shall be directed to: ( \_\_\_\_\_ )

D. The Town may self-insure all or a portion of the insurance coverage required hereunder, subject to DGNO’s review and approval. However, the Towns contractor/subcontractor (if any) shall obtain and provide evidence of insurance coverage pursuant to **Exhibit B-1** of this agreement.

**ARTICLE 4 - IF WORK IS TO BE PERFORMED BY CONTRACTOR**

If a contractor is to perform any of the work on the Project (including initial construction and subsequent relocation or substantial maintenance and repair work), then the Town shall require its contractor to execute the Railroad’s Contract’s Right of Entry Agreement attached hereto as **Exhibit C**, including revisions thereto that DGNO is willing to approve, which approval shall not be unreasonably withheld, and hereby made a part hereof. Town acknowledges receipt of a copy of the Right of Entry Agreement and understanding of its terms, provisions, and requirements, and will inform its contractor of the need to execute the Agreement. Under no circumstances will Town’s contractor be allowed onto the Railroad’s premises without first executing the Contractor’s Right of Entry Agreement.

**ARTICLE 5 - WORK TO BE PERFORMED BY THE RAILROAD**

A. DGNO may make any and all changes, alterations or relocations, whether temporary or permanent, and may provide flagging and other protective services and devices, which in DGNO’s judgment may be or become necessary or expedient within the right-of-way because of the Project, provided, however, that this right to make such changes, alterations or relocations shall not be a right to eliminate, or unreasonably interfere with the crossing rights of the Town.

B. The Railroad, shall, at the sole cost and expense of the Town, maintain, repair, and replace the warning devices installed hereunder: PROVIDED, HOWEVER, that this provision shall not negate DGNO’s eligibility for any further federal, state or local or other public funds that may become available for the maintenance of said devices; and PROVIDED, FURTHER, that the cost of repair or replacement resulting from damage caused by non-parties that is not recoverable by DGNO from the non-parties shall be borne entirely by the Town.

C. The Town agrees to pay the Dallas Garland & Northeastern Railroad for the work performed and materials supplied by the Dallas Garland & Northeastern Railroad for the Project.

**ARTICLE 7 - EFFECTIVE DATE; TERM**

This Agreement shall become effective as of the date first herein written, or the date work commences on the Project, whichever is earlier, and shall continue in full force and effect until terminated as herein provided.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate as of the date.



**DALLAS GARLAND & NORTHEASTERN RAILROAD**

By \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

TOWN OF ADDISON, TEXAS

\_\_\_\_\_

By \_\_\_\_\_  
Title: \_\_\_\_\_

Resolution N.: \_\_\_\_\_  
Pursuant to Resolution/Order Dated: \_\_\_\_\_

(Seal)



# **EXHIBIT A**

Location & Detail Prints

9-18-02

Agreement Number \_\_\_\_\_

NEW PUBLIC HIGHWAY CROSSING AGREEMENT

LANDMARK ~~BLVD.~~ Place  
MILE POST - DAL-NOR BRANCH  
ADDISON, DALLAS COUNTY, TEXAS

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**DALLAS GARLAND & NORTHEASTERN RAILROAD**

By \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

TOWN OF ADDISON, TEXAS

\_\_\_\_\_

By \_\_\_\_\_

Title: \_\_\_\_\_

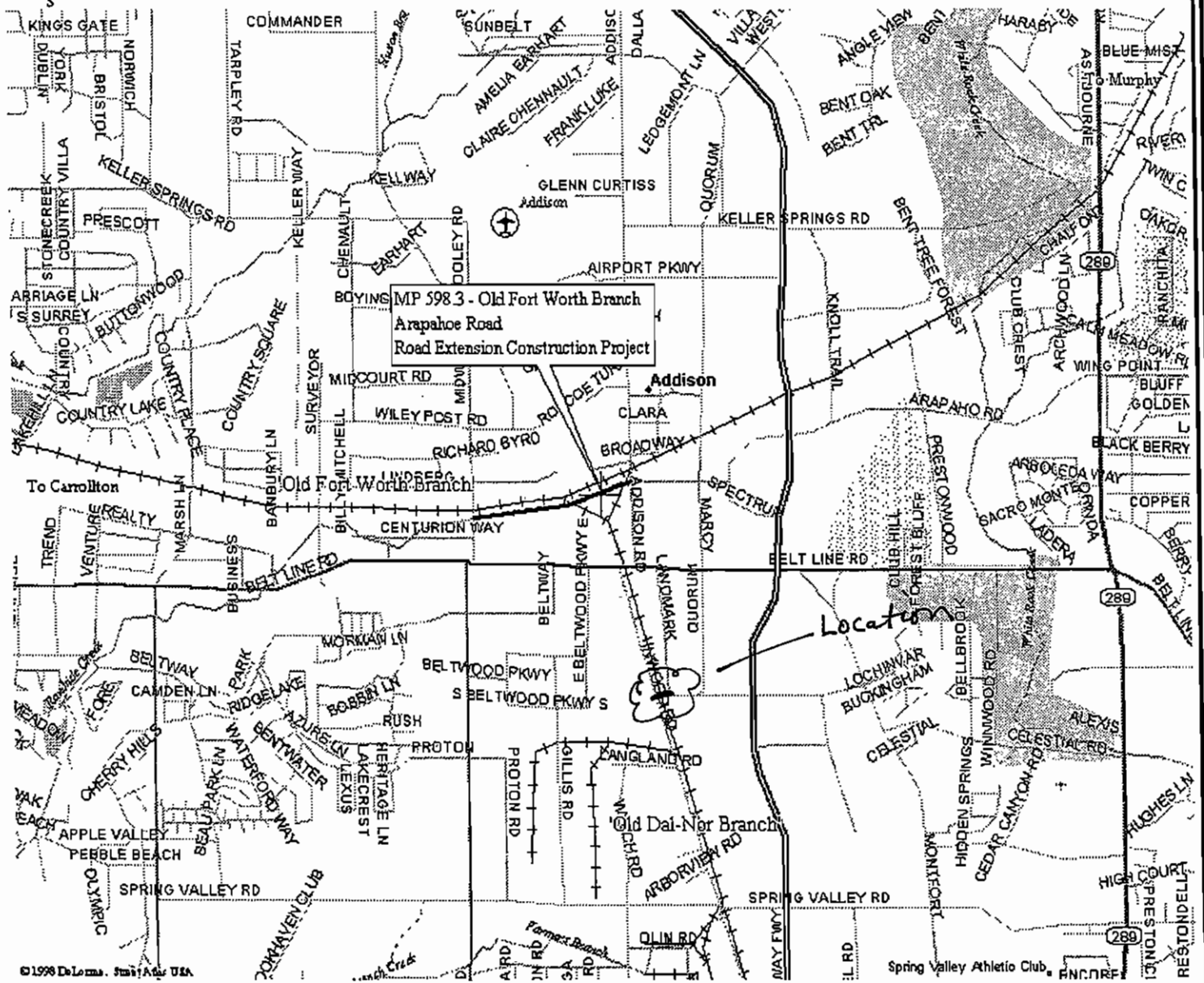
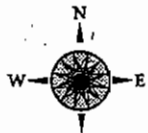
Resolution N.: \_\_\_\_\_

Pursuant to Resolution/Order Dated: \_\_\_\_\_

(Seal)

*Need this review*

# NEW PUBLIC ROAD CROSSING CONSTRUCTION PROJECT



## RAILROAD WORK TO BE PERFORMED:

1. Flagging.

*Someone will get this info* →

## EXHIBIT "A"

### UNION PACIFIC RAILROAD COMPANY DALLAS GARLAND & NORTHEASTERN RAILROAD

Old Fort Worth Branch

Mile Post 598.3

GPS: N 32° 57.436', W 96° 49.909'

Addison Jct., Dallas Co., TX.

Illustrative print showing location of proposed public road crossing extension construction project with the

### TOWN OF ADDISON, TEXAS.

Folder No. 1976-54

Date: December 17, 2001

### WARNING

IN ALL OCCASIONS, U.P. COMMUNICATIONS DEPARTMENT MUST BE CONTACTED IN ADVANCE OF ANY WORK TO DETERMINE EXISTENCE AND LOCATION OF FIBER OPTIC CABLE. PHONE: 1-(800) 336-9193

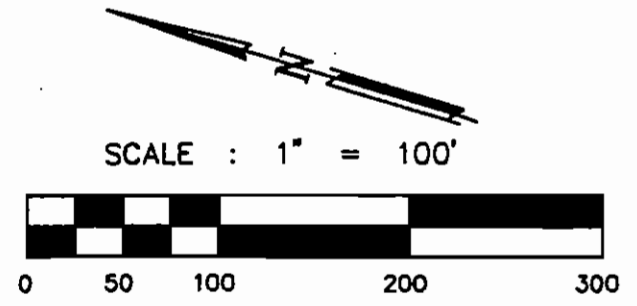
COUNTY : DALLAS  
 ROADWAY : SOUTH QUORUM/INWOOD CONNECTION  
 PARCEL : ROADWAY ESM'T. (RE-7)

*Donald R. Howard 11/11/00*

DONALD R. HOWARD  
 REGISTERED PROFESSIONAL LAND SURVEYOR  
 TEXAS REG. NO. 2812

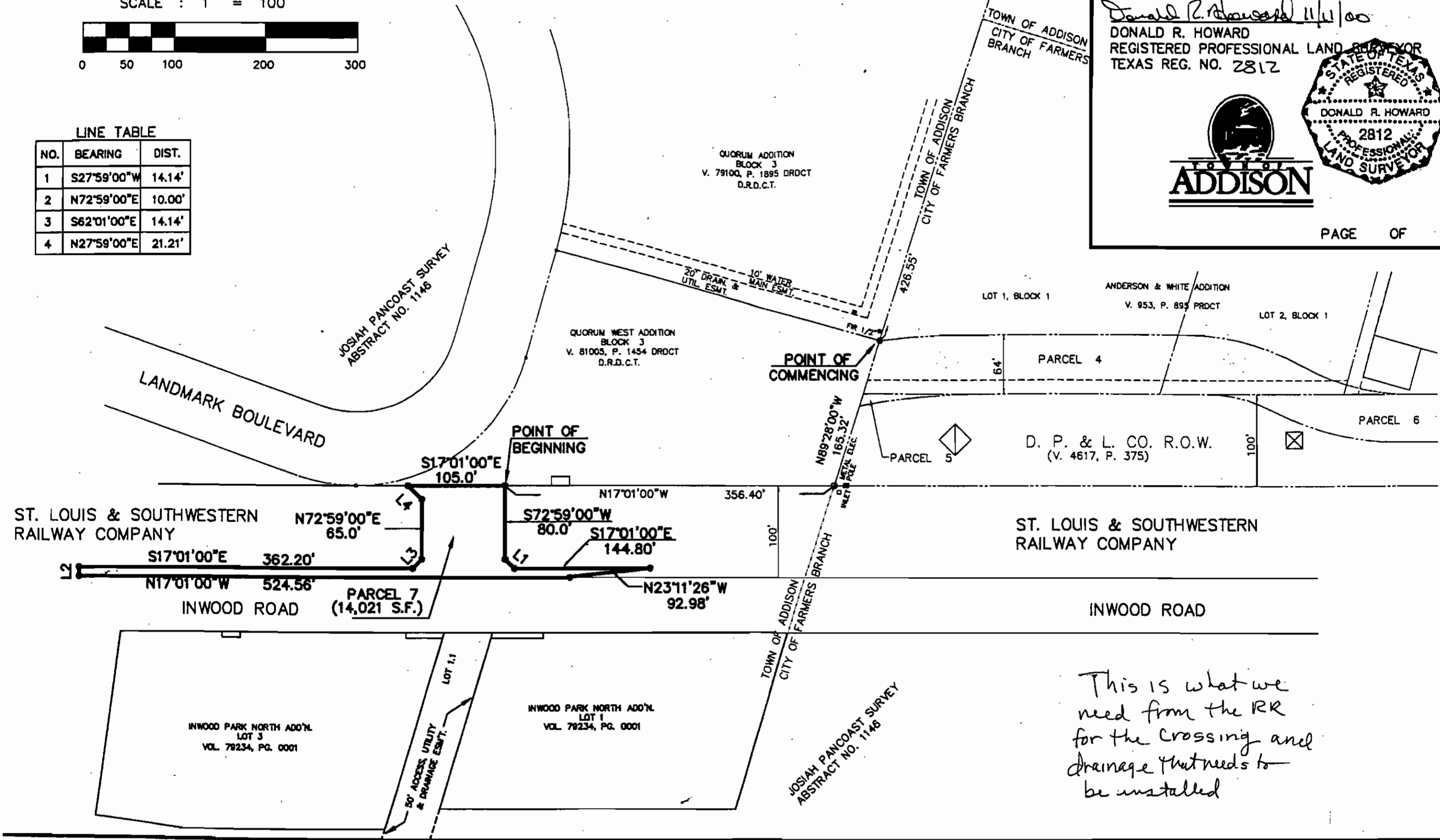


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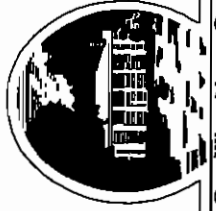
LINE TABLE

NO.	BEARING	DIST.
1	S27°59'00"W	14.14'
2	N72°59'00"E	10.00'
3	S62°01'00"E	14.14'
4	N27°59'00"E	21.21'



*This is what we need from the RR for the crossing and drainage that needs to be installed*





TOWN OF  
**ADDISON**

ROADWAY, DRAINAGE AND TRAFFIC SIGNAL DESIGN PLANS  
INWOOD / SOUTH QUORUM ACCESS - PHASE II  
INWOOD CONNECTION

**MAYOR**  
R. Scott Wheeler

**CITY COUNCIL**  
Bob Barrett  
Frank Klein  
Dione Mallary  
Fred Silver  
Glynda Turner  
Cathy Ways

**CITY MANAGER:**  
Ron Whitehead

**DIRECTOR OF PUBLIC WORKS**  
Michael E. Murphy, P.E.

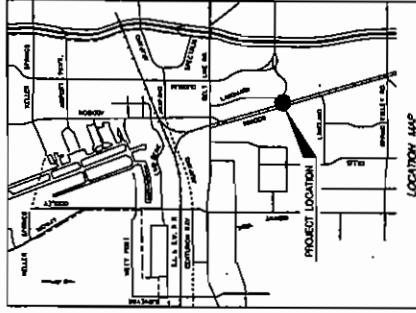
100% REVIEW

THIS DOCUMENT IS RELEASED BY THE CITY OF ADDISON, TEXAS, AS A PUBLIC RECORD OF THE CITY OF ADDISON, TEXAS. IT IS NOT TO BE USED FOR ANY OTHER PURPOSE.



**PARSONS TRANSPORTATION GROUP, INC.**  
5485 BELT LINE ROAD, SUITE 189 • DALLAS, TEXAS 75240  
1972/891-1000 • FAX: (872) 480-9281

BID No.

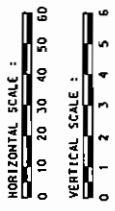


INDEX OF DRAWINGS

TITLE

SHEET No.

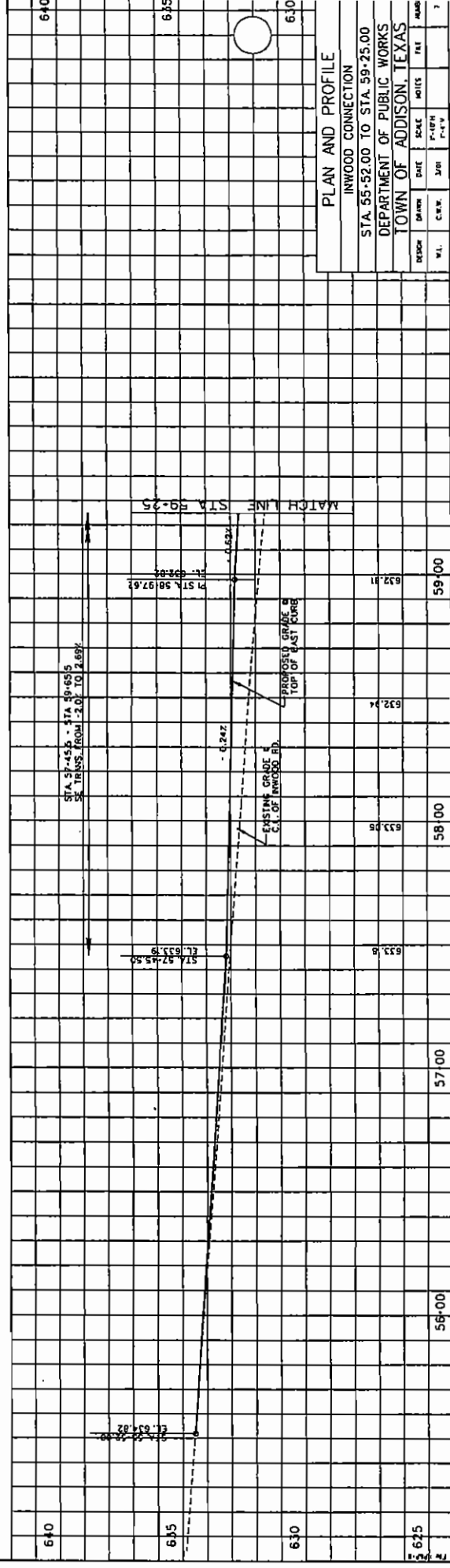
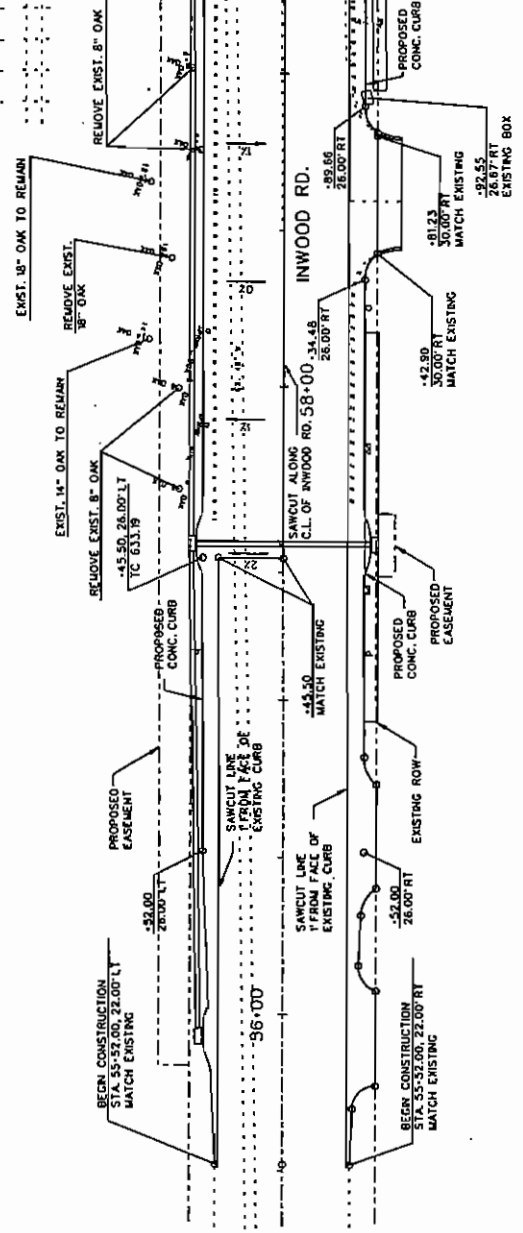
SHEET No.	TITLE
1	COVER SHEET
2-3	TYPICAL SECTIONS
4	GENERAL NOTES / QUANTITY SUMMARY
5-6	SEQUENCE OF CONSTRUCTION / TRAFFIC CONTROL PLANS
7-9	PLAN AND PROFILE SHEETS
10	ORAINAGE AREA MAP
11-12	DRAINAGE PLAN AND PROFILE SHEETS
13	SIGNING AND PAVEMENT MARKINGS
14	MISCELLANEOUS DETAILS SHEET
15	SIDEWALK RAMPS (SRD-FW-99)
16	MANHOLE TYPE M (MH-M)
17	PAVEMENT MARKINGS (PM-WAFTW)
18	TEMPORARY EROSION CONTROL (EC(1)-93)
19-20	CROSS SECTIONS
21	SIGNAL LAYOUT PLAN
22	SIGNAL LAYOUT TABLES
23	TRAFFIC SIGNAL HEAD DETAILS
24	TRAFFIC SIGNAL POLE FOUNDATIONS
25	CONTROLLER FOUNDATION / GROUND BOX INSTALLATION
26	TRANSFORMER BASE DETAILS



- NOTES:
1. ALL DIMENSIONS ARE FACE TO FACE OF CURB, UNLESS OTHERWISE NOTED.
  2. FOR WIDENING, CONTRACTOR IS TO SAWCUT EXISTING PAVEMENT FROM FACE OF EXISTING CURB TO NEW LIMITS AS SHOWN ON THE PLAN USING A CROSS SLOPE OF 2%.
  3. ALL EXISTING TREES WITHIN THE PROJECT LIMITS SHALL BE REMOVED AND HALLED OFF THE PROJECT. THE CONTRACTOR WITH HIS SUPERVISOR SHALL RESTORE THE PARKWAYS WITH NEW TREE PLANTINGS AND OTHER LANDSCAPING ITEMS.

100% REVIEW  
 THIS DOCUMENT IS RELEASED ONLY FOR THE PROJECT AND SHALL BE RETURNED TO THE OFFICE OF PUBLIC WORKS IMMEDIATELY UPON COMPLETION OF THE PROJECT.

MATCH LINE STA. 59+25



NO.	DATE	SCALE	NOTES	FILE	NO.
1					1

PLAN AND PROFILE  
 INWOOD CONNECTION  
 STA. 55+52.00 TO STA. 59+25.00  
 DEPARTMENT OF PUBLIC WORKS  
 TOWN OF ADDISON, TEXAS



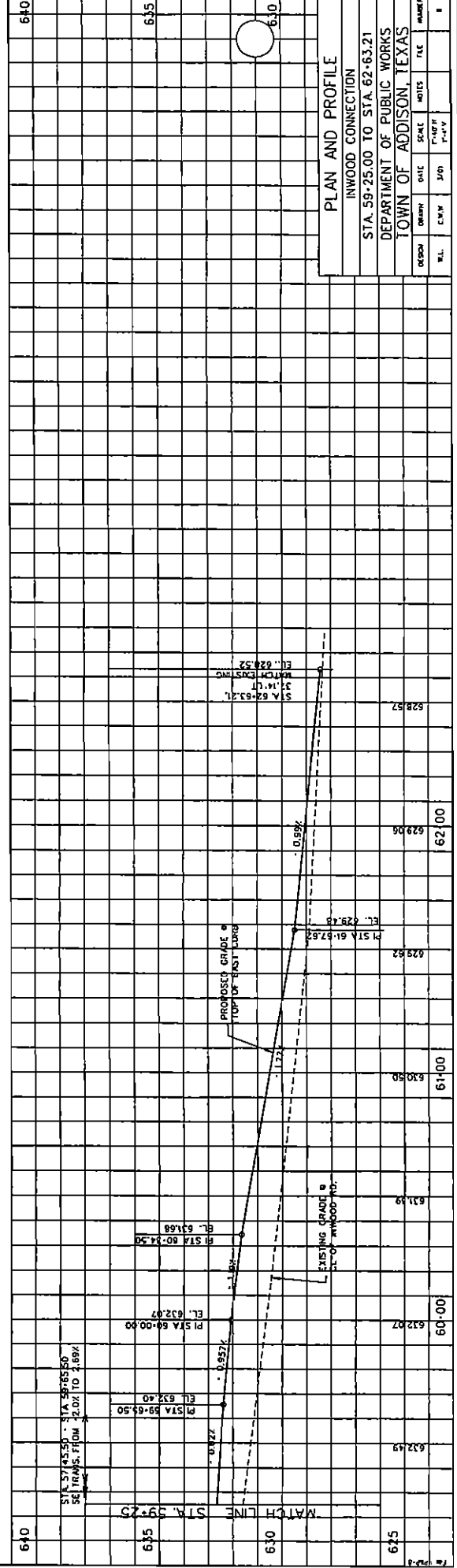
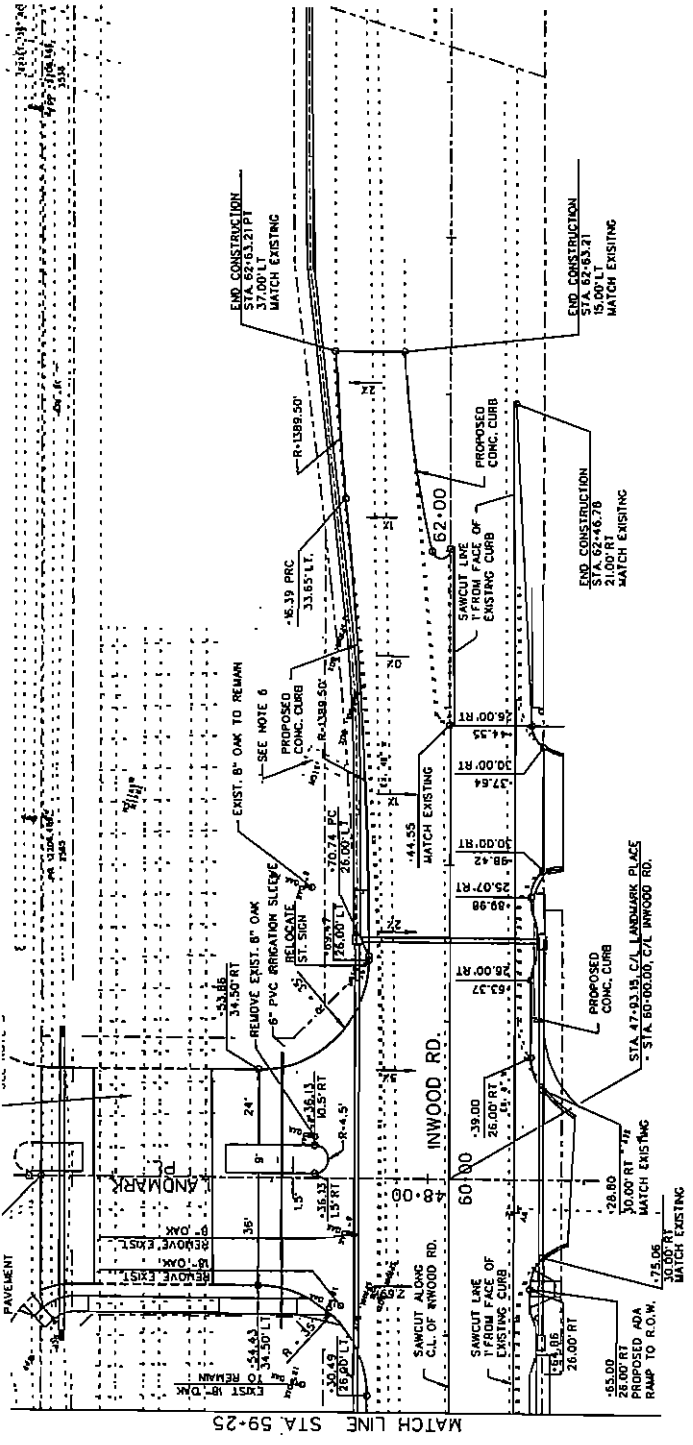
HORIZONTAL SCALE :  
 0 10 20 30 40 50 60  
 VERTICAL SCALE :  
 0 1 2 3 4 5 6

NOTES:

1. ALL DIMENSIONS ARE FACE TO FACE OF CURB, UNLESS OTHERWISE NOTED.
2. FOR WEAVING, CONTRACTOR IS TO SAWCUT EXISTING PAVEMENT 1' FROM FACE OF EXISTING CURB AND CONSTRUCT NEW PAVEMENT 1' FROM FACE OF THE PLAN USING A CROSS SLOPE OF 2%.
3. SEE PLAN AND PROFILE SHEET 9 FOR PAVING DETAILS ON LANDMARK PLACE RAIL ROAD CROSSING.
4. SEE TYPICAL SECTIONS FOR CONSTRUCTION JOINT DETAIL ON LANDMARK PLACE.
5. CONCRETE CROSSING ON RAILROAD TRACKS ARE TO BE PROVIDED BY OTHERS.
6. CONTRACTOR SHALL PROTECT EXISTING TOWN OF ADDISON SIGN AND FOUNDATION AND REPAIR IT AT HIS/HER OWN EXPENSE, SHOULD ANY DAMAGE OCCUR.

100% REVIEW

THIS DOCUMENT IS RELEASED UNDER THE OPEN RECORD ACT. IT IS NOT TO BE USED FOR ANY OTHER PURPOSE.



NO.	DATE	BY	SCALE	NOTES	FILE	NUMBER

PLAN AND PROFILE  
 INWOOD CONNECTION  
 STA. 59+25.00 TO STA. 62+63.21  
 DEPARTMENT OF PUBLIC WORKS  
 TOWN OF ADDISON, TEXAS







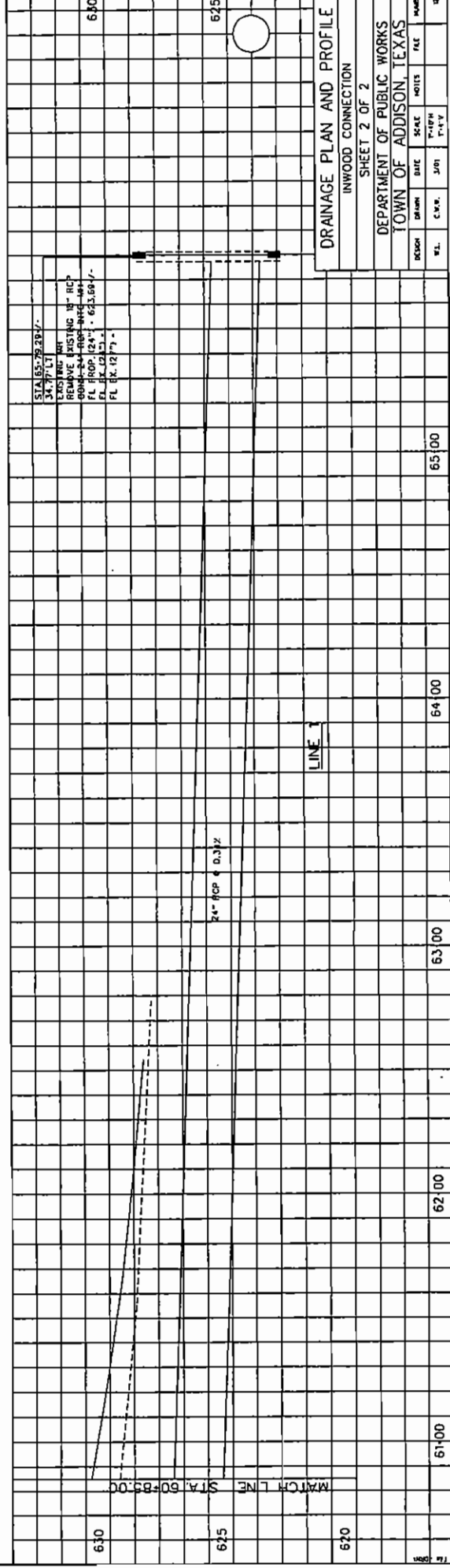
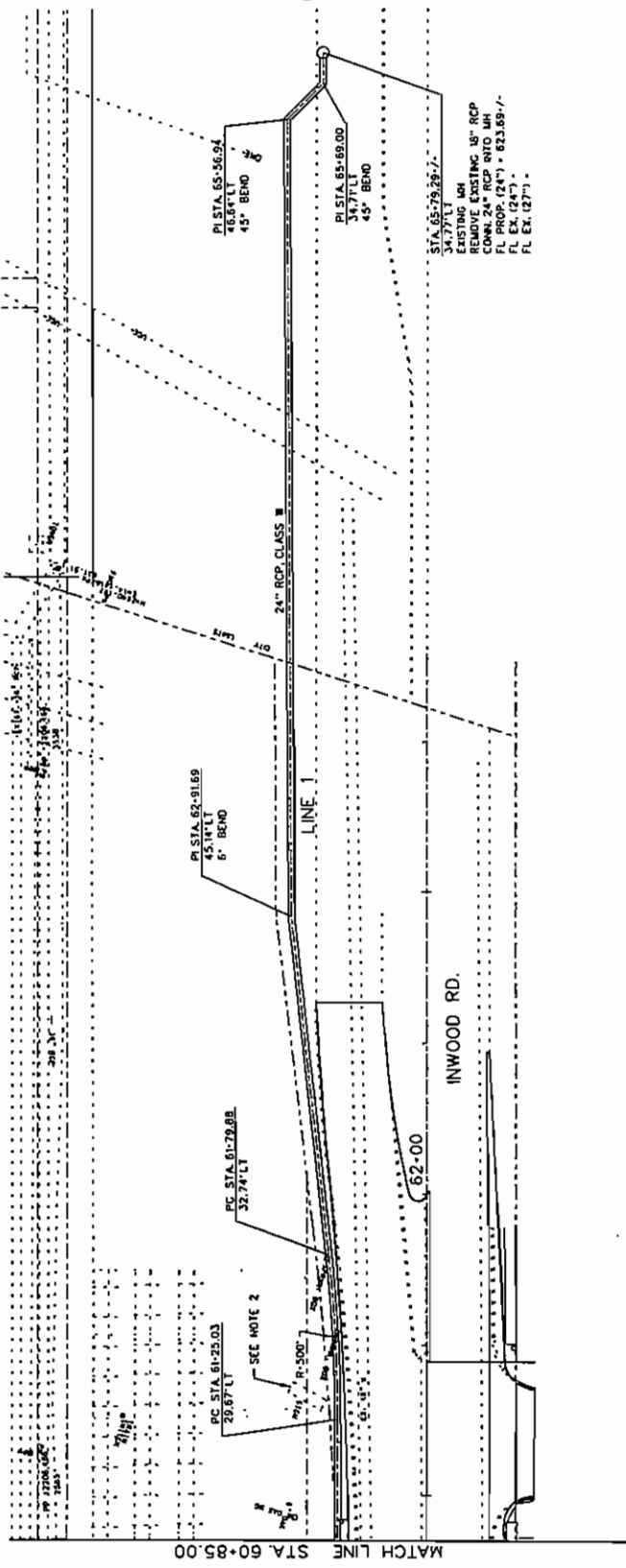
HORIZONTAL SCALE :  
 0 10 20 30 40 50 60  
 VERTICAL SCALE :  
 0 1 2 3 4 5 6

NOTES:

1. ALL DIMENSIONS ARE FACE TO FACE OF CURB, UNLESS OTHERWISE NOTED.
2. CONTRACTOR SHALL PROTECT EXISTING "TOWN OF ADDISON" SIGN AND FOUNDATION AND REPAIR IT AT HIS/HER OWN EXPENSE SHOULD DAMAGE OCCURS.

100% REVIEW

THIS DOCUMENT IS PREPARED FOR THE TOWN OF ADDISON, TEXAS, AND IS NOT TO BE USED FOR ANY OTHER PURPOSE.



DRAINAGE PLAN AND PROFILE	
INWOOD CONNECTION	
SHEET 2 OF 2	
DEPARTMENT OF PUBLIC WORKS	
TOWN OF ADDISON, TEXAS	
DESIGN	DATE
C.W.P.	JUN
SCALE	NOTES
FILE	DATE
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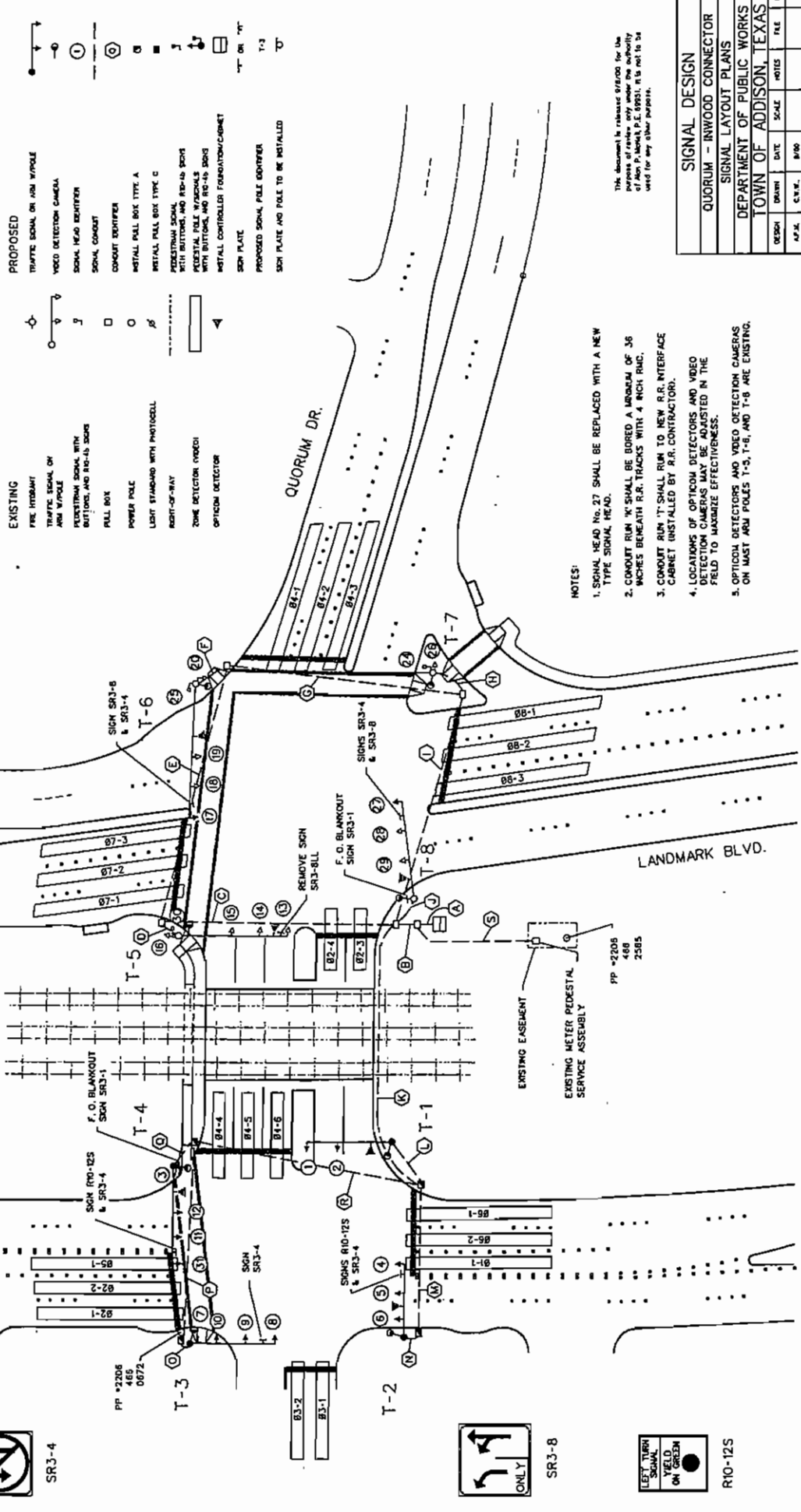




**SIGN SUMMARY**

LOCATION	SIGN TYPE	RECEPTION	SIZE	LOCATION	SIGN TYPE	RECEPTION	SIZE
T-2	R10-125	LEFT TURN YIELD 30° x 35°	30" x 35"	T-6	R10-125	LEFT TURN YIELD 30° x 35°	30" x 35"
T-2	SR3-4	NO U-TURN	30" x 30"	T-6	SR3-8	LANE ASSIGNMENT 35" x 30"	35" x 30"
T-3	SR3-4	NO U-TURN	30" x 30"	T-6	SR3-4	NO U-TURN	EXISTING
T-4	SR3-4	NO U-TURN	30" x 30"	T-7	SR3-4	NO U-TURN	EXISTING
T-4	R10-125	LEFT TURN YIELD 30° x 35°	30" x 35"	T-8	SR3-1*	NO RIGHT TURN 30° x 30°	EXISTING
T-4	SR3-1*	NO RIGHT TURN 30° x 30°	30" x 30"	T-8	SR3-4	NO U-TURN	EXISTING
T-5	SR3-4	NO U-TURN	EXISTING	T-8	SR3-8	LANE ASSIGNMENT	EXISTING

\* FIBEROPTIC BLANKOUT SIGN



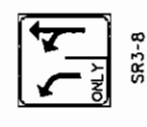
**LEGEND**

EXISTING	PROPOSED
TRAFFIC SIGNAL OR ARM WHOLE	TRAFFIC SIGNAL OR ARM WHOLE
VIDEO DETECTION CAMERA	VIDEO DETECTION CAMERA
SIGNAL HEAD IDENTIFIER	SIGNAL HEAD IDENTIFIER
SIGNAL CONDUIT	SIGNAL CONDUIT
CONDUIT IDENTIFIER	CONDUIT IDENTIFIER
INSTALL PULL BOX TYPE A	INSTALL PULL BOX TYPE A
INSTALL PULL BOX TYPE C	INSTALL PULL BOX TYPE C
EXISTING SIGNAL IDENTIFIER AND SIGNAL POLE WITH BUTTONS AND R10-125 SIGNS	EXISTING SIGNAL IDENTIFIER AND SIGNAL POLE WITH BUTTONS AND R10-125 SIGNS
INSTALL CONTROLLED FOUNDATION/CABINET	INSTALL CONTROLLED FOUNDATION/CABINET
SIGN PLATE	SIGN PLATE
PROPOSED SIGNAL POLE GEOMETRY	PROPOSED SIGNAL POLE GEOMETRY
SIGN PLATE AND POLE TO BE INSTALLED	SIGN PLATE AND POLE TO BE INSTALLED

- NOTES:**
- SIGNAL HEAD No. 27 SHALL BE REPLACED WITH A NEW TYPE SIGNAL HEAD.
  - CONDUIT RUN 'K' SHALL BE BORED A MINIMUM OF 36 INCHES BENEATH R.R. TRACKS WITH 4 INCH RMC.
  - CONDUIT RUN 'T' SHALL RUN TO NEW R.R. INTERFACE CABINET (INSTALLED BY R.R. CONTRACTOR).
  - LOCATIONS OF OPTICOM DETECTORS AND VIDEO DETECTION CAMERAS MAY BE ADJUSTED IN THE FIELD TO MAXIMIZE EFFECTIVENESS.
  - OPTICOM DETECTORS AND VIDEO DETECTION CAMERAS ON MAIN ARM POLES T-3, T-6, AND T-8 ARE EXISTING.

**SIGNAL DESIGN**

QUORUM - INWOOD CONNECTOR	DATE	SCALE	NOTES	FILE
SIGNAL LAYOUT PLANS				
DEPARTMENT OF PUBLIC WORKS				
TOWN OF ADDISON, TEXAS				
DESIGN	DATE	SCALE	NOTES	FILE
A.P.M.	C.R.E.	P.W.D.		







# **EXHIBIT B**

Terms and Conditions

## EXHIBIT B

### Public Highway Crossing

#### SECTION 1 - CONDITIONS AND COVENANTS

a) The Railroad makes no covenant or warranty of title for quiet possession or against encumbrances. The Town shall not use or permit use of the Crossing Area for any purposes other than those described in this Agreement. Without limiting the foregoing, the Town shall not use or permit use of the Crossing Area for railroad purposes, or for gas, oil or gasoline pipe lines. Any lines constructed on the Railroad's property by or under authority of the Town for the purpose of conveying electric power or communications incidental to the Town's use of the property for highway purposes shall be constructed in accordance with specifications and requirements of the Railroad, and in such manner as not adversely to affect communication or signal lines of the Railroad or its licensees now or hereafter located upon said property. No nonparty shall be admitted by the Town to use or occupy any part of the Railroad's property without the Railroad's written consent. Nothing herein shall obligate the Railroad to give such consent.

b) UP and the Railroad reserve the right to cross the Crossing Area with such railroad tracks as may be required for its convenience or purposes in such manner as not unreasonably to interfere with its use as a public highway. In the event UP and the Railroad shall place tracks upon the Crossing Area, the Town shall, at its sole cost and expense, modify the highway to conform with the rail line.

c) The right hereby granted is subject to any existing encumbrances and rights (whether public or private), recorded or not, and also to any renewals thereof. Except as authorized pursuant to law or by agreement, the Town shall not damage, destroy or interfere with the property or rights of nonparties in, upon or relating to the railroad property, unless the Town at its own expense settles with and obtains releases from such nonparties.

d) The Railroad reserves the right to use and to grant to others the right to use the Crossing Area for any purpose not inconsistent with the right hereby granted, including, but not by way of limitation, the right to construct, reconstruct, maintain, operate, repair, alter, renew and replace tracks, railroad facilities and railroad appurtenances on the property; also the right to cross the Crossing Area with all kinds of equipment in connection with a railroad use. The Railroad further reserves the right to attach signal, communication or power lines in connection with its railroad use to any highway facilities located upon the property, provided that such attachments shall comply with Town's specifications and will not interfere with the use of the Crossing Area.

e) So far as it lawfully may do so, the Town will assume, bear and pay all taxes and assessments of whatsoever nature or kind (whether general, local or special) levied or assessed upon or against the Crossing Area, excepting taxes levied upon and against the property as a component part of the Railroad's operating property.

f) If any property or rights other than the right hereby granted are necessary for the construction, maintenance and use of the highway and its appurtenances, or for the performance of any work in connection with the Project, the Town will acquire all such other property and rights at its own expense and without expense to the Railroad.

#### SECTION 2 - CONSTRUCTION OF HIGHWAY

a) The Town, at its own expense, will apply for and obtain all public authority required by law, ordinance, rule or regulation for the Project, and will furnish the Railroad upon request with satisfactory evidence that such authority has been obtained.

b) Except as may be otherwise specifically provided herein, the Town, at its own expense, will furnish all necessary labor, material and equipment, and shall construct and complete the highway and all appurtenances thereof. The appurtenances shall include, without limitation, all necessary and proper highway warning devices (except those installed by the Railroad within its right-of-way), and all necessary and proper drainage facilities, guard rails or barriers, and right of way fences between the highway and the railroad tracks. Upon completion of the Project, the Town shall remove from the Railroad's property all temporary structures and false work, and will leave the Crossing Area in a condition satisfactory to the Railroad.

c) The Railroad will receive no ascertainable benefit from the construction of the Project, and, except as may be specifically provided herein, shall not be required to pay or contribute any part of the cost thereof. If the Project is to be financed in whole or in part by Federal funds, all construction work by the Town shall be performed, and any reimbursement to the Railroad for work it performs shall be made, in accordance with the applicable Federal acts, regulations, and this Agreement.

d) All construction work of the Town upon the Railroad's property (including, but not limited to, construction of the highway and

all appurtenances and all related and incidental work) shall be performed and completed in a manner satisfactory to the Vice President-Engineering Services of the Railroad or his authorized representative and in accordance with detailed plans and specifications prepared by and at the expense of the Town, and approved in writing by the Railroad's Vice President-Engineering Services.

e) All construction work of the Town shall be performed diligently and completed within a reasonable time, and in any event within ~~three~~ (3) five (5) years from the effective date of this Agreement, or within such further period of time as may be specified in writing by the Railroad's Vice President-Engineering Services. No part of the Project shall be suspended, discontinued or unduly delayed without the Railroad's written consent, and subject to such reasonable conditions as the Railroad may specify. It is understood that the Railroad's tracks at and in the vicinity of the work will be in constant or frequent use during progress of the work and that movement or stoppage of trains, engines or cars may cause delays in the work of the Town. The Town hereby assumes the risk of any such delays and agrees that no claims for damage on account of any delay shall be made against the Railroad.

f) If the Project includes construction of a structure over which trains are to be operated, or for which the Railroad has any responsibility for maintenance, the Town shall furnish the Railroad permanent reproducible prints of all design and shop drawings as soon as possible after approval by the Vice President-Engineering Services of the Railroad or his authorized representative. Upon completion of construction, the Town shall furnish the Railroad two sets of "as constructed" prints and, in addition, upon request of the Vice President-Engineering Services of the Railroad, "as constructed" permanent reproducible prints of all or any portion of the structure.

### SECTION 3 - INJURY AND DAMAGE TO PROPERTY

If the Town, in the performance of any work contemplated by this Agreement or by the failure to do or perform anything for which the Town is responsible under the provisions of this Agreement, shall injure, damage or destroy any property of the Railroad or of any other person lawfully occupying or using the property of the Railroad, such property shall be replaced or repaired by the Town at the Town's own expense, or by the Railroad at the expense of the Town, and to the satisfaction of the Railroad's Vice President-Engineering Services.

### SECTION 4 - PAYMENT FOR WORK BY THE RAILROAD COMPANY

a) Bills for work and materials shall be paid by the Town promptly upon receipt thereof. The Railroad will submit to the Town current bills for flagging and other protective services and devices during progress of the Project. The Railroad will submit final billing for flagging and other protective services within one hundred and twenty (120) days after completion of the Project, provided the Town advises the Railroad of the commencement of the 120-day period by giving the Railroad written notification of completion of the Project.

b) In connection with the Crossing Area, the Railroad may contract for the performance of any of its work by other than railroad forces. The Railroad shall give reasonable notice to the Town of its intent to work on the Crossing Area, and the Railroad and Town agree to work together to coordinate such work and its effect on the Crossing Area. The Railroad shall notify the Town of the contract price within ninety (90) days after it is awarded. Unless the Railroad's work is to be performed on a fixed price basis, the Town shall reimburse the Railroad for the amount of the contract.

### SECTION 5 - MAINTENANCE

a) If the Project involves a grade crossing:

1) The Town shall, at its own sole expense, maintain, repair, and renew, or cause to be maintained, repaired and renewed, the entire Crossing Area, except the portions between the track tie ends, which shall be maintained by and at the expense of the Railroad.

2) If, in the future, the Town elects to have the surfacing material between the track tie ends, or between tracks if there is more than one railroad track across the Crossing Area, replaced with paving or some surfacing material other than timber planking, the Railroad, at the Town's expense, shall install such replacement surfacing, and in the future, to the extent repair or replacement of the surfacing is necessitated by repair or rehabilitation of the Railroad's tracks through the Crossing Area, the Town shall bear the expense of such repairs or replacement.

b) If the Project involves a public highway crossing under the Railroad's tracks:

1) The Town shall, at its own sole expense, maintain, repair, and renew, or cause to be maintained, repaired and renewed,

the entire substructure of the highway-railroad grade separation structure.

2) The Railroad shall, at its own sole expense, maintain and repair, or cause to be maintained and repaired, the entire superstructure of the highway-railroad grade separation structure.

c) If the Project involves a public highway crossing over the Railroad's tracks, the Town shall, at its own sole expense, maintain, repair, and renew, or cause to be maintained, repaired, and renewed, the entire highway-railroad grade separation structure.

#### SECTION 6 - CHANGES IN GRADE

If at any time the Railroad shall elect, or be required by competent authority to, raise or lower the grade of all or any portion of the track or tracks located on the Crossing Area, the Town shall, at its own expense, conform the public highway in the Crossing Area to conform with the change of grade of the trackage.

#### SECTION 7 - REARRANGEMENT OF WARNING DEVICES

If the change or rearrangement of any warning device installed hereunder is necessitated for public or Railroad convenience or on account of improvements for either railroad, highway or both, the parties will apportion the expense incidental thereto between themselves by negotiation, agreement or by the order of a competent authority before the change or rearrangement is undertaken.

#### SECTION 8 - SAFETY MEASURES; PROTECTION OF RAILROAD COMPANY OPERATIONS

It is understood and recognized that safety and continuity of the Railroad's operations and communications are of the utmost importance; and in order that the same may be adequately safeguarded, protected and assured, and in order that accidents may be prevented and avoided, it is agreed with respect to all of said work of the Town that the work will be performed in a safe manner and in conformity with the following standards:

a) Definitions. All references in this Agreement to the Town shall include the Town's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority; and all references in this Agreement to work of the Town shall include work both within and outside of railroad property.

b) Compliance With Laws. The Town shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work. The Town shall use only such methods as are consistent with safety, both as concerns the Town, the Town's agents and employees, the officers, agents, employees and property of the Railroad and the public in general. The Town (without limiting the generality of the foregoing) shall comply with all applicable state and federal occupational safety and health acts and regulations. All Federal Railroad Administration regulations shall be followed when work is performed on the Railroad's premises. If any failure by the Town to comply with any such laws, regulations, and enactments, shall result in any fine, penalty, cost or charge being assessed, imposed or charged against the Railroad, the Town shall reimburse and indemnify the Railroad for any such fine, penalty, cost, or charge, including without limitation attorney's fees, court costs and expenses. The Town further agrees in the event of any such action, upon notice thereof being provided by the Railroad, to defend such action free of cost, charge, or expense to the Railroad.

c) No Interference or Delays. Recognizing that a public street and right-of-way will be constructed and used by the Town across the Crossing Area, the Town shall not unreasonably do, suffer or permit anything which will or may obstruct, endanger, interfere with, hinder or delay maintenance or operation of the Railroad's tracks or facilities, or any communication or signal lines, installations or any appurtenances thereof, or the operations of others lawfully occupying or using the Railroad's property or facilities.

d) Supervision. The Town, at its own expense, shall adequately police and supervise all work to be performed by the Town, and shall not inflict injury to persons or damage to property for the safety of whom or of which the Railroad may be responsible, or to property of the Railroad. The responsibility of the Town for safe conduct and adequate policing and supervision of the Project shall not be lessened or otherwise affected by the Railroad's approval of plans and specifications, or by the Railroad's collaboration in performance of any work, or by the presence at the work site of the Railroad's representatives, or by compliance by the Town with any requests or recommendations made by such representatives. If a representative of the Railroad is assigned to the Project, the Town will give due consideration to suggestions and recommendations made by such representative for the safety and protection of the Railroad's property and operations.

e) Suspension of Work. If at any time the Town's engineers or the Vice President-Engineering Services of the Railroad or their

respective representatives shall be of the opinion that any work of the Town is being or is about to be done or prosecuted without due regard and precaution for safety and security, the Town shall immediately suspend the work until suitable, adequate and proper protective measures are adopted and provided.

f) Removal of Debris. The Town shall not cause, suffer or permit material or debris to be deposited or cast upon, or to slide or fall upon any property or facilities of the Railroad; and any such material and debris shall be promptly removed from the Railroad's property by the Town at the Town's own expense or by the Railroad at the expense of the Town. The Town shall not cause, suffer or permit any snow to be plowed or cast upon the Railroad's property during snow removal from the Crossing Area.

g) Explosives. The Town shall not discharge any explosives on or in the vicinity of the Railroad's property without the prior consent of the Railroad's Vice President-Engineering Services, which shall not be given if, in the sole discretion of the Railroad's Vice President-Engineering Services, such discharge would be dangerous or would interfere with the Railroad's property or facilities. For the purposes hereof, the "vicinity of the Railroad's property" shall be deemed to be any place on the Railroad's property or in such close proximity to the Railroad's property that the discharge of explosives could cause injury to the Railroad's employees or other persons, or cause damage to or interference with the facilities or operations on the Railroad's property. The Railroad reserves the right to impose such conditions, restrictions or limitations on the transportation, handling, storage, security and use of explosives as the Railroad, in the Railroad's sole discretion, may deem to be necessary, desirable or appropriate. In addition to any conditions, restrictions or limitations as may be specifically imposed:

- 1) Unless the Railroad's Vice President-Engineering Services agrees otherwise, the Town shall provide no less than 48 hours' notice, excluding weekends and holidays, before discharging any explosives.
- 2) Any explosives loaded in holes or placed or otherwise readied for discharge on a day shall be discharged on the same day during daylight hours, and at mutually acceptable times.
- 3) The Town, at its own expense, shall take all precautionary measures and construct all temporary shelters necessary to guard against danger of damage, destruction or interference arising out of or connected with any blasting or any transportation, handling, storage, security or use of explosives.
- 4) The Town shall require explosives to be transported, handled, stored or otherwise secured and used in a manner satisfactory to the Railroad and in accordance with local, state and Federal laws, rules and regulations, including, without limitation, United States Department of Labor, Bureau of Labor Standards, Safety and Health Regulations for Construction, 29 CFR Part 1518, Subpart U -- "Blasting and the Use of Explosives"; and Occupational Safety and Health Administration Occupational Safety and Health Standards, 29 CFR Part 1910, Subpart H -- "Hazardous Materials".

h) Obstructions to View. Except as otherwise specifically provided herein, the Town shall not cause or permit the view along the tracks of the Railroad to be obstructed, nor place any combustible material on the premises, nor erect any structures thereon. If public law or regulation requires control or removal of weeds or vegetation on each side of the Crossing Area, the Town will perform such control or removal work without expense to the Railroad or, if the Town may not lawfully perform the control or removal work, reimburse the Railroad for the cost of performing such control or removal. If the crossing is not equipped with automatic train activated warning devices with gate arms:

- 1) The Town shall control or remove weeds and vegetation within and on each side of the Crossing Area so that the view of approaching motorists to approaching trains is not obstructed by weeds or vegetation; and
- 2) Insofar as it may lawfully may do so, the Town will not permit non-parties to construct sight obstructing buildings or other permanent structures on property adjacent to the right-of-way.

i) Excavation. The Town shall not excavate from existing slopes nor construct new slopes which are excessive and may create hazards of slides or falling rock, or impair or endanger the clearance between existing or new slopes and the tracks of the Railroad. The Town shall not do or cause to be done any work which will or may disturb the stability of any area or adversely affect the Railroad's tracks or facilities. The Town, at its own expense, shall install and maintain adequate shoring and cribbing for all excavation and/or trenching performed by the Town in connection with construction, maintenance or other work. The shoring and cribbing shall be constructed and maintained with materials and in a manner approved by the Railroad's Vice President-Engineering Services to withstand all stresses likely to be encountered, including any stresses resulting from vibrations caused by the Railroad's operations in the vicinity.

j) Drainage. The Town, at the Town's own expense, shall provide and maintain suitable facilities for draining the highway and its appurtenances, and shall not suffer or permit drainage water therefrom to flow or collect upon property of the Railroad. The

Town, at the Town's own expense, shall provide adequate passageway for the waters of any streams, bodies of water and drainage facilities (either natural or artificial, and including water from the Railroad's culvert and drainage facilities), so that said waters may not, because of any facilities or work of the Town, be impeded, obstructed, diverted or caused to back up, overflow or damage the property of the Railroad or any part thereof, or property of others. The Town shall not obstruct or interfere with existing ditches or drainage facilities.

k) Notice. Before commencing any work, the Town shall provide 48 hours prior notice (excluding weekends and holidays) to the Railroad's Manager-Track Maintenance.

l) Fiber Optic Cables. Fiber optic cable systems may be buried on the Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Town shall telephone the Railroad at 1-800-336-9193 (a 24-hour number) to determine if fiber optic cable is buried anywhere on the Railroad's premises to be used by the Town. If it is, Town will telephone the telecommunications company(ies) involved, arrange for a cable locator, and make arrangements for relocation or other protection of the fiber optic cable prior to beginning any work on the Railroad's premises.

#### SECTION 9 - INTERIM WARNING DEVICES

If at anytime it is determined by a competent authority, by the Town, or by agreement between the parties, that new or improved train activated warning devices should be installed at the Crossing Area, the Town shall install adequate temporary warning devices or signs and impose appropriate vehicular control measures to protect the motoring public until the new or improved devices have been installed.

#### SECTION 10 - OTHER RAILROADS

All protective and indemnifying provisions of this Agreement shall inure to the benefit of the Railroad and any other railroad company lawfully using the Railroad's property or facilities.

#### SECTION 11 - REMEDIES FOR BREACH OR NONUSE

a) If the Town shall fail, refuse or neglect to perform and abide by the terms of this Agreement, the Railroad, in addition to any other rights and remedies, may perform any work which in the judgment of the Railroad is necessary to place the highway and appurtenances in such condition as will not menace, endanger or interfere with the Railroad's facilities or operations or jeopardize the Railroad's employees; and the Town will reimburse the Railroad for the expenses thereof.

b) Nonuse by the Town of the Crossing Area for public roadway purposes continuing at any time for a period of eighteen (18) months shall, at the option of the Railroad, work a termination of this Agreement and of all rights of the Town hereunder.

c) The Town will surrender peaceable possession of the Crossing Area upon termination of this Agreement. Termination of this Agreement shall not affect any rights, obligations or liabilities of the parties, accrued or otherwise, which may have arisen prior to termination.

#### SECTION 12 - MODIFICATION - ENTIRE AGREEMENT

No waiver, modification or amendment of this agreement shall be of any force or effect unless made in writing, signed by the Town and the Railroad and specifying with particularity the nature and extent of such waiver, modification or amendment. Any waiver by the Railroad of any default by the Town shall not affect or impair any right arising from any subsequent default. This Agreement and Exhibits attached hereto and made a part hereof constitute the entire understanding between the Town and the Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work or any part thereof.

#### SECTION 13 - ASSIGNMENT; SUCCESSORS AND ASSIGNS

This Agreement shall not be assigned without the written consent of the Railroad. Subject hereto, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

## EXHIBIT B-1

### Public Road Insurance Requirements

The Town and/or its Contractor/Subcontractor shall, at its own and/or its Contractor's/Subcontractor's sole cost and expense, procure the following kinds of insurance and promptly pay when due all premiums for that insurance. The Railroad Protective Insurance described in Paragraph D below only needs to be obtained and kept in force during the duration of construction or major reconstruction of the highway located on the Premises. The other insurance coverage described in Paragraphs A, B and C below shall be kept in force by the Town during the life of this Agreement.

- A. General Public Liability insurance providing bodily injury, including death, personal injury and property damage coverage with a combined single limit of at least \$2,000,000 each occurrence or claim and a general aggregate limit of at least \$4,000,000. This insurance shall provide Broad Form Contractual Liability covering the indemnity provisions contained in this Agreement, Underground Hazard, Broad Form Property Damage, a waiver of governmental immunity (ISO Form GL 24 14 or equivalent), severability of interests and name Railroad as an additional insured with respect to all liabilities arising out of Town's obligation to Railroad in the Agreement. If coverage is purchased on a "claims made" basis it shall provide for at least a three (3) year extended reporting or discovery period, which shall be invoked should insurance covering the time period of this Agreement be cancelled.
- B. Automobile Public Liability insurance providing bodily injury and property damage with a combined single limit of at least \$2,000,000 each occurrence or claim. This insurance shall provide contractual liability by endorsement ISO Form CA 00 25 or equivalent covering all motor vehicles including hired and non-owned, mobile equipment to the extent it may be excluded from general liability insurance, severability of interests and name Railroad as an additional insured with respect to all liabilities arising out of Town's obligation to Railroad in the Agreement.
- C. Worker's Compensation insurance covering the statutory liability as determined by the compensation laws of the state(s) affected by this Agreement and Employers' Liability with a limit of at least \$1,000,000. Also compliance with all laws of states which require participation in their state workers' compensation fund.
- D. Railroad Protective Liability insurance naming Railroad as insured with a combined single limit of \$2,000,000 per occurrence with a \$6,000,000 aggregate. The policy form shall be AAR-AASHTO with broad form coverage for "Physical Damage to Property" (ISO Form GL 00 30) or as revised ISO-RIMA (Form CG 00 35) and include pollution arising out of fuels and lubricants brought to the job site (ISO Form CG 2831 or equivalent). If the Lloyd's London policy form is used, limits shall be \$3,000,000 per occurrence with a \$9,000,000 aggregate and the Extended Claims Made Date shall be determined by adding the length of the original policy period plus one year to the policy expiration date.

The Town and/or its Contractor(s)/Subcontractor(s) hereby waive their right of subrogation, as respects the above insurance policy(ies), against Railroad for payments made to or on behalf of employees of Town or its agents or its Contractor(s)/Subcontractor(s) and for loss of their owned or leased property or property under their care, custody and control while on or near Railroad's right-of-way or other real property. Town's and/or its Contractor's/Subcontractor's insurance shall be primary with respect to any insurance carried by Railroad.

Town and/or its Contractor(s)/Subcontractor(s) shall furnish to Railroad certificate(s) of insurance evidencing the required coverage and endorsement(s) and upon request a certified duplicate original of any of those policies. The insurance company(ies) issuing such policy(ies) shall notify Railroad in writing of any material alteration including any change in the retroactive date in any "claims-made" policies or substantial reduction of aggregate limits, if such limits apply, or cancellation thereof at least thirty (30) days prior thereto.

The insurance policy(ies) shall be written by a reputable insurance company or companies acceptable to Railroad or with a current Best's Insurance Guide Rating of B and Class VII or better. Such insurance company shall be authorized to transact business in the state(s) affected by this Agreement.





# **EXHIBIT C**

Contractor's Right of Entry Agreement

# UNION PACIFIC RAILROAD COMPANY

Real Estate Department

R. D. Uhrich  
Assistant Vice President  
J. A. Anthony  
Director - Contracts  
D. D. Brown  
Director - Real Estate  
M. W. Casey  
General Director - Special Properties  
J. P. Gade  
Director - Facility Management



1800 Farnam Street  
Omaha, Nebraska 68102  
Fax: (402) 997-3601

J. L. Hawkins  
General Director - Real Estate Operations  
M. E. Heenan  
Director - Real Estate Operations  
D. H. Lightwine  
Director - Real Estate  
T. K. Love  
Director - Real Estate

*Lonnie will  
advise*

December 17, 2001

Folder No. 1976-54

To the Contractor:

Before Union Pacific Railroad can permit you to perform work on its property for the construction of <sup>a</sup>two new at-grade public road crossings, it will be necessary to complete two originals of the enclosed Right of Entry Agreement as follows:

1. Fill in the complete legal name of the contractor in the space provided on Page 1 of the Contractor's Right of Entry Agreement. If a corporation, give the state of incorporation. If a partnership, give the names of all partners.
2. Fill in the date construction will begin and be completed in Article 5, Paragraph A.
3. Fill in the name of the contractor in the space provided in the signature block at the end of the Contractor's Right of Entry Agreement. If the contractor is a corporation, the person signing on its behalf must be an elected corporate officer.
4. Return all copies of the Contractor's Right of Entry Agreement together with your Certificate of Insurance as required in Exhibit B-1, in the attached, self-addressed envelope.
5. Check made payable to the Union Pacific Railroad Company in the amount of \$500.00. If you require formal billing, you may consider this letter as a formal bill. In compliance with the Internal Revenue Services' new policy regarding their Form 1099, I certify that 13-6400825 is the Railroad Company's correct Federal Taxpayer Identification Number and that Union Pacific Railroad Company is doing business as a corporation.

After approval of the Right of Entry Agreement and insurance certificate, one fully executed counterpart of the agreement will be returned to you. In no event should you begin work until you have received your counterpart of the fully executed agreement.

Under Exhibit B-1 of the enclosed Contractor's Right of Entry, you are required to procure Railroad Protective Liability Insurance (RPLI) for the duration of this project. As a service to you, Union Pacific is making this coverage available to you. You are not required to purchase this coverage from the Railroad and are encouraged to shop the market for the best available rate. If you decide; however, that acquiring this coverage from the Railroad is of benefit to you, simply complete contact Ms. Nancy Savage at 402-271-2215.

If you have any questions concerning the agreement, please contact me at (402) 271-3620. Have a safe day!

Sincerely,

PAUL G. FARRELL  
MANAGER CONTRACTS

## CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

THIS AGREEMENT is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation to be addressed at 1416 Dodge Street, WP001, Omaha, Nebraska 68179 (hereinafter the "Railroad"), and

\_\_\_\_\_  
a(n) \_\_\_\_\_ (hereinafter the "Town's Contractor").

### RECITALS:

By agreement dated \_\_\_\_\_<sup>a</sup>, the Railroad granted the *Town of Addison* (hereinafter "Licensee") the right to construct ~~two~~ new at-grade public road crossings<sup>g</sup> for ~~Arpaho Road~~ on the property of the Railroad at Milepost 598.3, on the Dal-Nor Branch, at or near Addison, Dallas County, Texas.

The Town's Contractor has been employed by the Licensee to construct ~~two~~ new at-grade public road crossings<sup>a</sup> for ~~Arpaho Road~~ (hereinafter referred to as the "work") and has requested the Railroad to permit it to perform the work on Railroad property, to which the Railroad is agreeable, subject to the following terms and conditions.

### AGREEMENT:

IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

#### ARTICLE 1 - DEFINITION OF CONTRACTOR

For purposes of this agreement, all references in this agreement to the Town's Contractor shall include the Town's Contractor's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority.

#### ARTICLE 2 - RIGHT GRANTED; PURPOSE

The Railroad hereby grants to the Town's Contractor the right, during the term hereinafter stated and upon and subject to each and all of the terms, provisions and conditions herein contained, to enter upon and have ingress to and egress from the portion of the Railroad's property at Mile Post 598.3 on the Railroad's Dal-Nor Branch at or near Addison, TX, for the purpose of constructing two new at-grade public road crossings hereinabove described. The right herein granted to Town's Contractor is limited to those portions of the Railroad's property specifically described herein, or designated by the Railroad representative named in Article 4.

#### ARTICLE 3 - TERMS AND CONDITIONS CONTAINED IN EXHIBITS B AND B-1

The terms and conditions contained in Exhibits B and B-1, hereto attached, are hereby made a part of this agreement.

#### ARTICLE 4 - ALL EXPENSES TO BE BORNE BY CONTRACTOR; RAILROAD REPRESENTATIVE

The Town's Contractor shall bear any and all costs and expenses associated with any work performed by the Town's Contractor, or any costs or expenses incurred by the Railroad relating to this agreement. All work performed by Town's Contractor on Railroad's property shall be performed in a manner satisfactory to the respective local Superintendent of Transportation Services of the Railroad or his authorized representative (hereinafter the Railroad Representative).

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ARTICLE 5 - TERM; TERMINATION

- a). The grant of right herein made to Town's Contractor shall commence on \_\_\_\_\_, and continue until \_\_\_\_\_, unless sooner terminated as herein provided, or at such time as Town's Contractor has completed its work on Railroad's property, whichever is earlier. Town's Contractor agrees to notify the Railroad Representative in writing when it has completed its work on Railroad property.
- b). This agreement may be terminated by either party on ten (10) days written notice to the other party.

ARTICLE 6 - CERTIFICATE OF INSURANCE

- a). Before commencing any work, the Town's Contractor will provide the Railroad with a Certificate issued by its insurance carrier providing the insurance coverage required pursuant to Exhibit B-1 of this agreement in a policy which contains the following type of endorsement:

Union Pacific Railroad Company is named as additional insured with respect to all liabilities arising out of Insured's, as Town's Contractor, performance of any work on the property of the Railroad.

- b). Town's Contractor warrants that this agreement has been thoroughly reviewed by its insurance agent(s)/broker(s) and that said agent(s)/broker(s) has been instructed to procure insurance coverage and an endorsement as required herein.
- c). All insurance correspondence shall be directed to:

Union Pacific Railroad Company  
Real Estate Department  
1416 Dodge Street, WP001  
Omaha, Nebraska 68179-1100  
Folder No. 1976-54

ARTICLE 7 - PROTECTION OF FIBER OPTIC CABLE SYSTEMS

Fiber optic cable systems may be buried on Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Prior to beginning any work, the Town's Contractor shall telephone the Railroad at 1-800-336-9193 (a 24-hour number) to determine if fiber optic cable is buried anywhere on the property set forth herein. If it is, the Town's Contractor shall also comply with and be subject to the provisions contained in Section 6 of Exhibit A.

ARTICLE 8 - ENFORCEABILITY; CHOICE OF LAW; CHOICE OF FORUM

Litigation arising out of or connected with this agreement may be instituted and maintained in the courts of the states of Nebraska and Texas, and the parties consent to jurisdiction over their person and over the subject matter of any such litigation, in those courts, and consent to service of process issued by such courts.

ARTICLE 9 - ADMINISTRATIVE FEE

Applicant shall pay to the Railroad **FIVE HUNDRED DOLLARS (\$500.00)** as reimbursement for clerical, administrative and handling expense in connection with the processing of this Agreement.

ARTICLE 10 - SPECIAL PROVISIONS

None.

IN WITNESS WHEREOF, the parties hereto have executed this agreement in duplicate as the date first herein written.

**UNION PACIFIC RAILROAD COMPANY**

By \_\_\_\_\_  
MANAGER-CONTRACTS

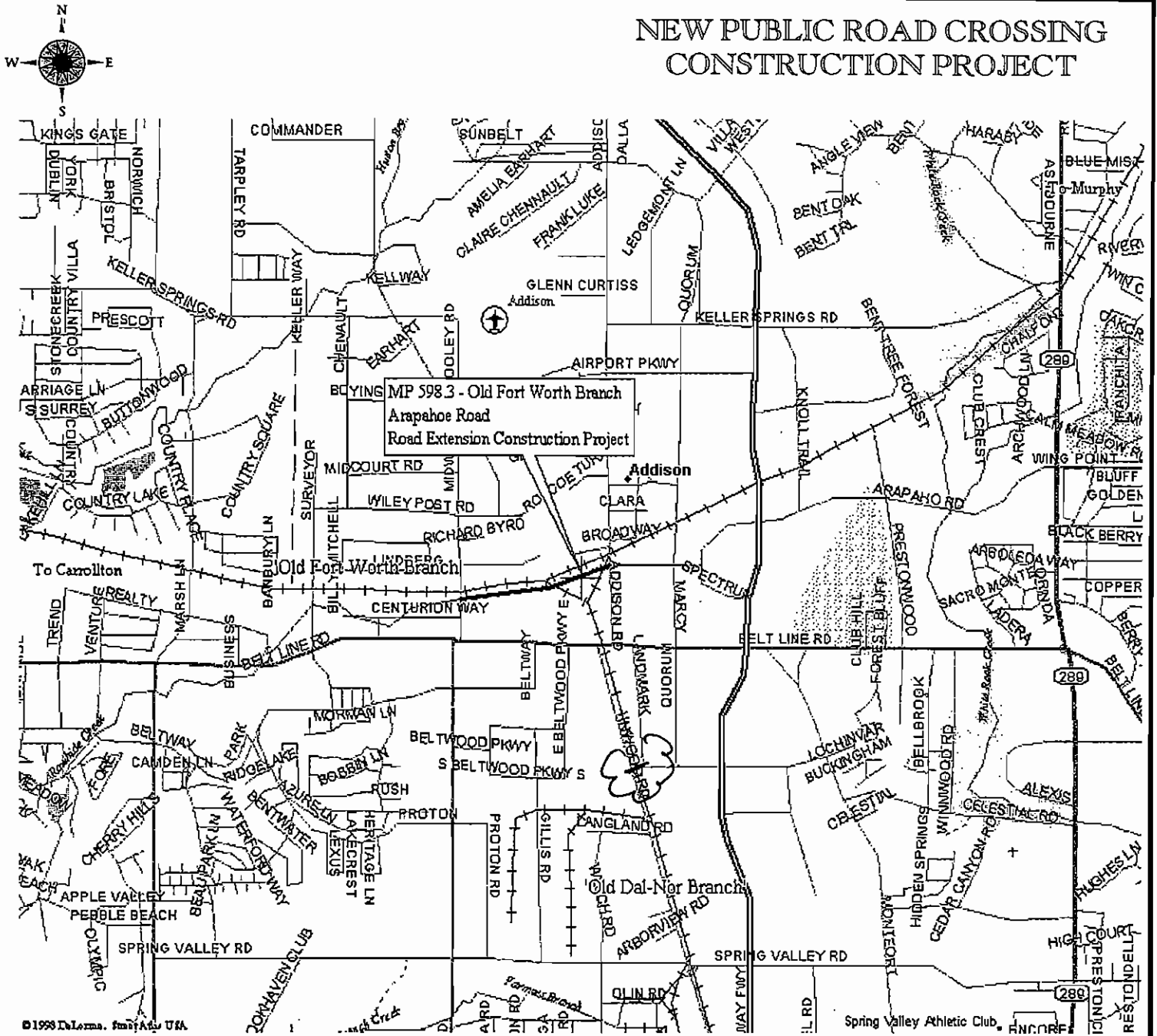
WITNESS:

\_\_\_\_\_  
(Name of Contractor)

\_\_\_\_\_  
By \_\_\_\_\_  
Title: \_\_\_\_\_

Need Revised map

# NEW PUBLIC ROAD CROSSING CONSTRUCTION PROJECT



**RAILROAD WORK TO BE PERFORMED:**

1. Flagging.

**EXHIBIT "A"**  
**UNION PACIFIC RAILROAD COMPANY**  
**DALLAS GARLAND & NORTHEASTERN RAILROAD**  
 Old Fort Worth Branch  
 Mile Post 598.3  
 GPS: N 32° 57.436', W 96° 49.909'  
 Addison Jct., Dallas Co., TX.

Illustrative print showing location of proposed public road crossing extension construction project with the  
**TOWN OF ADDISON, TEXAS.**

Folder No. 1976-54

Date: December 17, 2001

**WARNING**

IN ALL OCCASIONS, U.P. COMMUNICATIONS DEPARTMENT MUST BE CONTACTED IN ADVANCE OF ANY WORK TO DETERMINE EXISTENCE AND LOCATION OF FIBER OPTIC CABLE. PHONE: 1-(800) 336-9193

EXHIBIT B

*No changes  
from here  
on*

TO CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

Section 1. NOTICE OF COMMENCEMENT OF WORK - FLAGGING.

A. The Contractor agrees to notify the Railroad Representative at least ten (10) working days in advance of Contractor commencing its work and at least ten (10) working days in advance of proposed performance of any work by the Contractor in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of Railroad's track(s) at any time, for any reason, unless and until a Railroad flagman is provided to watch for trains. Upon receipt of such ten (10)-day notice, the Railroad Representative will determine and inform the Contractor whether a flagman need be present and whether the Contractor need implement any special protective or safety measures. If flagging or other special protective or safety measures are performed by the Railroad, such services will be provided at Contractor's expense with the understanding that if the Railroad provides any flagging or other services, the Contractor shall not be relieved of any of its responsibilities or liabilities set forth herein. Contractor shall promptly pay to Railroad all charges connected with such services within thirty (30) days after presentation of a bill.

B. The rate of pay per hour for each man will be the prevailing hourly rate in effect for an eight hour day for the class of men used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect on the day of execution of this agreement. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays; two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between the Railroad and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized Governmental Agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, the Contractor shall pay on the basis of the new rates and charges.

C. Reimbursement to the Railroad will be required covering the full eight hour day during which any flagman is furnished, unless he can be assigned to other Railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Railroad work. Reimbursement will also be required for any day not actually worked by said flagman following his assignment to work on the project for which the Railroad is required to pay the flagman and which could not reasonably be avoided by the Railroad by assignment of such flagman to other work, even though the Contractor may not be working during such time. When it becomes necessary for the Railroad to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, the Contractor must provide the Railroad a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5)-days notice of cessation is not given, the Contractor will still be required to pay flagging charges for the five (5)-day notice period required by union agreement to be given to the employee, even though flagging is not required for that period. An additional ten (10) days notice must then be given to the Railroad if flagging service are needed again after such five day cessation notice has been given Railroad.

Section 2. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED

A. The foregoing grant of right is subject and subordinate to the prior and continuing right and obligation of the Railroad to use and maintain its entire property including the right and power of the Railroad to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, roadways, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by the Railroad without liability to the Contractor or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of the Railroad's property, and others) and the right of the Railroad to renew and extend the same, and is made without covenant of title or for quiet enjoyment.

Section 3. NO INTERFERENCE WITH OPERATIONS OF RAILROAD AND ITS TENANTS.

A. The Contractor shall conduct its operations so as not to interfere with the continuous and uninterrupted use and operation of the railroad tracks and property of the Railroad, including without limitation, the operations of the Railroad's lessees, licensees or others, unless specifically authorized in advance by the Railroad Representative. Nothing shall be done or permitted to be done by the Contractor at any time that would in any manner impair the safety of such operations. When not in use, Contractor's



machinery and materials shall be kept at least fifty (50) feet from the centerline of the Railroad's nearest track, and there shall be no vehicular crossings of Railroad's tracks except at existing open public crossings.

B. Operations of the Railroad and work performed by the Railroad personnel and delays in the work to be performed by the Contractor caused by such railroad operations and work are expected by the Contractor, and Contractor agrees that the Railroad shall have no liability to Contractor, its subcontractors or any other person or entity for any such delays. The Contractor shall coordinate its activities with those of the Railroad and third parties so as to avoid interference with railroad operations. The safe operation of the Railroad takes precedence over any work to be performed by the Contractor.

Section 4. LIENS.

The Contractor shall pay in full all persons who perform labor or provide materials for the work to be performed by Contractor. The Contractor shall not create, permit or suffer any mechanic's or materialmen's liens of any kind or nature to be created or enforced against any property of the Railroad for any such work performed. The Contractor shall indemnify and hold harmless the Railroad from and against any and all liens, claims, demands, costs or expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials furnished. If the Contractor fails to promptly cause any lien to be released of record, the Railroad may, at its election, discharge the lien or claim of lien at Contractor's expense.

Section 5. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

A. Fiber optic cable systems may be buried on the Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Contractor shall telephone the Railroad during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried anywhere on the Railroad's premises to be used by the Contractor. If it is, Contractor will telephone the telecommunications company(ies) involved, make arrangements for a cable locator and, if applicable, for relocation or other protection of the fiber optic cable. The Contractor shall not commence any work until all such protection or relocation (if applicable) has been accomplished.

B. In addition to other indemnity provisions in this Agreement, the Contractor shall indemnify, defend and hold the Railroad harmless from and against all costs, liability and expense whatsoever (including, without limitation, attorneys' fees, court costs and expenses) arising out of any act or omission of the Contractor, its contractor, agents and/or employees, that causes or contributes to (1) any damage to or destruction of any telecommunications system on Railroad's property, and/or (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on Railroad's property. Contractor shall not have or seek recourse against Railroad for any claim or cause of action for alleged loss of profits or revenue or loss of service or other consequential damage to a telecommunication company using Railroad's property or a customer or user of services of the fiber optic cable on Railroad's property.

Section 6. PERMITS - COMPLIANCE WITH LAWS.

In the prosecution of the work covered by this agreement, the Contractor shall secure any and all necessary permits and shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work including, without limitation, all applicable Federal Railroad Administration regulations.

Section 7. SAFETY.

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of the work performed by the Contractor. The Contractor shall be responsible for initiating, maintaining and supervising all safety, operations and programs in connection with the work. The Contractor shall at a minimum comply with the Railroad's safety standards listed in Exhibit D, hereto attached, to ensure uniformity with the safety standards followed by the Railroad's own forces. As a part of the Contractor's safety responsibilities, the Contractor shall notify the Railroad if the Contractor determines that any of the Railroad's safety standards are contrary to good safety practices. The Contractor shall furnish copies of Exhibit D to each of its employees before they enter on the job site.

B. Without limitation of the provisions of paragraph A above, the Contractor shall keep the job site free from safety and health hazards and ensure that its employees are competent and adequately trained in all safety and health aspects of the job.

C. The Contractor shall have proper first aid supplies available on the job site so that prompt first aid services may be provided to any person injured on the job site. The Contractor shall promptly notify the Railroad of any U.S. Occupational Safety and Health Administration reportable injuries. The Contractor shall have a nondelegable duty to control its employees while they are on the job site or any other property of the Railroad, and to be certain they do not use, be under the influence of, or have in their possession any alcoholic beverage, drug or other substance that may inhibit the safe performance of any work.

D. If and when requested by the Railroad, the Contractor shall deliver to the Railroad a copy of the Contractor's safety plan for conducting the work (the "Safety Plan"). Railroad shall have the right, but not the obligation, to require the Contractor to correct any deficiencies in the Safety Plan. The terms of this agreement shall control if there are any inconsistencies between this agreement and the Safety Plan.

Section 8. INDEMNITY.

A. To the extent not prohibited by applicable statute, the Contractor shall indemnify, defend and hold harmless the Railroad, its affiliates, and its and their officers, agents and employees ("Indemnified Parties") from and against any and all loss, damage, injury, liability, claim, demand, cost or expense (including, without limitation, attorney's, consultant's and expert's fees, and court costs), fine or penalty (collectively, "Loss") incurred by any person (including, without limitation, any Indemnified Party, the Contractor, or any employee of the Contractor or of any Indemnified Party) arising out of or in any manner connected with (i) any work performed by the Contractor, or (ii) any act or omission of the Contractor, its officers, agents or employees, or (iii) any breach of this agreement by the Contractor.

B. The right to indemnity under this Section 8 shall accrue upon occurrence of the event giving rise to the Loss, and shall apply regardless of any negligence or strict liability of any Indemnified Party, except where the Loss is caused by the sole active negligence of an Indemnified Party as established by the final judgment of a court of competent jurisdiction. The sole active negligence of any Indemnified Party shall not bar the recovery of any other Indemnified Party.

C. The Contractor expressly and specifically assumes potential liability under this Section 8 for claims or actions brought by the Contractor's own employees. The Contractor waives any immunity it may have under worker's compensation or industrial insurance acts to indemnify the Railroad under this Section 8. Contractor acknowledges that this waiver was mutually negotiated by the parties hereto.

D. No court or jury findings in any employee's suit pursuant to any worker's compensation act or the Federal Employers' Liability Act against a party to this agreement may be relied upon or used by the Contractor in any attempt to assert liability against the Railroad.

E. The provisions of this Section 8 shall survive the completion of any work performed by the Contractor or the termination or expiration of this agreement. In no event shall this Section 8 or any other provision of this agreement be deemed to limit any liability the Contractor may have to any Indemnified Party by statute or under common law.

Section 9. RESTORATION OF PROPERTY.

In the event the Railroad authorizes the Contractor to take down any fence of the Railroad or in any manner move or disturb any of the other property of the Railroad in connection with the work to be performed by Contractor, then in that event the Contractor shall, as soon as possible and at Contractor's sole expense, restore such fence and other property to the same condition as the same were in before such fence was taken down or such other property was moved or disturbed. The Contractor shall remove all of Contractor's tools, equipment, rubbish and other materials from Railroad's property promptly upon completion of the work, restoring Railroad's property to the same state and condition as when Contractor entered thereon.

Section 10. WAIVER OF DEFAULT.

Waiver by the Railroad of any breach or default of any condition, covenant or agreement herein contained to be kept, observed and performed by the Contractor shall in no way impair the right of the Railroad to avail itself of any remedy for any subsequent breach or default.

Section 11. MODIFICATION - ENTIRE AGREEMENT.

No modification of this agreement shall be effective unless made in writing and signed by the Contractor and the Railroad. This agreement and the exhibits attached hereto and made a part hereof constitute the entire understanding between the Contractor and the Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work to be performed by the Contractor.

Section 12. ASSIGNMENT - SUBCONTRACTING.

The Contractor shall not assign or subcontract this agreement, or any interest therein, without the written consent of the Railroad. The Contractor shall be responsible for the acts and omissions of all subcontractors, and shall require all subcontractors to maintain the insurance coverage required to be maintained by the Contractor as provided in this agreement, and to indemnify the Contractor and the Railroad to the same extent as the Railroad is indemnified by the Contractor under this agreement.

## EXHIBIT C

### TO CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

Union Pacific Railroad Company  
Insurance Provisions For  
Contractor's Right of Entry Agreement

Contractor shall, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

A. Commercial General Liability insurance. This insurance shall contain broad form contractual liability with a single limit of at least \$5,000,000 each occurrence or claim and an aggregate limit of at least \$10,000,000. Coverage must be purchased on a post 1998 ISO or equivalent form, including but not limited to coverage for the following:

- Bodily injury including death and personal injury
- Property damage
- Fire legal liability (Not less than the replacement value of the portion of the premises occupied)
- Products and completed operations

The policy shall also contain the following endorsements which shall be indicated on the certificate of insurance:

- "For purposes of this insurance, Union Pacific Railroad payments related to the Federal Employers Liability Act or a Union Pacific Wage Continuation Program or similar programs are deemed not to be either payments made or obligations assumed under any Workers Compensation, disability benefits, or unemployment compensation law or similar law."
- The exclusions for railroads (except where the Job site is more than fifty feet (50') from any railroad including but not limited to tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings), and explosion, collapse and underground hazard shall be removed.
- Coverage for Contractor's (and Railroad's) employees shall not be excluded
- Waiver of subrogation

B. Business Automobile Coverage insurance. This insurance shall contain a combined single limit of at least \$5,000,000 per occurrence or claim, including but not limited to coverage for the following:

Bodily injury and property damage  
Any and all motor vehicles including owned, hired and non-owned

The policy shall also contain the following endorsements which shall be indicated on the certificate of insurance:

- "For purposes of this insurance, Union Pacific Railroad payments related to the Federal Employers Liability Act or a Union Pacific Wage Continuation Program or similar programs are deemed not to be either payments made or obligations assumed under any Workers Compensation, disability benefits, or unemployment compensation law or similar law."
- The exclusions for railroads (except where the Job site is more than fifty feet (50') from any railroad including but not limited to tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings), and explosion, collapse and underground hazard shall be removed.
- Motor Carrier Act Endorsement- Hazardous materials clean up (MCS-90) if required by law.

C. Workers Compensation and Employers Liability insurance including but not limited to:

- Contractor's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement
- Employers' Liability (Part B) with limits of at least
  - \$500,000 each accident, \$500,000 disease policy limit
  - \$500,000 each employee

If Workers Compensation insurance will not cover the liability of Contractor in states that require participation in state workers' compensation fund, Contractor shall comply with the laws of such states. If Contractor is self-insured, evidence

of state approval must be provided along with evidence of excess workers compensation coverage. Coverage shall include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

The policy shall also contain the following endorsement which shall be indicated on the certificate of insurance:

- Alternate Employer Endorsement

- D. Umbrella or Excess Policies In the event Contractor utilizes Umbrella or excess policies, these policies shall "follow form" and afford no less coverage than the primary policy.
- E. Railroad Protective Liability insurance naming only the Railroad as the insured with a combined single limit of \$2,000,000 per occurrence with a \$6,000,000 aggregate. The policy shall be broad form coverage for "Physical Damage to Property" (ISO Form CG 00 35 07 98 or equivalent). A binder stating the policy is in place must be submitted to the Railroad until the original policy is forwarded to the Railroad.

#### Other Requirements

- F. Punitive damage exclusion must be deleted, which deletion shall be indicated on the certificate of insurance.
- G. Contractor agrees to waive its right of recovery, and its insurers, through policy endorsement, agree to waive their right of subrogation against Railroad. Contractor further waives its right of recovery, and its insurers also waive their right of subrogation against Railroad for loss of its owned or leased property or property under its care, custody and control. Contractor's insurance shall be primary with respect to any insurance carried by Railroad. All waivers of subrogation shall be indicated on the certificate of insurance.
- H. All policy(ies) required above (excluding Workers Compensation) shall provide severability of interests and shall name Railroad as an additional insured. Severability of interest and naming Railroad as additional insured shall be indicated on the certificate of insurance.
- I. Prior to commencing the Work, Contractor shall furnish to Railroad original certificate(s) of insurance evidencing the required coverage, endorsements, and amendments. The certificate(s) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify Railroad in writing of any cancellation or material alteration. Upon request from Railroad, a certified duplicate original of any required policy shall be furnished.
- J. Any insurance policy shall be written by a reputable insurance company acceptable to Railroad or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.
- K. Contractor WARRANTS that this Agreement has been thoroughly reviewed by Contractor's insurance agent(s)/broker(s), who have been instructed by Contractor to procure the insurance coverage required by this Agreement and acknowledges that Contractor's insurance coverage will be primary.
- L. The fact that insurance is obtained by Contractor or Railroad on behalf of Contractor shall not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Railroad shall not be limited by the amount of the required insurance coverage.

## EXHIBIT D

### TO CONTRACTOR'S RIGHT OF ENTRY AGREEMENT

#### MINIMUM SAFETY REQUIREMENTS

The term "employees" as used herein refer to all employees of the Contractor as well as all employees of any subcontractor or agent of the Contractor.

#### I. Clothing

- A. All employees of the Contractor will be suitably dressed to perform their duties safely and in a manner that will not interfere with their vision, hearing, or free use of their hands or feet.

Specifically, the Contractor's employees must wear:

- (i) Waist-length shirts with sleeves.
  - (ii) Trousers that cover the entire leg. If flare-legged trousers are worn, the trouser bottoms must be tied to prevent catching.
  - (iii) Footwear that covers their ankles and has a defined heel. Employees working on bridges are required to wear safety-toed footwear that conforms to the American National Standards Institute (ANSI) and FRA footwear requirements.
- B. Employees shall not wear boots (other than work boots), sandals, canvas-type shoes, or other shoes that have thin soles or heels that are higher than normal.
- C. Employees must not wear loose or ragged clothing, neckties, finger rings, or other loose jewelry while operating or working on machinery.

#### II. Personal Protective Equipment

The Contractor shall require its employees to wear personal protective equipment as specified by Railroad rules, regulations, or recommended or requested by the Railroad Representative.

- (i) Hard hat that meets the American National Standard (ANSI) Z89.1 – latest revision. Hard hats should be affixed with the contractor's or subcontractor's company logo or name.
- (ii) Eye protection that meets American National Standard (ANSI) for occupational and educational eye and face protection, Z87.1 – latest revision. Additional eye protection must be provided to meet specific job situations such as welding, grinding, etc.
- (iii) Hearing protection, which affords enough attenuation to give protection from noise levels that will be occurring on the job site. Hearing protection, in the form of plugs or muffs, must be worn when employees are within:
  - 100 feet of a locomotive or roadway/work equipment
  - 15 feet of power operated tools
  - 150 feet of jet blowers or pile drivers
  - 150 feet of retarders in use (when within 10 feet, employees must wear dual ear protection – plugs and muffs)
  -
- (iv) Other types of personal protective equipment, such as respirators, fall protection equipment, and face shields, must be worn as recommended or requested by the Railroad Representative.

#### III. On Track Safety

The Contractor is responsible for compliance with the Federal Railroad Administration's Roadway Worker Protection regulations – 49CFR214, Subpart C and Railroad's On-Track Safety rules. Under 49CFR214, Subpart C, railroad contractors are responsible for the training of their employees on such regulations. In addition to the instructions contained in Roadway Worker Protection regulations, all employees must:

- (i) Maintain a distance of twenty-five (25) feet to any track unless the Railroad Representative is present to authorize movements.
- (ii) Wear an orange, reflectorized workwear approved by the Railroad Representative.
- (iii) Participate in a job briefing that will specify the type of On-Track Safety for the type of work being performed. Contractors must take special note of limits of track authority, which tracks may or may not be fouled, and clearing the track. The Contractors will also receive special instructions relating to the work zone around machines and minimum distances between machines while working or traveling.

#### IV. Equipment

- A. It is the responsibility of the Contractor to ensure that all equipment is in a safe condition to operate. If, in the opinion of the Railroad Representative, any of the Contractor's equipment is unsafe for use, the Contractor shall remove such equipment from the Railroad's property. In addition, the Contractor must ensure that the operators of all equipment are properly trained and competent in the safe operation of the equipment. In addition, operators must be:
  - Familiar and comply with Railroad's rules on lockout/tagout of equipment.
  - Trained in and comply with the applicable operating rules if operating any hy-rail equipment on-track.
  - Trained in and comply with the applicable air brake rules if operating any equipment that moves rail cars or any other railbound equipment.
- B. All self-propelled equipment must be equipped with a first-aid kit, fire extinguisher, and audible back-up warning device.
- C. Unless otherwise authorized by the Railroad Representative, all equipment must be parked a minimum of twenty-five (25) feet from any track. Before leaving any equipment unattended, the operator must stop the engine and properly secure the equipment against movement.
- D. Cranes must be equipped with three orange cones that will be used to mark the working area of the crane and the minimum clearances to overhead powerlines.

#### V. General Safety Requirements

- A. The Contractor shall ensure that all waste is properly disposed of in accordance with applicable federal and state regulations.
- B. The Contractor shall ensure that all employees participate in and comply with a job briefing conducted by the Railroad Representative, if applicable. During this briefing, the Railroad Representative will specify safe work procedures, (including On-Track Safety) and the potential hazards of the job. If any employee has any questions or concerns about the work, the employee must voice them during the job briefing. Additional job briefings will be conducted during the work as conditions, work procedures, or personnel change.
- C. All track work performed by the Contractor meets the minimum safety requirements established by the Federal Railroad Administration's Track Safety Standards 49CFR213.
- D. All employees comply with the following safety procedures when working around any railroad track:
  - (i) Always be on the alert for moving equipment. Employees must always expect movement on any track, at any time, in either direction.
  - (ii) Do not step or walk on the top of the rail, frog, switches, guard rails, or other track components.
  - (iii) In passing around the ends of standing cars, engines, roadway machines or work equipment, leave at least 20 feet between yourself and the end of the equipment. Do not go between pieces of equipment of the opening is less than one car length (50 feet).
  - (iv) Avoid walking or standing on a track unless so authorized by the employee in charge.
  - (v) Before stepping over or crossing tracks, look in both directions first.
  - (vi) Do not sit on, lie under, or cross between cars except as required in the performance of your duties and only when track and equipment have been protected against movement.
- E. All employees must comply with all federal and state regulations concerning workplace safety.

**Lonnie E. Blaydes**

8122 San Benito Way  
Dallas, TX 75218  
214-924-4832

---

August 22, 2002

Mr. James Pierce, Jr.  
Assistant Public Works Director  
Town of Addison  
16801 Westgrove Drive  
P. O. Box 9010  
Addison, TX 75001-9010

Dear Mr. Pierce:

Enclosed is my invoice for assistance to the Town of Addison on the Landmark Grade Crossing Agreement. Please forward payment at your earliest convenience to:

Lonnie E. Blaydes  
8122 San Benito Way  
Dallas, TX 75218

If you have any questions, please don't hesitate to contact me at 214.924.4632.

Sincerely,



Lonnie E Blaydes  
Lonnie E Blaydes, Consulting

**Invoice**  
**Louie E. Blaydes**

8122 San Benito Way  
Dallas, TX 75218  
214-824-4632

**Addison-Landmark Crossing**

Date	Description	Hour	Rate	Total
5/14/2002	Call with DGNO	1.5	150	225.00
5/16/2002	Agreement Draft	2	150	300.00
5/29/2002	Call with UP	2	150	300.00
	Total Hours for May	5.5	150	825.00
6/7/2002	Meeting with DGNO	3	150	450.00
6/14/2002	Call with DGNO	1.5	150	225.00
6/26/2002	Meeting with Addison	1	150	150.00
6/28/2002	Meeting/call with DGNO	2	150	300.00
	Total Hours for June	7.5	150	1,125.00
7/10/2002	Prep and Call with UP	3.5	150	525.00
7/11/2002	Revise DGNO Cost Estimate	2.5	150	375.00
7/26/2002	Draft Agreement	3	150	450.00
7/29/2002	Call with DGNO	1.5	150	225.00
7/31/2002	Call with UP	2	150	300.00
	Total Hours for July	12.5	150	1,875.00
	Total Hours Due	25.5	150	3,825.00

**Total Amount Due:**

**\$3,825.00**

41-000-56570-42303

OK to Pay  
J. Blaydes  
8-28-02



**Jim Pierce**

---

**From:** Leblaydes@aol.com  
**Sent:** Friday, August 16, 2002 10:26 AM  
**To:** jpierce@ci.addison.tx.us  
**Subject:** Landmark Crossing Agreement

Jim:

Attached is a draft Landmark Crossing Agreement. It follows the form and content of the Arapaho Agreement Addison and DGNO have already signed.

Exhibit A to the Agreement are drawings of the crossing, you should just add drawings similar to what we have for Arapaho.

Exhibit B has no changes from Arapaho.

Exhibit B-1 has no changes'

Exhibit C is the Right of Entry and will have name changes from Arapaho to Landmark.

Exhibit A to the Right of Entry has a simple map (similar to the Arapaho Agreement)

Exhibits B, C, and D to the Right of Entry have no changes from Arapaho.

If ya'll will review the attached Agreement and assemble the drawings for the Exhibit A, I make the small name changes on the other Exhibits. After review, let's get together to talk through questions/suggested changes. We'll then transmit to DGNO for their final review.

Lonnie

Lonnie E. Blaydes  
LEBlaydes@aol.com  
214-924-4632

8/24/2002

Addison!

**JIM PIERCE, P.E.**  
Assistant Public Works Director  
(972) 450-2879  
(972) 450-2837 FAX  
jpierce@ci.addison.tx.us

Town of Addison 16801 Westgrove Dr. P.O. Box 9010, Addison, Texas 75001-9010

---

8/24/02

Lonnie - a couple of  
minor edits - please  
correct & Email back

Thanks, Jim \_\_\_\_\_

NEW PUBLIC HIGHWAY CROSSING AGREEMENT

LANDMARK BLVD.  
MILE POST - DAL-NOR BRANCH  
ADDISON, DALLAS COUNTY, TEXAS

THIS AGREEMENT, made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, by and between **DALLAS GARLAND & NORTHEASTERN RAILROAD**, a Texas corporation (hereinafter the "DGNO" or "Railroad"), and the **TOWN OF ADDISON, TEXAS**, a municipal corporation of the State of Texas to be addressed at PO Box 9010, Addison, TX 75001-9010 (hereinafter the "Town").

WITNESSETH:

RECITALS:

The Town desires to undertake as its project the construction of a new at-grade public road crossings (hereinafter the "Project").

The Town desires the right to use for the Project that portion of the right-of-way of the Railroad at MP5\_\_\_\_, the Dal-Nor Branch (hereinafter the "Crossing Area") shown and described on the attached prints dated \_\_\_\_\_, 2002, marked **Exhibit A**.

AGREEMENT:

NOW, THEREFORE, it is mutually agreed by and between the parties hereto as follows:

**ARTICLE 1 - CROSSING APPROVAL**

For and in consideration of the Town's agreement to perform and abide by the terms of this Agreement, including **Exhibit A, B, and B-1**, attached hereto and hereby made a part hereof, DGNO hereby grants to the Town, the right to establish, construct, maintain, repair, renew, and use a public highway and right of way at grade over and across the Crossing Area, (together with any and all uses incidental thereto, including, without limitation, the installation, repair, maintenance, and replacement of water lines, sanitary sewer lines, drainage, and other utilities typically located underground within public right of way), provided that the DGNO consents in writing to the installation of the above utilities, such consent to not be unreasonably withheld, together with the right of entry to control and remove from the DGNO's right-of-way, on each side of the Crossing Area, weeds and vegetation which may obstruct the view of motorists approaching the Crossing Area, ~~weeds and vegetation which may obstruct the view of motorists, approaching the Crossing Area,~~ *and* to any trains that may be also be approaching the Crossing Area.

**ARTICLE 2 - RAIL OPERATIONS COST**

The new crossing will occur in the middle of an existing DGNO rail yard area. The crossing will cause the railroad to incur increased rail operations and expense. To reduce the increased rail operating expense, the Town and DGNO acknowledge that occasionally the crossing may be blocked for more than five (5) minutes during night rail yard movements. The Town agrees to pay to DGNO **THREE HUNDRED SEVENTY SEVEN THOUSAND DOLLARS (\$376,000)**, the complete and total compensation for these increased operating costs.

*define night?*

**ARTICLE 3 - CERTIFICATE OF INSURANCE**

A. Before any work on the Premises begins, the Town (as defined in Section 8 (a) of **Exhibit B** to this Agreement) will provide DGNO with a Certificate issued by its insurance carrier providing the

insurance coverage required pursuant to **Exhibit B-1** of this Agreement in a policy containing the following endorsement:

“Union Pacific Railroad Company and Dallas Garland & Northeastern Railroad are named as additional insured with respect to all liabilities arising out of Insured’s performance of the work required for the Project.”

B. The Town WARRANTS that this agreement has been thoroughly reviewed by its insurance agent(s)/broker(s) and that said agents(s)/broker(s) has been instructed to procure insurance coverage and an endorsement as required herein.

C. All insurance correspondence shall be directed to: ( \_\_\_\_\_ )

D. The Town may self-insure all or a portion of the insurance coverage required hereunder, subject to DGNO’s review and approval. However, the Towns contractor/subcontractor (if any) shall obtain and provide evidence of insurance coverage pursuant to **Exhibit B-1** of this agreement.

**ARTICLE 4 - IF WORK IS TO BE PERFORMED BY CONTRACTOR**

If a contractor is to perform any of the work on the Project (including initial construction and subsequent relocation or substantial maintenance and repair work), then the Town shall require its contractor to execute the Railroad’s Contract’s Right of Entry Agreement attached hereto as **Exhibit C**, including revisions thereto that DGNO is willing to approve, which approval shall not be unreasonably withheld, and hereby made a part hereof. Town acknowledges receipt of a copy of the Right of Entry Agreement and understanding of its terms, provisions, and requirements, and will inform its contractor of the need to execute the Agreement. Under no circumstances will Town’s contractor be allowed onto the Railroad’s premises without first executing the Contractor’s Right of Entry Agreement.

**ARTICLE 5 - WORK TO BE PERFORMED BY THE RAILROAD**

A. DGNO may make any and all changes, alterations or relocations, whether temporary or permanent, and may provide flagging and other protective services and devices, which in DGNO’s judgment may be or become necessary or expedient within the right-of-way because of the Project, provided, however, that this right to make such changes, alterations or relocations shall not be a right to eliminate, or unreasonable<sup>ly</sup> interfere with the crossing rights of the Town.

B. The Railroad, shall, at the sole cost and expense of the Town, maintain, repair, and replace the warning devices installed hereunder. PROVIDED, HOWEVER, that this provision shall not negate DGNO’s eligibility for any further federal, state or local or other public funds that may become available for the maintenance of said devices; and PROVIDED, FURTHER, that the cost of repair or replacement resulting from damage caused by non-parties that is not recoverable by DGNO from the non-parties shall be borne entirely by the Town.

C. The Town agrees to pay the Dallas Garland & Northeastern Railroad for the work performed and materials supplied by the Dallas Garland & Northeastern Railroad for the Project.

**ARTICLE 7 - EFFECTIVE DATE; TERM**

This Agreement shall become effective as of the date first herein written, or the date work commences on the Project, whichever is earlier, and shall continue in full force and effect until terminated as herein provided.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate as of the date.

**DALLAS GARLAND & NORTHEASTERN RAILROAD**

By \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

TOWN OF ADDISON, TEXAS

By \_\_\_\_\_

Title: \_\_\_\_\_

Resolution N.: \_\_\_\_\_

Pursuant to Resolution/Order Dated: \_\_\_\_\_

(Seal)



# LETTER OF TRANSMITTAL

**Public Works / Engineering**  
 16801 Westgrove • P.O. Box 9010  
 Addison, Texas 75001  
 Telephone: (972) 450-2871 • Fax: (972) 450-2837

DATE	6-27-02	JOB NO.	
ATTENTION			
RE:	Quorum Drive RR Crossing		

TO Lonnie Blaydes

- GENTLEMAN:**  
**WE ARE SENDING YOU**
- Attached
  - Under separate cover via \_\_\_\_\_ the following items:
  - Shop Drawings
  - Prints
  - Plans
  - Samples
  - Specifications
  - Copy of letter
  - Change order
  - \_\_\_\_\_

COPIES	DATE	NO.	DESCRIPTION
1	4-3-01		Telecon Memo indicating contact with Paul Farrell and "UP approval"
<del>1</del>	<del>3-15-01</del>		
1	3-15-01		Letter to Dennis Miller transmitting Crossing info
1			Meters of Bounds description for the easement needed for the crossing & drainage
1			Parcel map for above
1			Sheets 4, 5 & 6 of Construction Plans

- THESE ARE TRANSMITTED as checked below:**
- For approval
  - For your use
  - As requested
  - For review and comment
  - FOR BIDS DUE \_\_\_\_\_ 19\_\_\_\_
  - Approved as submitted
  - Approved as noted
  - Returned for corrections
  - \_\_\_\_\_
  - Resubmit \_\_\_\_\_ copies for approval
  - Submit \_\_\_\_\_ copies for distribution
  - Return \_\_\_\_\_ corrected prints
  - PRINTS RETURNED AFTER LOAN TO US

**REMARKS** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**COPY TO** \_\_\_\_\_

**SIGNED:** \_\_\_\_\_

*If enclosures are not as noted, please notify us at once.*



DGNO  
DALLAS, GARLAND & NORTHEASTERN RAILROAD, INC.

403 International Pkwy., Suite 500 ♦ Richardson, TX ♦ 75081  
Phone 972-808-9800 ♦ Fax 972-808-9903

June 12, 2002

Town of Addison  
Mr. Lonnie Blaydes  
P.O. Box 9010  
Addison, TX 75001-9010

RE: Costs Regarding Quorum Drive Crossings Through DGNO Inwood Yard.

Dear Mr. Blaydes,

In response to your request on April 19, 2002, I would like to address your concerns as follows:

Dallas Garland & Northeastern Railroad, (DGNO) has determined that the operational impact on the DGNO for the said location will cost them \$64,324.00 per year, which was prorated over a 10-year period with an NPL of \$395,243.13 (Impact Fee). The Impact Fee compensates DGNO for operational expenses/damages (i.e., additional labor, locomotive usage, fuel, track maintenance, etc) associated with the adverse effect imposed upon DGNO's current train operation at this location. DGNO will not pursue any other expenses and/or damages from the Town of Addison for any future operational impact said crossing may have on DGNO train operations. This Impact Fee relates only to operational issues associated with Addison's installation of the new crossing. DGNO expects Addison to enter into a standard crossing agreement governing ongoing maintenance and liability issues associated with the crossing.

I would like to point out that the crossing will have a large impact on our operations and even though we will try to handle as much traffic as possible during off peak times, we may have an occasion where we will have to utilize this yard during the peak times which could create increased blockage at this location. We would ask that either an agreement or a memorandum of understanding be put in place, which would allow us some consideration when the local Law enforcement agency observes these situations.

At this time we will require that a qualified railroad contractor satisfactorily construct all the crossings to the current "Quiet Zone" requirements.

We request that this project have a completion date not to exceed 5 years from execution of the crossing agreement. However, we would like to be informed, before the Town starts



any work, the amount of time expected from the start of the project to the completion of the project, as this will have an adverse effect on our operations. I would like to add that when I speak of the "time" I'm only looking at the part of the project that will entail work on or around the railroad tracks.

I would also point out that there would be additional costs for providing contractor protection during the time spent around the tracks. We will not charge for protection of any work performed by the qualified railroad contractor, but will need to provide protection to any contractors that are not performing work on the railroad and only when they will be operating within 25 feet of our tracks.

If you have any questions, concerns or require additional information, please contact me at 972-808-9800 ext. 222.

Sincerely,

*David C. Eyermann*

David C. Eyermann (via e-mail)  
Regional Vice President

CC: James R. Kuntz (via e-mail)  
General Manager  
Dallas, Garland & Northeastern Railroad

Sandy Franger (via e-mail)  
VP Contracts Interline Agreements  
RailAmerica, Inc.





# DALLAS, GARLAND & NORTHEASTERN RAILROAD, INC.

---

403 International Pkwy., Suite 500 ♦ Richardson, TX ♦ 75081  
Phone 972-808-9800 ♦ Fax 972-808-9903

June 12, 2002

Town of Addison  
Mr. Lonnie Blaydes  
P.O. Box 9010  
Addison, TX 75001-9010

RE: Costs Regarding Quorum Drive Crossings Through DGNO Inwood Yard.

Dear Mr. Blaydes,

In response to your request on April 19, 2002, I would like to address your concerns as follows:

Dallas Garland & Northeastern Railroad, (DGNO) has determined that the operational impact on the DGNO for the said location will cost them \$64,324.00 per year, which was prorated over a 10-year period with an NPL of \$395,243.13 (Impact Fee). The Impact Fee compensates DGNO for operational expenses/damages (i.e., additional labor, locomotive usage, fuel, track maintenance, etc) associated with the adverse effect imposed upon DGNO's current train operation at this location. DGNO will not pursue any other expenses and/or damages from the Town of Addison for any future operational impact said crossing may have on DGNO train operations. This Impact Fee relates only to operational issues associated with Addison's installation of the new crossing. DGNO expects Addison to enter into a standard crossing agreement governing ongoing maintenance and liability issues associated with the crossing.

I would like to point out that the crossing will have a large impact on our operations and even though we will try to handle as much traffic as possible during off peak times, we may have an occasion where we will have to utilize this yard during the peak times which could create increased blockage at this location. We would ask that either an agreement or a memorandum of understanding be put in place, which would allow us some consideration when the local Law enforcement agency observes these situations.

At this time we will require that a qualified railroad contractor satisfactorily construct all the crossings to the current "Quiet Zone" requirements.

We request that this project have a completion date not to exceed 5 years from execution of the crossing agreement. However, we would like to be informed, before the Town starts



any work, the amount of time expected from the start of the project to the completion of the project, as this will have an adverse effect on our operations. I would like to add that when I speak of the "time" I'm only looking at the part of the project that will entail work on or around the railroad tracks.

I would also point out that there would be additional costs for providing contractor protection during the time spent around the tracks. We will not charge for protection of any work performed by the qualified railroad contractor, but will need to provide protection to any contractors that are not performing work on the railroad and only when they will be operating within 25 feet of our tracks.

If you have any questions, concerns or require additional information, please contact me at 972-808-9800 ext. 222.

Sincerely,

*David C. Eyermann*

David C. Eyermann (via e-mail)  
Regional Vice President

CC: James R. Kuntz (via e-mail)  
General Manager  
Dallas, Garland & Northeastern Railroad

Sandy Franger (via e-mail)  
VP Contracts Interline Agreements  
RailAmerica, Inc.

**Lonnie E. Blaydes**

8122 San Benito Way  
Dallas, TX 75218  
214-924-4632

---

May 14, 2002

Mr. James Pierce, Jr.  
Assistant Public Works Director  
Town of Addison  
16801 Westgrove Drive  
P. O. Box 9010  
Addison, TX 75001-9010

Dear Mr. Pierce:

Enclosed is my initial invoice for assistance to the Town of Addison on the Landmark Grade Crossing Agreement. Please forward payment at your earliest convenience to:

Lonnie E. Blaydes  
8122 San Benito Way  
Dallas, TX 75218

If you have any questions, please don't hesitate to contact me at 214.924.4632.

Sincerely,



Lonnie E Blaydes  
Lonnie E Blaydes, Consulting

5-17-02

DGNO financial info  
due next week

6-3-02- DGNO has not gotten info to Lonnie, should have it this week.

**Invoice**  
**Lonnie E. Blaydes**

8122 San Benito Way  
Dallas, TX 75218  
214-924-4632

Addison-Landmark Crossing

Date	Description	Hour	Rate/Exp	Total
3/13/2002	Phone Call with UP & Research of Agreement	4	150	600.00
4/1/2002	Meeting with Addison Staff	2	150	300.00
4/2/2002	Plan and Document Review	4	150	600.00
4/9/2002	Review and Call to UP	3	150	450.00
4/19/2002	Preparation and Meeting with DGNO	5	150	750.00
4/22/2002	Meeting with UP	4	150	600.00
4/24/2002	Research and Start Draft Agreement	8	150	1,200.00
	Total Hours	30	150	4,500.00
	Total Due			4,500.00

41-000-56570-  
42303

OK to pay  
Jeffrey  
5-16-02



**Public Works / Engineering**  
 16801 Westgrove • P.O. Box 9010  
 Addison, Texas 75001  
 Telephone: (972) 450-2871 • Fax: (972) 450-2837

# LETTER OF TRANSMITTAL

DATE	5-3-02	JOB NO.
ATTENTION		
RE:	Landmark RR Crossing	

TO Lonnie Blaydes

- GENTLEMAN:**  
**WE ARE SENDING YOU**
- Attached
  - Under separate cover via \_\_\_\_\_ the following items:
  - Shop Drawings
  - Prints
  - Plans
  - Samples
  - Specifications
  - Copy of letter
  - Change order
  - \_\_\_\_\_

COPIES	DATE	NO.	DESCRIPTION
1			Public Road Crossing Agreement UP RR Co

- THESE ARE TRANSMITTED as checked below:**
- For approval
  - For your use
  - As requested
  - For review and comment
  - FOR BIDS DUE \_\_\_\_\_ 19\_\_\_\_\_
  - Approved as submitted
  - Approved as noted
  - Returned for corrections
  - \_\_\_\_\_
  - Resubmit \_\_\_\_\_ copies for approval
  - Submit \_\_\_\_\_ copies for distribution
  - Return \_\_\_\_\_ corrected prints
  - \_\_\_\_\_
  - PRINTS RETURNED AFTER LOAN TO US

**REMARKS** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**COPY TO** \_\_\_\_\_

**SIGNED:** *J. Blaydes*

*If enclosures are not as noted, please notify us at once.*

4-1-02

Lonnie                      Email address  
Landmark Crossing

VP - City Buy Property - assessment  
VP - must be OK with DGNO  
operationally

Prob not feasible to find another site.  
Prob best to make an "operational" payment  
perhaps over 5 years

Agreement is with VP but does another agree-  
ment need to be made with DGNO?

\* Lonnie needs maps & description of  
crossing

Lonnie will meet w DGNO & negotiate the  
terms of crossing



# LETTER OF TRANSMITTAL

**Public Works / Engineering**  
16801 Westgrove • P.O. Box 9010  
Addison, Texas 75001  
Telephone: (972) 450-2871 • Fax: (972) 450-2837

DATE	3-11-02	JOB NO.
ATTENTION		
RE:	Landmark Grade Crossing Agreement Proposal	

TO Carmen Moran  
Town Hall

**GENTLEMAN:**

**WE ARE SENDING YOU**

- Shop Drawings
- Copy of letter
- Attached
- Prints
- Change order
- Under separate cover via \_\_\_\_\_ the following items:
- Plans
- Samples
- Specifications
- \_\_\_\_\_

COPIES	DATE	NO.	DESCRIPTION
1			Above referenced agreement with Lonnie Baybles

**THESE ARE TRANSMITTED as checked below:**

- For approval
- For your use
- As requested
- For review and comment
- FOR BIDS DUE \_\_\_\_\_ 19\_\_\_\_
- Approved as submitted
- Approved as noted
- Returned for corrections
- \_\_\_\_\_
- Resubmit \_\_\_\_\_ copies for approval
- Submit \_\_\_\_\_ copies for distribution
- Return \_\_\_\_\_ corrected prints
- PRINTS RETURNED AFTER LOAN TO US

REMARKS Consulting agreement for RR crossing  
of UP RR @ Quorum / Landmark intersection

COPY TO \_\_\_\_\_

SIGNED: J. Lewis

If enclosures are not as noted, please notify us at once.



# LETTER OF TRANSMITTAL

**Public Works / Engineering**  
16801 Westgrove • P.O. Box 9010  
Addison, Texas 75001  
Telephone: (972) 450-2871 • Fax: (972) 450-2837

DATE	3-11-02	JOB NO.	
ATTENTION			
RE:	Landmark Grade Crossing UP Railroad		

TO Lonnie Blaydes  
8122 San Benito Way  
Dallas, TX 75218

- GENTLEMAN:**  
**WE ARE SENDING YOU**  Attached  Under separate cover via \_\_\_\_\_ the following items:  
 Shop Drawings  Prints  Plans  Samples  Specifications  
 Copy of letter  Change order  \_\_\_\_\_

COPIES	DATE	NO.	DESCRIPTION
1			Landmark Grade Crossing Agreement Proposal Signed by City Manager

- THESE ARE TRANSMITTED as checked below:**
- |  |   |   |
|--|---|---|
| <input type="checkbox"/> For approval              | <input type="checkbox"/> Approved as submitted    | <input type="checkbox"/> Resubmit _____ copies for approval   |
| <input checked="" type="checkbox"/> For your use   | <input type="checkbox"/> Approved as noted        | <input type="checkbox"/> Submit _____ copies for distribution |
| <input type="checkbox"/> As requested              | <input type="checkbox"/> Returned for corrections | <input type="checkbox"/> Return _____ corrected prints        |
| <input type="checkbox"/> For review and comment    | <input type="checkbox"/> _____                    |   |
| <input type="checkbox"/> FOR BIDS DUE _____ 19____ |   | <input type="checkbox"/> PRINTS RETURNED AFTER LOAN TO US     |

**REMARKS** Please consider this your notice to proceed.

**COPY TO** \_\_\_\_\_

**SIGNED:** Jef...

If enclosures are not as noted, please notify us at once.



**Lonnie E. Blaydes**

8122 San Benito Way  
Dallas, TX 75218  
214-924-4632

---

March 6, 2002

Mr. James C. Pierce, Jr., P.E.  
Assistant Public Works Director  
Town of Addison  
16801 Westgrove Drive  
P.O. Box 9010  
Addison, Texas 75001-9010

Dear Jim:

As you requested, enclosed are two signed copies of the Landmark Grade Crossing Agreement. I'm pleased that the proposal was acceptable to the Town of Addison and I think we all have a very good idea of what we want to accomplish with the grade crossing agreement.

I have already contacted Union Pacific about the grade crossing. I will let you know as soon as I hear back from them.

Sincerely,



Lonnie E. Blaydes

**Lonnie E. Blaydes**

8122 San Benito Way  
Dallas, TX 75218  
214-924-4632

---

Landmark Grade Crossing Agreement Proposal

Submitted by: Lonnie E. Blaydes  
February 28, 2002

The Town of Addison desires to construct an at-grade roadway crossing of an active line of railroad running parallel to Inwood Road approximately one-half mile South of Beltline Road. The rail line is owned by the Union Pacific Railroad Corp. (UP). UP has leased rights to operate on the line to the Dallas, Garland and Northeastern Railroad (DGNO), a subsidiary of Rail America. This proposal is submitted by Lonnie E. Blaydes (LEB) to lead discussions on behalf of Addison with the UP and their tenant DGNO, and, if necessary, DGNO's parent Co., Rail America for permission for Addison to construct the crossing. It is understood by LEB that Addison is willing to compensate UP for the value of the property taken as well as reasonable compensation or provisions to DGNO for the impact, if any, to their rail operations.

LEB will contact the appropriate officials of the involved Railroads, schedule meetings and conduct all the discussions leading to a formal, written agreement executed by UP, and, if necessary, DGNO and Rail America. The Town of Addison will provide all the necessary technical information about the crossing itself, including design plans and drawings of the proposed crossing. Data or other information necessary for an agreement on the freight rail use of the rail line will be supplied or developed by LEB.

It is anticipated that the initial background work and discussions will take approximately 40-50 hours, conducted over the first 4-6 weeks after a notice to proceed is given by Addison. LEB will brief any Addison staff or other consultants as Addison requests. After the initial discussions, LEB will prepare an outline of any proposed Crossing Agreement for interim review and approval by Addison. If at any stage of the discussions, LEB believes that UP and/or DGNO will not agree to a reasonable crossing agreement, he will quickly inform Addison in order for Addison to access whether Addison wishes to pursue further discussions.

\$ 6,000 to  
\$ 7,500

After an agreement is provisionally reached for the crossing, LEB will draft an appropriate written Crossing Agreement for formal review and approval by Addison and the UP, and, as necessary, DGNO and Rail America. The final discussions and preparations are anticipated to require approximately 15-20 hours.

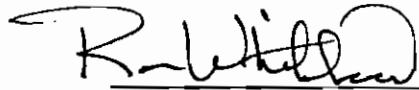
\$2250 to  
46 3,000.

LEB's rate for the above services will be \$150.00 an hour, plus expenses. Other than minimal local expenses, the only possible significant expense could be travel to Omaha, NE (offices of the UP) or Florida (offices of Rail America). Every effort will be made to conduct all discussions in North Texas or by conference call. All travel expenses will be submitted to Addison for prior approval. Invoices will be submitted monthly.

Agreed:



Lonnie E. Blaydes  
Lonnie E. Blaydes, Consulting



Ron Whitehead 3-11-02  
Town of Addison

Initial BG  
Final prep

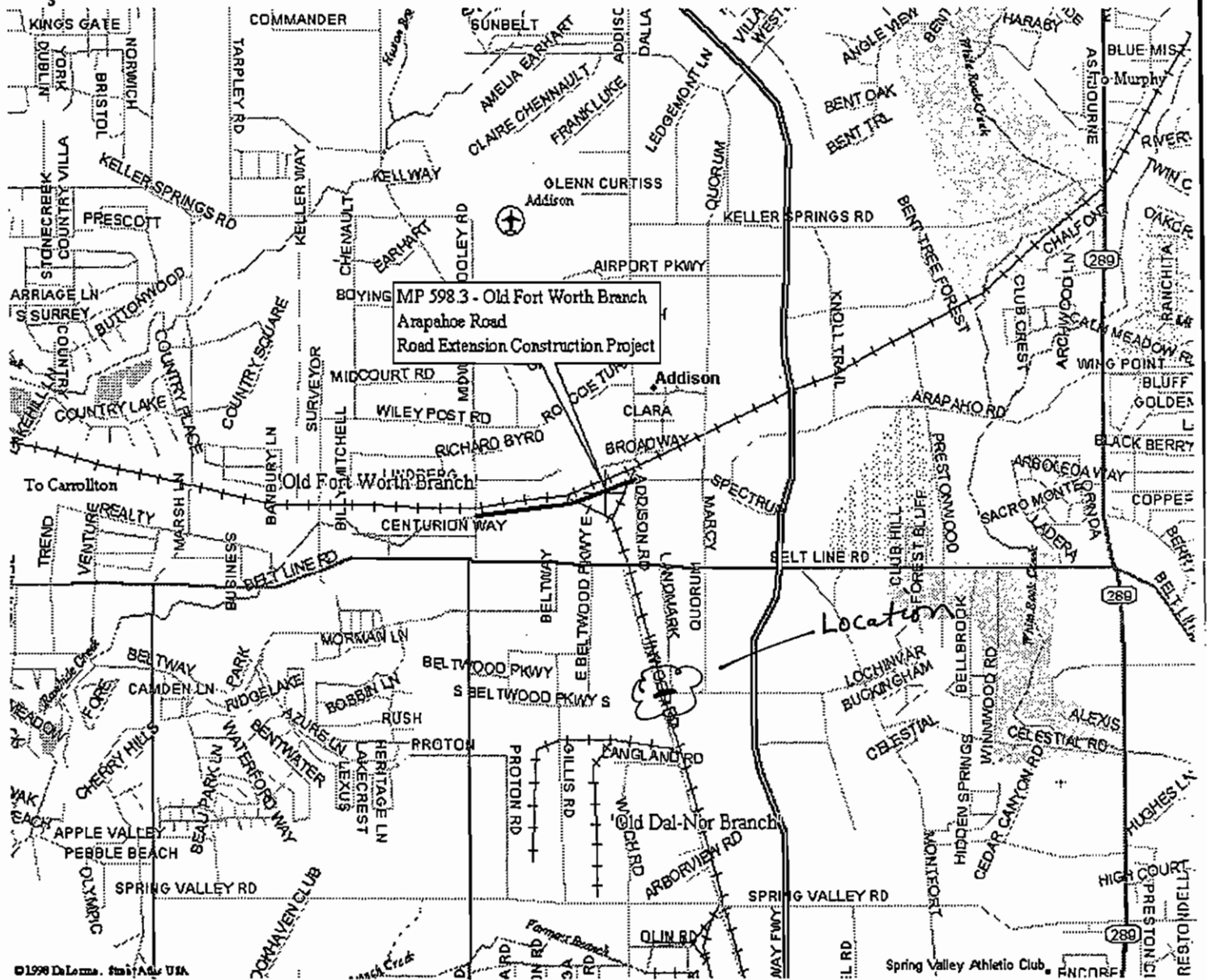
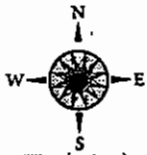
6,000 to 7,500  
2,250 to 3,000  

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\$8,250 to 10,500

*Need this revised*

# NEW PUBLIC ROAD CROSSING CONSTRUCTION PROJECT



## RAILROAD WORK TO BE PERFORMED:

1. Flagging.

*Someone will get this info* →

## EXHIBIT "A"

### UNION PACIFIC RAILROAD COMPANY DALLAS GARLAND & NORTHEASTERN RAILROAD

Old Fort Worth Branch

Mile Post 598.3

GPS: N 32° 57.436', W 96° 49.909'

Addison Jct., Dallas Co., TX.

Illustrative print showing location of proposed public road crossing extension construction project with the

**TOWN OF ADDISON, TEXAS.**

Folder No. 1976-54

Date: December 17, 2001

### WARNING

IN ALL OCCASIONS, U.P. COMMUNICATIONS DEPARTMENT MUST BE CONTACTED IN ADVANCE OF ANY WORK TO DETERMINE EXISTENCE AND LOCATION OF FIBER OPTIC CABLE. PHONE: 1-(800) 336-9193

