

MILLIKEN DRAINAGE

Oxford[®]

NO. R753 1/3

4 001

4 001

MODIFICATION OF EASEMENTS

This Modification of Easements is made the 7th day of June, 2008 by Beth. Milliken, a/k/a Pat Milliken ("Milliken").



RECITALS

WHEREAS, Milliken owns Lots 1A and 1B of Replat Lot 1 Milliken Addition, an addition to the City of Addison, Dallas County, Texas, according to the plat thereof recorded in Volume 91077, Page 4077, Map Records, Dallas County, Texas (the "Property"); and

WHEREAS, on the Property, there exists a certain five foot wide (5') drainage easement ("First Easement") along the west property line of the Property as shown on plat recorded in Volume 91007, Page 4077, Map Records, Dallas County, Texas; and

WHEREAS, on the Property, there exists a certain five foot wide (5') drainage easement ("Second Easement") along the south property line of the Property as shown on plat recorded in Volume 91007, Page 4077, Map Records, Dallas County, Texas; and

WHEREAS, the Town of Addison, Texas has requested that Milliken modify the boundaries of the First Easement, and Milliken has requested Town of Addison to grant consent to use of the Second Easement for purposes of installation and maintenance of a private drainage line not to exceed 6 inches in diameter; and each party has agreed to such requests.

NOW THEREFORE, the First and Second Easements are modified as follows:

The boundaries of the First Easement are hereby modified to enlarge the width of the easement such that it shall now be described by the metes and bounds description as set forth on Exhibit "A" attached hereto.

The Second Easement is hereby modified to the extent that Town of Addison as holder of the Second Easement hereby grants to Milliken, her successors, executors, grantees and assigns the right to use the area within such Easement for purposes of installation and maintenance of a private drainage line not to exceed 6 inches in diameter, so long as such private drainage line shall not interfere with the use of such Easement for purposes of public storm water drainage.

Patsy Beth Milliken
Patsy Beth Milliken

TOWN OF ADDISON

By: _____

Its: _____

MODIFICATION OF EASEMENTS

This Modification of Easements is made the 2nd day of June, 2005, by Patsy Beth Milliken, a/k/a Pat Milliken ("Milliken").

RECITALS

WHEREAS, Milliken owns Lots 1A and 1B of Replat Lot 1 Milliken Addition, an addition to the City of Addison, Dallas County, Texas, according to the plat thereof recorded in Volume 91077, Page 4077, Map Records, Dallas County, Texas (the "Property"); and

WHEREAS, on the Property, there exists a certain five foot wide (5') drainage easement ("First Easement") along the west property line of the Property as shown on plat recorded in Volume 91007, Page 4077, Map Records, Dallas County, Texas; and

WHEREAS, on the Property, there exists a certain five foot wide (5') drainage easement ("Second Easement") along the south property line of the Property as shown on plat recorded in Volume 91007, Page 4077, Map Records, Dallas County, Texas; and

WHEREAS, the Town of Addison, Texas has requested that Milliken modify the boundaries of the First Easement, and Milliken has requested Town of Addison to grant consent to use of the Second Easement for purposes of installation and maintenance of a private drainage line not to exceed 6 inches in diameter; and each party has agreed to such requests.

NOW THEREFORE, the First and Second Easements are modified as follows:

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Patsy Beth Milliken

TOWN OF ADDISON

By: *Kenneth K. [Signature]*

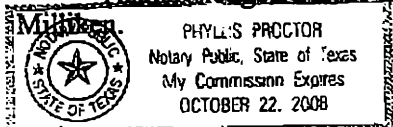
Its: *City Attorney*

ACKNOWLEDGMENT

STATE OF TEXAS)

COUNTY OF DALLAS)

Acknowledged before me on this 2nd day of June, 2005, by Patsy Beth



Phyllis Proctor
Notary Public in and for the State of Texas

My commission expires:
10/22/2008

ACKNOWLEDGMENT

STATE OF TEXAS)

COUNTY OF DALLAS)

BEFORE ME, the undersigned authority, on this day personally appeared _____
(name of officer), its _____ (title of officer)
for TOWN OF ADDISON, a municipal corporation, on behalf of said municipal corporation.

Given under my hand and seal of office on this _____ day of _____, 2005.

Notary Public in and for the State of Texas

[SEAL]

My commission expires:

After Recording, Return To:

Robert Hemphill
Attorney at Law
Meadows Building, Suite 940
5646 Milton Street
Dallas, TX 75206

ACKNOWLEDGMENT

STATE OF TEXAS)

COUNTY OF DALLAS)

Acknowledged before me on this _____ day of _____, 2005, by Patsy Beth Milliken.

Notary Public in and for the State of Texas

[SEAL]

My commission expires:

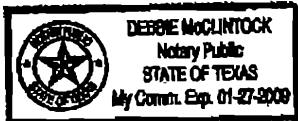
ACKNOWLEDGMENT

STATE OF TEXAS)

COUNTY OF DALLAS)

BEFORE ME, the undersigned authority, on this day personally appeared Kenneth Dippel (name of officer), its City Attorney (title of officer) for TOWN OF ADDISON, a municipal corporation, on behalf of said municipal corporation.

Given under my hand and seal of office on this 2 day of June, 2005.



Debbie McClintock
Notary Public in and for the State of Texas

[SEAL]

My commission expires:

1-27-09

After Recording, Return To:

Robert Hemphill
Attorney at Law
Meadows Building, Suite 940
5646 Milton Street
Dallas, TX 75206

Exhibit "A" - Page 1

**Drainage Easement
0.036 Acre**

SITUATED IN THE STATE OF TEXAS, COUNTY OF DALLAS, TOWN OF ADDISON, OUT OF THE ALLEN BLEDSOE SURVEY, ABSTRACT NUMBER 157, BEING PART OF THE SUBDIVISION ENTITLED "REPLAT OF LOT 1 MILLIKEN ADDITION", OF RECORD IN VOLUME 91077, PAGE 4077, ALL REFERENCES BEING TO THE RECORDS OF THE RECORDER'S OFFICE, DALLAS COUNTY, TEXAS, AND MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING at the southwesterly corner of Lot 2 of the subdivision entitled "Milliken Addition", of record in Volume 91030, Page 4654, in the easterly right-of-way line of Royal Drive;

THENCE South 86°25'38" East, with the southerly line of said Lot 2, a distance of 8.01 feet to a point;

THENCE crossing said Replat of Lot 1 Milliken Addition, the following courses and distances:

South 00°11'53" West, a distance of 35.00 feet to a point; and

South 00°32' 01" West, a distance of 174.87 feet to a point in the northerly line of Lot 2 of the subdivision entitled "Medley Estates", of record in Volume 98165, Page 3771;

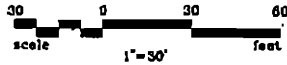
THENCE South 89°42'49" West, with said northerly line, a distance of 6.97 feet to a point in the easterly line of Lot 89 of the subdivision entitled "Oaks North Addition", of record in Volume 79010, Page 1955;

THENCE North 00°11'53" East, with said easterly line, a distance of 210.40 feet to the POINT OF BEGINNING, containing 0.036 acre of land, more or less.

Matthew A. Kirk
**Matthew A. Kirk R.P.L.S. 5711
Grantham & Associates, Inc.**

1 JUNE 05
Date





ALLEN BLEDSOE SURVL
ABSTRACT NO. 157

REPLAT OF LOT 1 MILLIKEN ADDITION
VOL. 91077, PG. 4077

MILLIKEN ADDITION
LOT 2
VOL. 91030, PG. 4654

LOT 1B

LOT 1A

EXIST. 5' DRAINAGE ESMT.

MEDLEY ESTATES
LOT 2
VOL. 98165, PG. 3771

S 86°25'38" E
8.01'

S 00°11'53" W
35.00'

S 00°32'01" W
174.87'

DRAINAGE
EASEMENT
0.036 AC.

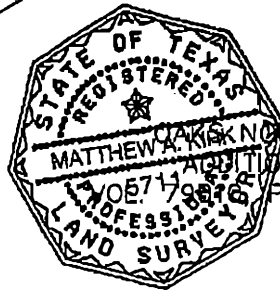
R/W

ROYAL DRIVE

P.O.B.

90
N 00°11'53" E
210.40'

89
S 89°42'49" W
6.97'
88



Matthew A. Kirk
MATTHEW A. KIRK
JUNE 05
R.P.L.S. NO. 5711

PG. 1955

1027-ESMT
JUNE 1, 2005



Grantham & Associates, Inc.

1919 S. SHILOH ROAD
SUITE 310, L.B. 8
DARLAND, TEXAS 79042
(872) 864-2333 (TEL)
(872) 864-2334 (FAX)

DRAINAGE
EASEMENT

Town of Addison, Dallas County,
Texas

**TOWN OF ADDISON
PAYMENT AUTHORIZATION MEMO**

DATE: 6/23/05 Claim # _____ Check \$ 1,000.00

Vendor No. _____
 Vendor Name GRANTHAM & ASSOCIATES, INC.
 Address 1919 S. SHILOH RD., SUITE 310, L.B. 8
 Address GARLAND, TEXAS 75042
 Address _____
 Zip Code _____

INVOICE # OR DESCRIPTION	FUND	DEPT	OBJ	PROJ	SAC	AMOUNT
	(00)	(000)	(00000)	(00000)	(000)	(\$000,000.00)
	01	411	50570			1,000.00

TOTAL \$ 1,000.00

EXPLANATION SURLEY FOR MILLIKEN LEGAL PROCEEDINGS

Steve Chutichian
 Authorized Signature

Finance



Grantham & Associates, Inc.

1919 S. Shiloh Road Suite 310 LB 8 Garland, TX 75042
Tel (972)864-2333 Fax (972)864-2334 www.gra-ce.net

Invoice

No. 10273
June 01, 2005
Project: 1027-04

To: Mr. Steve Chutchian
TOWN OF ADDISON
16801 Westgrove Drive
Addison, TX 75001

Lake Forest Drive Survey

Manager: A. Katura Curry

Professional Services for the Period: 3/1/2005 to 5/31/2005

Survey and Engineering	Billing Group:	001
Contract Amount:		\$3,750.00
Percent Complete:		100.00%
Fee Earned:		\$3,750.00
Prior Fee Billings:		\$3,750.00
Current Fee Total:		\$0.00
Survey and Engineering Total:		\$0.00

Drainage Easement	Billing Group:	002
Contract Amount:		\$1,000.00
Percent Complete:		100.00%
Fee Earned:		\$1,000.00
Prior Fee Billings:		\$0.00
Current Fee Total:		\$1,000.00
Drainage Easement Total:		\$1,000.00

*** Total Project Invoice Amount:

\$1,000.00

*to PAY
o.k. 5/20
- 6-2-05*

Project: 1027-04 Bill Group: 002

<u>Project Billing Summary</u>	<u>Current</u>	<u>Prior</u>	<u>Total</u>
<i>Totals:</i>	<u>\$1,000.00</u>	<u>\$3,750.00</u>	<u>\$4,750.00</u>

Aged Receivables:				
<u>Current</u>	<u>31-60 Days</u>	<u>61-90 Days</u>	<u>91-120 Days</u>	<u>> 120 Days</u>
\$1,000.00	\$0.00	\$0.00	\$0.00	\$0.00

All invoices are due upon receipt.



Grantham & Associates, Inc.

1919 S. Shiloh Road Suite 310 LB 8 Garland, TX 75042
Tel (972)864-2333 Fax (972)864-2334 www.gra-ce.net

Invoice

No. 10273
June 01, 2005
Project: 1027-04
Client: TOADD011

Client: **TOWN OF ADDISON**

Project: **Lake Forest Drive Survey**

Amount Due \$1,000.00

Amount Enclosed _____

Please return this page with your remittance.

**Drainage Easement
0.012 Acre**

SITUATED IN THE STATE OF TEXAS, COUNTY OF DALLAS, TOWN OF ADDISON, OUT OF THE ALLEN BLEDSOE SURVEY, ABSTRACT NUMBER 157, BEING PART OF THE SUBDIVISION ENTITLED "REPLAT OF LOT 1 MILLIKEN ADDITION", OF RECORD IN VOLUME 91077, PAGE 4077, ALL REFERENCES BEING TO THE RECORDS OF THE RECORDER'S OFFICE, DALLAS COUNTY, TEXAS, AND MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING at the southwesterly corner of Lot 2 of the subdivision entitled "Milliken Addition", of record in Volume 91030, Page 4654, in the easterly right-of-way line of Royal Drive;

THENCE South 86°25'38" East, with the southerly line of said Lot 2, a distance of 5.01 feet to the POINT OF BEGINNING for this description;

THENCE South 86°25'38" East, with said southerly line, a distance of 3.00 feet to a point;

THENCE crossing said Replat of Lot 1 Milliken Addition, the following courses and distance;

South 00°11'53" West, a distance of 35.00 feet to a point;

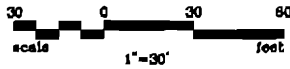
South 00°32'01" West, a distance of 169.87 feet to a point;

South 89°42'49" West, a distance of 2.00 feet to a point; and

North 00°11'53" East, a distance of 205.06 feet to the POINT OF BEGINNING, containing 0.012 acre of land, more or less.

**Matthew A. Kirk R.P.L.S. 5711
Grantham & Associates, Inc.**

Date



ALLEN BLEDSOE SURVEY
ABSTRACT NO. 157

REPLAT OF LOT 1 MILLIKEN ADDITION
VOL. 91077, PG. 4077

MILLIKEN ADDITION
LOT 2
VOL. 91030, PG. 4654

LOT 1B

LOT 1A

MEDLEY ESTATES
LOT 2
VOL. 98165, PG. 3771

EXIST. 5' DRAINAGE ESMT.

PROPOSED
DRAINAGE
EASEMENT
0.012 AC.

S 00°11'53" W
35.00'

S 00°32'01" W
169.87'

P.O.B.

R/W

S 86°25'38" E
3.00'

ROYAL DRIVE

5.01'

P.O.C.

EXISTING 5'
DRAINAGE EASEMENT

90

N 00°11'53" E
205.06'

OAKS NORTH
ADDITION
VOL. 79010, PG. 1955

S 89°42'49" W
2.00'

89

88

1027-ESMT
MAY 26, 2005



Grantham & Associates, Inc.

1919 S. SHILOH ROAD
SUITE 310, L.B. 8
GARLAND, TEXAS 75042
(972) 864-2333 (TEL)
(972) 864-2334 (FAX)

PROPOSED DRAINAGE
EASEMENT

MATTHEW A. KIRK

R.P.L.S. NO. 5711

May 03 2005 1:18PM ROBERT D. HEMPHILL

2143687694

p.2

ROBERT D. HEMPHILL
ATTORNEY AT LAW
Meadows Building, Suite 940
5646 Milton Street
Dallas, Texas 75206

Telephone: 214-368-1226
Toll free 888-368-1226

Telecopier: 214 368-7694
e-mail: Robert@HemphillLaw.com

May 2, 2005

Mr. Bruce Grantham Via Facsimile 972-864-2334 and First Class Mail
Grantham Associates, Inc.
1919 South Shiloh
Lock Box 8
Garland, Texas 75042

Re: Nov. 19, 2004, Survey of 14905 Lake Forest Drive, replat of Lot 1, Milliken Addition, to Town of Addison (Cause No. 02-4715, Pat Milliken v. Town of Addison, The Preston Group Designers and Builders, William Long, Preston Homes, Inc., Jon B. Coleman)

Dear Grantham:

The above survey by Grantham & Associates shows a retaining wall constructed by the above referenced builders to be encroaching several feet onto Ms. Milliken's property along the south boundary of her property in the back two thirds of her lot. The wall also encroaches on the five foot drainage easement parallel to the south boundary of Ms. Milliken's property.

However, when I spoke with Mr. Zach Mayer, counsel for the defendant builders listed above, regarding the apparent encroachment of the retaining wall on Ms. Milliken's property, he stated that in a prior conversation you had advised him that at the time you prepared the survey, no clear marker for the southwest corner of Ms. Milliken's property could be located and that you were therefore not certain whether the location of the retaining wall is correctly depicted in the survey.

If the survey is correct in depicting an encroachment by the retaining wall, then the wall creates a shortage in area and discrepancy in boundaries between Ms. Milliken's property as described in her Deed and the usable property which she now can convey to a purchaser. Since your survey is the most detailed presently available, I would appreciate any information you can provide as to whether you believe the survey needs to be amended to correct the location shown for the retaining wall. Alternatively, do you still stand by the survey as originally issued in this regard?

Please contact me at your earliest convenience to discuss these questions further.

Very truly yours,



Robert D. Hemphill

cc: Mr. Robert F. Maris via Facsimile 214-706-0921
Mr. Zach Mayer via Facsimile 972-934-9200
Pat Milliken via Facsimile

Steve Chutchian

To: Sue Ellen Fairley

Take LBJ (635) east to N. Central Expressway (75).

Go south on Central to Walnut Hill Ln.

Go under Central and travel north on service road past Meadow.

1450 Meadow Park Bldg. should be on the east side of Central and north of Meadow.

The office of Maris & Lanier is in the 1450 Meadow Park Bldg.
phone no. 214-706-0920

Maris & Lanier

A Professional Corporation

1450 Meadow Park Bldg., 1.B 702
10440 N. Central Expressway
Dallas, Texas 75231

Telephone: (214) 706-0920
Telefax: (214) 706-0921
Direct: (214) 706-0925

TELECOPIER COVER SHEET

PLEASE DELIVER TO ADDRESSEE IMMEDIATELY

Date: March 11, 2005

To: Steve Chutchian Via Telecopier Number: (972) 450-2837

From: Robert F. Maris

Direct Phone Number : (214) 706-0925

Direct Telecopier Number : (214) 706-0921

Pages: Cover + 2

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL Debbie at: 1-214-706-0924

Re: File No. 607-066; Pat Milliken v. Town of Addison

Message: See attached letter dated March 11

___ Original will follow by mail _x___ Original will NOT follow by mail

The information contained in this facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any unauthorized dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone at the numbers listed. Thank you.

Maris & Lanier

A Professional Corporation

1450 Meadow Park Bldg., LB 702
10440 N. Central Expressway
Dallas, Texas 75231

Telephone: (214) 706-0920
Telefax: (214) 706-0921
Direct: (214) 706-0925

ROBERT F. MARIS
Attorney at Law

March 11, 2005

VIA FAX NO. 972-450-2837

Steve Chutchian
Town of Addison
16801 Westgrove Drive
Addison, Texas 75001-9010

Re: *Pat Milliken v. Town of Addison, et al*
Cause No. 02-4715-F in the 116th District Court, Dallas County
File No. 607-066

Dear Steve:

Ms. Milliken has obtained a new lawyer, Robert Hemphill. We have agreed to reset the trial of this case to either the week of June 20 or June 27, 2005. To continue the case, I need your signature where indicated on the attached consent form. Please sign and return me as soon as you can.

Milliken's lawyer would like to depose Mike Murphy. He is willing to conduct the deposition through a telephonic hook-up sometime in the next 30 days. Also, I would like to have Mike available to testify at the trial. I need to be able to get in touch with Mike. Do you have a telephone number?

Sincerely,



Robert F. Maris
MARIS & LANIER, P.C.

RFM/dam

Enclosure

NO. 02-4715-F

PAT MILLIKEN,

Plaintiff

v.

TOWN OF ADDISON, THE PRESTON
GROUP DESIGNERS AND BUILDERS,
WILLIAM LONG, PRESTON HOMES,
INC., and JON B. COLEMAN,

Defendants

§
§
§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT

116th JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

**CONSENT AND APPROVAL BY PARTIES
TO JOINT MOTION FOR CONTINUANCE**

We, the undersigned Plaintiffs and Defendants hereby evidence our consent and approval to the foregoing/previously filed Joint Motion for Continuance by our signatures below.

_____ Dated: _____
Pat Milliken, Plaintiff

Town of Addison, Defendant

By: _____ Dated: _____
Its: _____

The Preston Group Designers and Builders, Defendant

By: _____ Dated: _____
Its: _____

_____ Dated: _____
William Long, Defendant

Preston Homes, Inc., Defendant

By: _____ Dated: _____
Its: _____

_____ Dated: _____
Jon B. Coleman, Defendant

PAUL L. SALZBERGER, P. C.

5445 LA SIERRA
SUITE 318
DALLAS, TEXAS 75231

PAUL L. SALZBERGER
ATTORNEY-MEDIATOR

TELEPHONE (214) 696-0631
FACSIMILE (214) 696-3105
EMAIL salzbergerlaw@aol.com

March 17, 2005

Robert D. Hemphill, Esq.
Meadows Bldg.
5646 Milton St.
Suite 940
Dallas, TX 75206

Re: Memorandum of Information and Rules for Mediation in Cause No. CC-02-4715; *Pat Milliken vs. Town of Addison, The Preston Group Designers and Builders, William Long, Preston Homes, Inc., Jon B. Coleman, and Legacy Bank of Texas*; 116th Judicial District Court; Our File No. 5120

Dear Robert:

This letter will confirm that the captioned case has been referred to me as Mediator. Mediation is a private alternative dispute resolution process by which a neutral party (mediator) facilitates communications and cultivates negotiations between parties to a conflict with a view to promoting reconciliation and settlement of their dispute.

Please complete and return the enclosed Mediator's Information Memorandum by return mail or fax. The reverse side of the Memorandum includes the "Rules for Mediation" applicable to your case.

This case has been scheduled for a half-day session of Mediation at my office on the 28th of March 2005, beginning at 1:00 p.m. Please contact my secretary as soon as possible in the event of any conflict.

Your Client's share of the Mediation fee is \$375.00 and is payable in advance by your firm or cashier's check. Our tax identification number is 75-1813205.

Please call me if you have any questions or comments.

Sincerely,

Paul L. Salzberger

PLS:cb:CM2/LTRMEMO

cc: Honorable Robert Frost
Robert F. Maris, Esq.
Zach Mayer, Esq.
Anthony Vitullo, Esq.

PAUL L. SALZBERGER, P.C.

5445 La Sierra
Suite 318
Dallas, Texas 75231

PAUL L. SALZBERGER
ATTORNEY-MEDIATOR
se habla español

TELEPHONE (214) 696-0631
FACSIMILE (214) 696-3108
EMAIL salzbergerlaw@aol.com

RESUME OF QUALIFICATIONS & EXPERIENCE

EDUCATION:

BA University of Texas (Austin) – 1956; LLB University of Texas (Austin) – 1959

TRAINING IN ADR:

Dallas Bar Association Mediator Training, 1989 and Advanced Training, 1990; Advanced Negotiations, University of Texas and Tulane University; American Arbitration Association Arbitration Training; and, other mediator, arbitrator and negotiator training and other ADR classes completed every year since 1989. Coach, Advanced Negotiations, University of Texas. DBA Advanced Spanish for Lawyers. Judge, SMU Client Counseling competition. Judge, American Bar Association Negotiations Competitions, National Finals, Law Student Division.

FIELDS OF SPECIAL COMPETENCE:

Traditional business (transaction) law practice since 1960 including contracts, various business entity organizations formations/operations, mergers, acquisitions; and, personal property leases, UCC transactions, secured lending and financing. Bank counsel. Real property development, loans, leases, operations, and other commercial real estate matters. Business sales, "buy-outs", "workouts" and other commercial transactions. Past/present director or trustee of numerous charitable/civic boards/organizations; and, long ago, JAG service. Moderate fluency in Spanish.

PROFESSIONAL AFFILIATIONS/MEMBERSHIPS:

American, Texas and Dallas Bar Associations and their ADR Sections; American, Texas and Dallas Bar Association Real Property Sections and Dallas and Texas Bar Association Corporation Sections; Association of Attorney Mediators; Texas Association of Mediators; The Association for Conflict Resolution; various Dallas Bar Association Committees; College of the State Bar of Texas; American Arbitration Association; Texas Association of Bank Counsel.

EXPERIENCE LEVEL:

Mediator Coach/Trainer. Mediator since October 1989. All civil cases mediated except family law matters. Dallas Bar Association Fee Dispute Arbitrator for many years. More than 1,200 cases mediated in Federal and State Courts, both at trial and appellate levels.

MEDIATION FEE (PER PARTY) SCHEDULE:

<u>½ Day</u>	<u>Full Day</u>	<u>Number of Parties</u>
\$375.00	\$775.00	2 or 3
\$325.00	\$575.00	4 or more

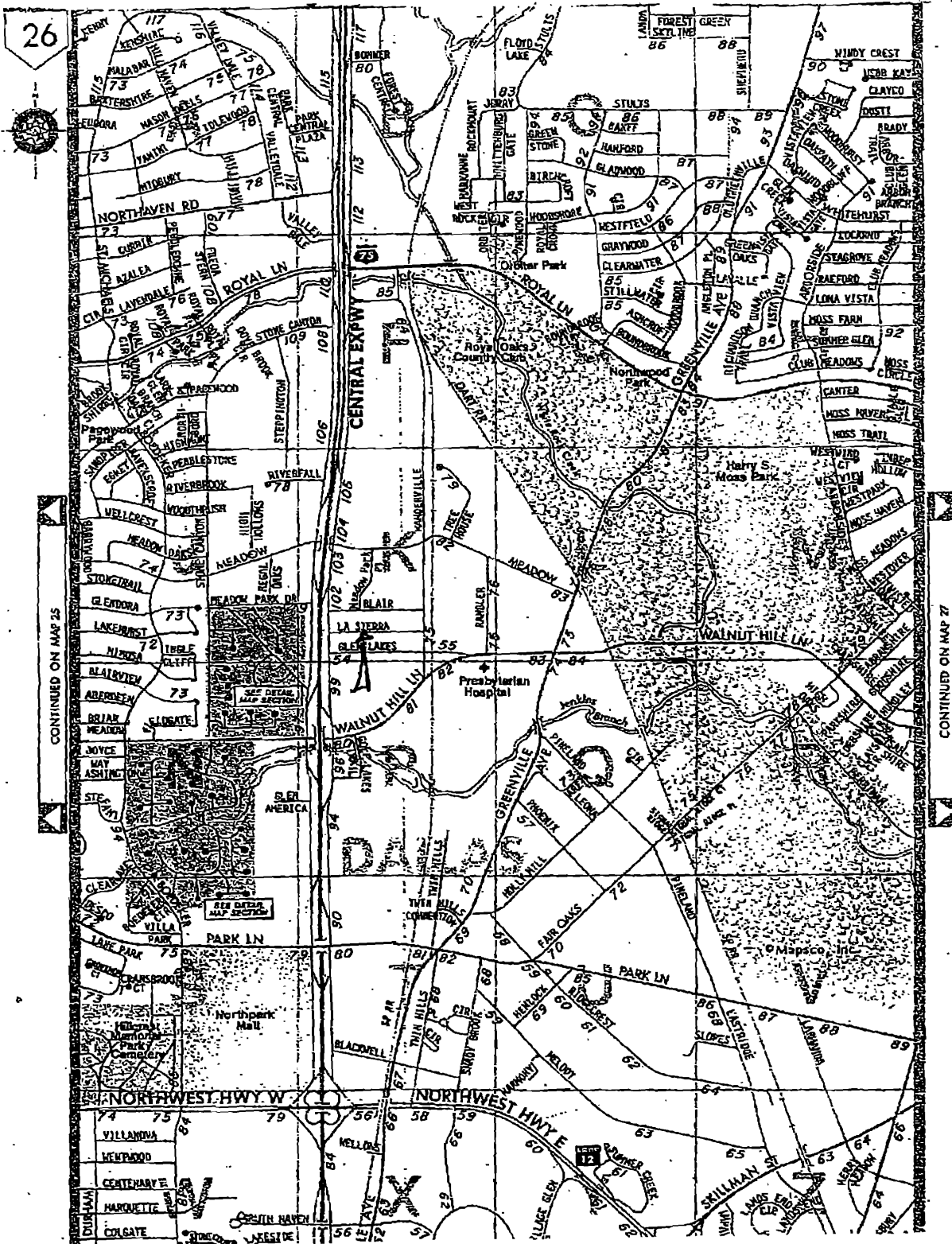
Most mediations are conducted on a one-half (½) day basis, unless otherwise requested. I mediate pro bono cases at Dispute Mediation Service, in settlement week programs and/or by request of any Judge or lawyers who themselves are acting pro bono.

PAUL L. SALZBERGER, P.C.

5445 LASIERRA
SUITE 318-LB 18
DALLAS, TEXAS 75231

TELEPHONE (214) 696-0831
FACSIMILE (214) 696-3108

PAUL L. SALZBERGER
ATTORNEY-AT-LAW



MEDIATOR'S INFORMATION MEMORANDUM

1. **Court/Cause No.:** _____
2. **Style of Case:** _____
3. **Your Client's Name:** _____
4. **Your Name, Address and Phone Number:** _____

5. **Your Legal Assistant/Secretary's Name:** _____
6. **Your Client's Status, i.e., Plaintiff, Defendant:** _____
7. **Nature of the Case:** _____

8. **Relief sought by your Client:** _____

9. **Primary disputed fact issues:** _____

10. **Primary disputed law issues:** _____

11. **Status of Discovery and other information you need for settlement:** _____

12. **Indicate the last offers of the parties:** _____

On behalf of my client(s) named above, I agree to be bound by the "Rules for Mediation" provided by the Mediator in the above case, shown on the reverse side.

DATED the _____ day of _____, 2005.

Respectfully submitted,

Attorney of Record

PAUL L. SALZBERGER, P.C.

5445 LA SIERRA

SUITE 318

DALLAS, TEXAS 75231

PAUL L. SALZBERGER

TELEPHONE (214) 696-0631

ROBERT D. HEMPHILL
ATTORNEY AT LAW
Meadows Building, Suite 940
5646 Milton Street
Dallas, Texas 75206

Telephone: 214-368-1226
Toll free 888-368-1226

Telecopier: 214 368-7694
e-mail: Robert@HemphillLaw.com

March 14, 2005

Zach T. Mayer, Esq. Via Facsimile 214-934-9200
Theodor J. Messin, III, Esq.
Fee, Smith, Sharp & Vitullo, LLP
Three Galleria Tower
13155 Noel Road, Suite 1000
Dallas, TX 75240

Robert F. Maris Via Facsimile 214-706-0921
Maris & Lanier
1450 Meadow Park Blvd.
10440 N. Central Expressway
Dallas, TX 75231

**Re: Cause No. 02-4715, Pat Milliken v. Town of Addison, The Preston Group
Designers and Builders, William Long, Preston Homes, Inc., Jon B. Coleman
and Legacy Bank of Texas**

Dear Counsel:

Robert and I are agreeable to using a different mediator, including the following:

- 1) Sid Stahl
- 2) Paul L. Salzberger

I am enclosing information on each mediator. Sid Stahl generally will not mediate with more than two parties except for a full day. His office says he might make an exception, however.

Plaintiff is available March 22 or 28th, and is open to other dates you may suggest.

Please contact me at your earliest convenience as to when your clients are available to mediate with either of the foregoing and which mediator you prefer and/or would accept.

Very truly yours,


Robert D. Hemphill

RDH/cc
cc: Pat Milliken

FROM : PAUL L. SALZBERGER, PC

PHONE NO. : 2146963108

Mar. 09 2025 02:41PM P2

PAUL L. SALZBERGER, P.C.

5445 La Sierra
Suite 318
Dallas, Texas 75231

PAUL L. SALZBERGER
ATTORNEY-MEDIATOR
se habla español

TELEPHONE (214) 696-0631
FACSIMILE (214) 696-3108
EMAIL: salzbergerlaw@aol.com

RESUME OF QUALIFICATIONS & EXPERIENCE

EDUCATION:

BA University of Texas (Austin) – 1956; LLB University of Texas (Austin) – 1959

TRAINING IN ADR:

Dallas Bar Association Mediator Training, 1989 and Advanced Training, 1990; Advanced Negotiations, University of Texas and Tulane University; American Arbitration Association Arbitration Training; and, other mediator, arbitrator and negotiator training and other ADR classes completed every year since 1989. Coach, Advanced Negotiations, University of Texas. DBA Advanced Spanish for Lawyers. Judge, SMU Client Counseling competition. Judge, American Bar Association Negotiations Competitions, National Finals, Law Student Division.

FIELDS OF SPECIAL COMPETENCE:

Traditional business (transaction) law practice since 1960 including contracts, various business entity organizations formations/operations, mergers, acquisitions; and, personal property leases, UCC transactions, secured lending and financing. Bank counsel. Real property development, loans, leases, operations, and other commercial real estate matters. Business sales, "buy-outs", "workouts" and other commercial transactions. Past/present director or trustee of numerous charitable/civic boards/organizations; and, long ago, JAG service. Moderate fluency in Spanish.

PROFESSIONAL AFFILIATIONS/MEMBERSHIPS:

American, Texas and Dallas Bar Associations and their ADR Sections; American, Texas and Dallas Bar Association Real Property Sections and Dallas and Texas Bar Association Corporation Sections; Association of Attorney Mediators; Texas Association of Mediators; The Association for Conflict Resolution; various Dallas Bar Association Committees; College of the State Bar of Texas; American Arbitration Association; Texas Association of Bank Counsel.

EXPERIENCE LEVEL:

Mediator Coach/Trainer. Mediator since October 1989. All civil cases mediated except family law matters. Dallas Bar Association Fee Dispute Arbitrator for many years. More than 1,200 cases mediated in Federal and State Courts, both at trial and appellate levels.

MEDIATION FEE (PER PARTY) SCHEDULE:

<u>½ Day</u>	<u>Full Day</u>	<u>Number of Parties</u>
\$375.00	\$775.00	2 or 3
\$325.00	\$575.00	4 or more

Most mediations are conducted on a one-half (½) day basis, unless otherwise requested. I mediate pro bono cases at Dispute Mediation Service, in settlement week programs and/or by request of any Judge or lawyers who themselves are acting pro bono.

SIDNEY STAHL

ATTORNEY-MEDIATOR

Telephone (214) 720-4070

**SHERRY LANE PLACE
5956 SHERRY LANE, SUITE 1375
DALLAS, TEXAS 75225
e-mail: sidstahl@airmail.net**

Facsimile (214) 720-4071

BIOGRAPHICAL INFORMATION

In 1991, after 33 years as a successful attorney with the Dallas law firm of Geary, Stahl & Spencer having practiced in the litigation, corporate, real estate, banking, securities and governmental areas, Mr. Stahl established a solo practice limited to Mediation and Arbitration. Mr. Stahl has now mediated over 1,600 civil cases with an 80% settlement rate. He has mediated cases throughout Texas, and in the States of California, Colorado, Florida, Louisiana, New Mexico and New York. He also serves as an Adjunct Professor on the faculty of the Dedman School of Law at SMU where he teaches Dispute Resolution. In 2003 and 2004, he was named one of Texas' Super Lawyers by Texas Monthly magazine. He is also the 2004 recipient of the Morris Harrell Professionalism Award given by the Texas Center for Legal Ethics and Professionalism and the Dallas Bar Association.

Education:

Southern Methodist University, BBA (1954)

Southern Methodist University, LLB (1956)

Mediation Related Activities:

Member, Supreme Court of Texas Advisory Committee on Court-Annexed Mediations

Contributing Author, ABA Section of Litigation publication *Alternative Dispute*

Resolution: The Litigator's Handbook

Approved panelist of the National Association of Securities Dealers

Approved panelist of the Private Adjudication Center at Duke University

Approved panelist for Environmental Conflict Resolution and as Transportation Mediator
for U.S. Institute for Environmental Conflict Resolution

Member, Dallas Bar Association ADR Practice Section

Member, Association of Attorney-Mediators

Fellow, Center for Public Policy Dispute Resolution, University of Texas School of Law

Former Council member, State Bar of Texas ADR Section

Former Chair, Dallas Bar Association ADR Committee

Mediation Training:

Dallas Bar Association's Mediation Training Program (1989)

Center for Dispute Resolution, Boulder, Colorado (1990)

Harvard Law School Mediation Workshop (1991)

Harvard Law School Negotiation Workshop (1992)

Mediation Speaking Engagements:

State Bar of Texas Litigation Seminar
 State Bar College "Summer School"
 University of Houston Law Foundation Litigation and Trial Tactics Seminar
 Federal Bar Association Annual Federal Civil Practice Seminar
 American Bar Association Advanced Mediation Symposium
 Office of the Attorney General, State of Texas
 Southwestern Legal Foundation 34th Annual Institute on Patent Law
 U.S. Department of Justice, Northern District of Texas
 Oklahoma Bar Association
 Tarrant County Association of Mediators
 State Bar of Texas 5th Annual ADR Institute
 South Texas College of Law/A.A. White Dispute Resolution Institute Seminar
 Baylor University Law School General Practice Institute
 American Academy of Hospital Attorneys
 Texas Society of CPAs Litigation Services Conference
 Dallas Bar Association, Corporate Counsel Section

Current Professional and Civic Service:

Member, Board of Directors, St. Paul and Zale Lipshy University Hospitals	Fellow, Dallas Bar Foundation
Member, Dallas Bar Association	Member, College of the State Bar of Texas
Member, American Bar Association	Member, Federal Bar, Northern District of Texas
Member, Bar of the U.S. Supreme Court	Member, Federal Bar, Southern District of Texas
Fellow, Texas Bar Foundation	

Former Government Service:

Chairman, Senate Select Committee on Medicaid and Family Services,
 State of Texas (1987-1989)
 Department of Human Services, State of Texas (1985-1987)
 Health and Human Services Coordinating Council, State of Texas
 (1983-1985)
 Dallas City Council (1980-1983)
 President, City of Dallas Park and Recreation Board (1975-1979)

Former Civic Service:

Director, State Bar of Texas
Director, Dallas Bar Association
Board of Governors, The Dallas
Foundation
Executive Committee and Board of
Directors, Greater Dallas Chamber
Executive Board, SMU School of Law
Founder and Chair of the Greater Dallas
Community Relations Commission
Trustee, Baylor Institute of Rehabilitation
Director, Texas Business Law Foundation
Director, The Dallas Opera
Director, Dallas Museum of Art
Director, Dallas Symphony Assn.

Trustee, Texas Foundation for Human
Services
Director, Dallas Arboretum & Botanical
Society
Director, Jewish Federation of Greater
Dallas
Director, Dallas Women's Foundation
National Board of Trustees, National
Conference of Christians and Jews

Special Recognitions:

2000 Mentors and Allies Award, YWCA
1997 Torch of Conscience Award, American Jewish Congress
1994 Steve Brutsché Award, Association of Attorney-Mediators
1991 Distinguished Alumni Award, SMU School of Law
1990 Jurisprudence Award, Anti-Defamation League of B'nai B'rith
1988 Justinian Award for Outstanding Community Service, Dallas
Lawyer's Wives Club
1983 Cited by the news media as the Most Effective Member of
Dallas City Council
1980 Brotherhood Citation Award, National Conference of Christians
and Jews
1979 Human Relations Award, American Jewish Committee
1978 Citation of Honor, American Institute of Architects/Dallas
1977 Outstanding Park Board in the Nation, National Recreation and
Park Association

October 2004

SIDNEY STAHL

ATTORNEY-MEDIATOR

SUITE 1375

SHERRY LANE PLACE

6956 SHERRY LANE

DALLAS, TEXAS 75226

E-MAIL: SIDSTAHL@AIRMAIL.NET

TELEPHONE (214) 720-4070

FAX (214) 720-4071

MEDIATION FEE SCHEDULE

Full Day	2 parties	\$1,250 per party
	3 parties	\$ 850 per party
	4 parties	\$ 650 per party
	More than 4 parties	To be determined
Half Day		\$ 750 per party (2 sides only)

Expenses are reimbursable for out-of-town mediations.

All fees are to be shared equally among the parties, and all persons represented by the same attorney or same law firm are considered as one party. All fees are payable at the commencement of the mediation and include preparation time, pre-mediation conferences, review of issue papers, research as well as the time spent in the mediation session.

If the parties request that more than one successive day of mediation be scheduled, then the full fee for all scheduled sessions is due and earned upon the commencement of the first day of mediation.

A cancellation or rescheduling fee is charged only for multiple-day mediations if the mediation is canceled within 14 days from the scheduled mediation, and will be charged to the party or parties canceling or rescheduling the multiple-day mediation.

Notwithstanding the schedule described above, our policy is to attempt to accommodate all persons regardless of their ability to pay.

ROBERT D. HEMPHILL
ATTORNEY AT LAW
Meadows Building, Suite 940
5646 Milton Street
Dallas, Texas 75206-3937

Telephone: 214-368-1226
Toll free 888-368-1226

Telecopier: 214 368-7694
e-mail: HemphillRD@aol.com

TELECOPY COVER SHEET

FROM: Robert D. Hemphill

DATE: March 14, 2005

NUMBER OF PAGES (INCLUDE COVER):

7

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME: Robert F. Maris
FIRM/COMPANY: MARIS & LANIER, P.C.
TELEPHONE NO.: 214-706-0920
TELECOPIER NO.: 214-706-0921

COMMENTS / INSTRUCTIONS:

Re: ***Cause 02-4715; Town of Addison, The Preston Group Designers and Builders, William Long, Preston Homes, Inc., Jon B. Coleman; In the 116th Judicial District Court of Dallas County, TX***

Please see attached regarding the above-referenced cause.

IF THERE ARE PROBLEMS WITH THIS TRANSMISSION, PLEASE CONTACT

SENDER AT (214) 368-1226
CONFIDENTIALITY NOTE

The information contained in this facsimile message is legally privileged and confidential information which is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any use, dissemination, distribution, or reproduction of this message is strictly prohibited. If you have received this message in error, please immediately notify us by telephone and return the original message to us at the address listed above via the United States Postal Service. Thank you.

**TOWN OF ADDISON
PAYMENT AUTHORIZATION MEMO**

DATE: 1/3/05

Claim # _____

Check \$ 3,375.00

Vendor No. _____
 Vendor Name GRANTHAM & ASSOCIATES, INC.
 Address 1919 S. SHILOH RD, SUITE 310 L.B. 8
 Address GARLAND, TEXAS 75042
 Address _____
 Zip Code _____

INVOICE # OR DESCRIPTION	FUND	DEPT	OBJ	PROJ	SAC	AMOUNT
	(00)	(000)	(00000)	(00000)	(000)	(\$000,000.00)
	01	411	56570	00000		3375.00

TOTAL \$ 3,375.00

EXPLANATION ENGINEERING &
SURVEYING FOR MILLIKAN LAWSUIT

Steve Chutkan
 Authorized Signature

 Finance



Grantham & Associates, Inc.

1919 S. Shiloh Road Suite 310 LB 8 Garland, TX 75042
Tel (972)864-2333 Fax (972)864-2334 www.gra-ce.net

Invoice

No. 10203
January 01, 2005
Project: 1027-04

To: Mr. Steve Chutchian
TOWN OF ADDISON
16801 Westgrove Drive
Addison, TX 75001

Lake Forest Drive Survey

Manager: A. Katura Curry

Professional Services for the Period: 9/1/2004 to 12/31/2004

Survey and Engineering	Billing Group:	001
Contract Amount:	\$3,750.00	
Percent Complete:	90.00%	
Fee Earned:	\$3,375.00	
Prior Fee Billings:	\$0.00	
Current Fee Total:	\$3,375.00	
Survey and Engineering Total:	\$3,375.00	

***** Total Project Invoice Amount: \$3,375.00**

<u>Project Billing Summary</u>	<u>Current</u>	<u>Prior</u>	<u>Total</u>
Totals:	\$3,375.00	\$0.00	\$3,375.00

Aged Receivables:					
<u>Current</u>	<u>31-60 Days</u>	<u>61-90 Days</u>	<u>91-120 Days</u>	<u>> 120 Days</u>	
\$3,375.00	\$0.00	\$0.00	\$0.00	\$0.00	

O.K. to PAY!
SZC
1/3/05

Project: 1027-04 Bill Group: 001



Grantham & Associates, Inc.

1919 S. Shiloh Road Suite 310 LB 8 Garland, TX 75042.
Tel (972)864-2333 Fax (972)864-2334 www.gra-ce.net

Invoice

No. 10203
January 01, 2005
Project: 1027-04
Client: TOADD011

Client: **TOWN OF ADDISON**

Project: **Lake Forest Drive Survey**

Amount Due \$3,375.00

Amount Enclosed _____

Please return this page with your remittance.

**TOWN OF ADDISON
PAYMENT AUTHORIZATION MEMO**

DATE: 3/10/05

Claim # _____

Check \$ 375.00

Vendor No. _____

Vendor Name

GRANTHAM & ASSOCIATES, INC.

Address

1919 S. SHILOH RD., SUITE 310, L.B.8

Address

GARLAND, TEXAS 75042

Address _____

Zip Code _____

INVOICE # OR DESCRIPTION	FUND	DEPT	OBJ	PROJ	SAC	AMOUNT
	(00)	(000)	(00000)	(00000)	(000)	(\$000,000.00)
	01	411	56570	00000		375.00

TOTAL \$ 375.00

EXPLANATION

SURVEYING ON MILLIKAN LAWSUIT

Steve Churchman
Authorized Signature

Finance



Grantham & Associates, Inc.

1919 S. Shiloh Road Suite 310 LB 8 Garland, TX 75042
Tel (972)864-2333 Fax (972)864-2334 www.gra-ce.net

Invoice

No. 10222
March 01, 2005
Project: 1027-04

To: Mr. Steve Chutchian
TOWN OF ADDISON
16801 Westgrove Drive
Addison, TX 75001

Lake Forest Drive Survey

Manager: A. Katurá Curry

Professional Services for the Period: 1/1/2005 to 2/28/2005

Survey and Engineering	Billing Group:	001
Contract Amount:		\$3,750.00
Percent Complete:		100.00%
Fee Earned:		\$3,750.00
Prior Fee Billings:		\$3,375.00
Current Fee Total:		\$375.00
Survey and Engineering Total:		\$375.00

***** Total Project Invoice Amount: \$375.00**

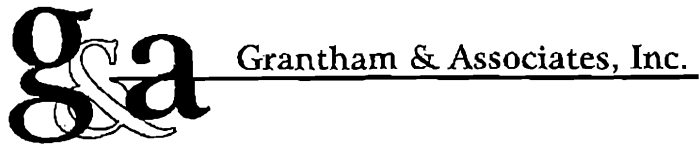
*to pay!
O.K. SZC
3/10/05*

<u>Project Billing Summary</u>	<u>Current</u>	<u>Prior</u>	<u>Total</u>
Totals:	\$375.00	\$3,375.00	\$3,750.00

Aged Receivables:				
<u>Current</u>	<u>31-60 Days</u>	<u>61-90 Days</u>	<u>91-120 Days</u>	<u>> 120 Days</u>
\$375.00	\$0.00	\$0.00	\$0.00	\$0.00

All invoices are due upon receipt.

Project: 1027-04 Bill Group: 001



Grantham & Associates, Inc.

1919 S. Shiloh Road Suite 310 LB 8 Garland, TX 75042
Tel (972)864-2333 Fax (972)864-2334 www.gra-ce.net

Invoice

No. 10222
March 01, 2005
Project: 1027-04
Client: TOADD011

Client: **TOWN OF ADDISON**

Project: **Lake Forest Drive Survey**

Amount Due \$375.00

Amount Enclosed _____

Please return this page with your remittance.

NO. 02-4715-F

PAT MILLIKEN,

Plaintiff

v.

**TOWN OF ADDISON, THE PRESTON
GROUP DESIGNERS AND BUILDERS,
WILLIAM LONG, PRESTON HOMES,
INC., and JON B. COLEMAN,**

Defendants

IN THE DISTRICT COURT

116th JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

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**PLAINTIFF'S SECOND AMENDED PETITION
AND APPLICATION FOR INJUNCTIVE RELIEF**

Plaintiff Pat Milliken ("Milliken") files this her Second Amended Petition complaining of Defendants Town of Addison, The Preston Group Designers and Builders, William Long, Preston Home, Inc., Jon B. Coleman and (collectively, "Defendants") and states as follows:

I.
DISCOVERY CONTROL PLAN

1. Pursuant to Texas Rule of Civil Procedure 190 discovery is intended to be conducted under Discovery Control Plan Level 2.

II.
PARTIES

- 2. Plaintiff is an individual who resides in Dallas County, Texas.
- 3. Defendant Town of Addison is a municipality in Texas and has been served and answered herein.
- 4. Defendant The Preston Group Designers and Builders is a Texas corporation and has been served and answered herein.
- 5. Defendant William Long is an individual who is a resident of Texas and has been served and answered herein.
- 6. Defendant Preston Homes, Inc. is a Texas corporation and has been served and answered herein.
- 7. Defendant Jon B. Coleman is an individual residing in Collin County and has been

served and answered herein.

III. JURISDICTION AND VENUE

8. This Court has jurisdiction over Defendants because they have done business in and have sufficient contacts with Texas and are amenable to service by a Texas court. The Court has jurisdiction over the controversy because Plaintiff's damages are within the jurisdictional limits of the Court. Venue is proper in Dallas County, Texas because all or a substantial part of the events or omission giving rise to the claims occurred in Dallas County, Texas. Additionally, the parcel of property damaged by Defendants is located in the Town of Addison, Dallas County, Texas.

IV. STATEMENT OF FACTS

9. Plaintiff's residence is located at 14905 Lake Forest Drive, Town of Addison, Dallas County, Texas, where she had lived for many years. Her home is located on a 1.4 acre wooded parcel consisting of two lots. Improvements to the property include her home and a pool.

10. In August, 2001, Defendants The Preston Group Designers and Builders, Preston Homes, Inc. and Messrs. Long and Coleman (collectively the "Developer Defendants") began development on a parcel located immediately to the south of Plaintiff's residence. This adjoining parcel of land was subdivided into two lots to accommodate two homes.

11. Prior to development by the Defendants, the surface elevation of the Defendants' land was about the same or slightly higher than the elevation of Plaintiff's property along the common boundary. The natural flow and drainage of surface water from the Developer's lots was partly to the street as well as gently downhill across the entire length of the common boundary with Plaintiff's land to the north.

12. In approximately September, 2001, the Developer Defendants obtained issuance of a building permit from Defendant Town of Addison without a drainage plan having been required. Defendants began to haul in truck loads of fill dirt and deposit it immediately to the south of Plaintiff's Property. Plaintiff notified Defendant Town of Addison of her concerns about drainage problems which would result from the change in elevation of the lots from the fill dirt and the

potential damage to her property. Although Defendant Town initially ignored Plaintiff's concern, it later required Defendants to submit drainage plans but also *directed* the Developer Defendants to re-grade certain portions of their lots to direct surface water drainage towards the back of Plaintiff's property. Although the drainage plans which the Developer Defendants subsequently submitted to the Town indicated surface water drainage would be directed to Plaintiff's property in an increased and concentrated manner, Defendant Town of Addison approved the plans and allowed work to go forward. Moreover, Defendants' drainage plans failed to comply with representations by Defendants that their development would not adversely affect Plaintiff's adjoining property.

13. At the time the Defendant Town of Addison issued such directives regarding drainage, it had not constructed or provided for the construction of any public drainage improvement to receive the altered flow of surface water onto Plaintiff's property nor had it taken any other steps to confine the increased flow of surface water to the boundaries of any existing public drainage easement.

14. The Defendants continued work on the Developer Lots. In so doing, the Developer Defendants committed many acts which diverted the natural flow of surface water on the Developer's land and on Plaintiff's property. These acts included but are not limited to:

- a. causing a six foot increase in the surface elevation of the Developer land by hauling in massive quantities of fill dirt;
- b. stripping natural vegetation so as to increase surface water run-off during rains;
- c. developing their land so that surface water drainage was concentrated and directed to the approximate back one-third of Plaintiff's land;
- d. installing cement decks and driveways also increasing surface water run-off;
- e. entering upon and re-grading and removing natural vegetation from an adjacent corner Plaintiff's property, thereby further diverting the natural flow of surface water and increasing erosion on Plaintiff's land;

15. The above conduct by the Developer Defendants reduced the permeability of the land and increased the volume, velocity and direction of surface water runoff from Defendants' Lots to

Plaintiff's Property.

16. Beginning on or about December 16, 2001, and as a result of the foregoing wrongful conduct by Defendants, Plaintiff's home and land were flooded. Specifically, the Developer Defendants' alteration of the adjacent property's terrain resulted in the collection and diversion of the natural flow of surface water onto Plaintiff's property with increased velocity and at different locations. The flood waters intruded into here home, damaging or destroying portions of the exterior and interior, the contents, and nearby pool. The flood caused and continues to cause erosion.

17. As a result of the Defendants' aforesaid negligence and diversion of the natural flow of surface waters, Plaintiff sustained irreparable damages in an amount of excess of the minimal jurisdictional limits of the Court.

18. Plaintiff reported the flooding and damage to Defendant Town of Addison. Upon investigation, Defendant Addison determined that Developer Defendants had not complied with the drainage plans and other conditions for development of the Lots. In January, 2002, the Town issued an order for Defendants to stop work.

19. Shortly thereafter, Town of Addison belatedly attempted to remedy the increased drainage diverted to Plaintiff's property by construction of drainage improvements on Plaintiff's property. In collaboration with the Developer Defendants, Defendants' entered upon Plaintiff's property and installed a drainage inlet and underground storm drain.

20. In the process of installation of the drainage improvements, Defendant Town of Addison in concert with the Developer Defendants destroyed mature trees, shrubs and ground cover located outside of any drainage easement. These trees were valuable landscaping features.

21. Although Defendant Town of Addison had promised to install the drainage improvements within an existing five foot drainage easement, the improvements were located partly outside the easement. Moreover, in the process of installing the improvements, Defendants altered the terrain and caused increased erosion.

22. The conduct of Defendant Town Addison and Defendant Developers have now permanently altered the drainage patterns of Plaintiff's land and caused pooling and erosion. The

installation of the drainage improvements have not completely alleviated the unlawful diversion of water onto Plaintiff's Property. Heavy rains continue to result in the flooding of Plaintiff's property causing irreparable damages.

V.
FIRST CAUSE OF ACTION:
TAKING OF PRIVATE PROPERTY FOR PUBLIC PURPOSE
WITHOUT ADEQUATE COMPENSATION

23. Article I, Section 17, of the Texas Constitution provides that no person's property may be taken, damaged or destroyed for or applied to public use without adequate compensation being made. The Defendant Town of Addison authorized and directed the development of the adjacent property by the Developer Defendants so as to divert the flow of surface water drainage to Plaintiff's Property. Even though there was a pre-existing public drainage easement available on Plaintiff's property, Defendant town of Addison directed such diversion and approved such development without first constructing or requiring the Developers to construct a storm drain, culvert or other drainage improvement either on the Developer's land or on Plaintiff's property to receive the resulting altered surface water drainage which was diverted to the back portion of Plaintiff's property. In so doing, Defendant Town of Addison acted arbitrarily and capriciously and in clear disregard of Plaintiff's rights. Prior to the development and construction of homes on the adjoining parcel, Plaintiff's property was not subject to flooding. However, in December, 2001, and a second time in January, 2002, after the development and construction of the homes, water repeatedly flooded Plaintiff's property causing extensive damage to her home, personal property, land and other improvements thereon. Only after flooding and damage occurred did Defendant Town of Addison take steps to provide for the necessary drainage improvements.

24. Defendant Town of Addison failed to pay for the portion of the Plaintiff's land thereby taken and used for public purposes of drainage overflow or for the resulting damage during December, 2001, and January, 2002, inflicted to Plaintiff's land, home and other real property improvements and personal property.

25. In February, 2002, after the initial flooding and damage to Plaintiff's land, home and

other property, Defendant Town of Addison, attempted to remedy the flooding by installing a drainage inlet and underground storm drain at the back of Plaintiff's Property. Such installation constituted a further taking of Plaintiff's property. The drainage improvements were installed partly outside the boundaries of an existing easement. The installation required the destruction of several ornamental trees and other landscaping features. The land around the inlet and along the drain pipe was re-graded and cumulatively such changes altered the natural drainage characteristics of Plaintiff's land. The drainage inlet and storm drain have reduced but not resolved the flooding of Plaintiff's land as a result of the diversion of surface water drainage from the Developer's property.

26. Defendant Town of Addison failed to obtain Plaintiff's permission and/or pay for the portion of her land outside the existing easement which was used for purposes of the drainage improvements or to pay for the trees and other landscaping which were damaged in the process of construction and installation.

27. Defendant Town of Addison's acts constitute a taking, damaging or destroying of Plaintiff's property for or application to public use without adequate compensation having been made, in violation of Section 17 of Article I of the Constitution of the State of Texas as well as the Fifth and Fourteenth Amendments of the United States Constitution.

28. Alternatively, the Town of Addison has illegally taken a portion of Plaintiff's property for private use and Plaintiff has been damaged thereby.

29. Defendant Town of Addison was afforded notice of Plaintiff's claim in compliance with state law.

**VI.
SECOND CAUSE OF ACTION:
UNLAWFUL DIVERSION OF WATER**

30. Additionally and alternatively, the wrongful acts and omissions of Defendant Town of Addison and the Defendant Developers have diverted and continue to divert the natural flow of surface water in such a manner as to cause an overflow onto Plaintiff's property resulting in flooding and erosion, all to Plaintiff's damage as heretofore set out. The Defendants' acts and/or omissions constitute a violation of the common law of the State of Texas and of Section 11.086 of the Texas

Water Code prohibiting the diversion of the natural flow of surface water. Plaintiff suffered and continues to suffer property damages herein described as well as mental and emotional distress as a result of the Defendants' unlawful diversion of water.

31. Defendants were consciously indifferent to an extreme risk of harm to Plaintiff arising from such diversion of surface water and are therefore liable for punitive and exemplary damages.

VII.
THIRD CAUSE OF ACTION:
NEGLIGENCE AND NEGLIGENCE PER SE

A. DEVELOPER DEFENDANTS

32. The Developer Defendants owe a duty to Plaintiff to develop their adjacent property in a manner that does not harm Plaintiff's property. The developer Defendants breached such duty. As a proximate cause of the Developer Defendants' breach of such duties, Plaintiff sustained and continues to sustain property damages described above as well as mental and emotional distress.

33. Plaintiff alleges that the negligent acts of Defendants constituted violations of Texas Water Code §11.086 prohibiting the diversion of surface water as well as violations of the Code of Ordinances of the Town of Addison relating to property development standards including submission of proper drainage plans. Such conduct was therefore *negligence per se*.

34. Developer Defendants were grossly negligent or consciously indifferent to an extreme risk of harm to Plaintiff arising from their failure to exercise due care in the development of the Developer Lots and are therefore liable to Plaintiff for punitive and exemplary damages.

B. DEFENDANT TOWN OF ADDISON

35. Additionally, Defendant Town of Addison, in collaboration with the developer Defendants, owed a duty to Plaintiff not to damage her property while installing the drainage inlet and underground storm drain on her property. Defendant Town of Addison in collaboration with the Developer Defendants, breached such duty while utilizing motorized vehicles, all to Plaintiff's damage as heretofore set out.

36. Such conduct by Defendant Town of Addison constituted a violation of Texas Water Code §11.086 prohibiting the diversion of surface water. Such conduct was therefore *negligence*

per se.

VIII.
FOURTH CAUSE OF ACTION:
TRESPASS AND DAMAGE

37. The Developer Defendants' acts and/or omissions caused the entry of flood waters upon Plaintiff's Property and the consequent damage to her real and personal property and erosion of soil. Similarly, Defendant Town of Addison, in collaboration with the Developer Defendants, entered upon Plaintiff's property and destroyed her valuable trees, shrubbery and ground cover and altered the terrain of her land. These acts and omissions occurred without Plaintiff's permission. Collectively, the Defendants' acts and/or omissions caused and continue to cause damages to Plaintiff, including both property damages and mental and emotional distress.

38. By directions and authorization to the Developer Defendants up to December, 2001, Defendant Town of Addison caused the diversion of surface water drainage to Plaintiff's property without constructing or providing for any culvert or storm drain to receive and confine such surface water to any drainage easement. Plaintiff's real property was thereby taken without compensation and used for a public purpose of draining the surrounding land. The resulting flooding of Plaintiff's land in December, 2001, and January, 2002, permanently damaged the interior and exterior of Plaintiff's home and destroyed much of the contents.

39. Additionally, Defendant Town of Addison, in collaboration with the Developer Defendants, installed a drainage inlet and modified the natural drainage characteristics on Plaintiff's property outside the boundaries of an existing easement. Prior to such modifications to Plaintiff's property, Defendant Town of Addison failed to obtain Plaintiff's permission and/or pay for the portion of her parcel used to install the drainage improvements.

IX.
FIFTH CAUSE OF ACTION:
NEGLIGENT MISREPRESENTATION

40. Pleading in the further alternative, Plaintiff would show that the Defendant Developers intentionally or negligently misrepresented the effect of their plans for development of their property. Defendants made representations and provided information to Plaintiff in the course

of their business and/or matters in which they had a pecuniary interest but failed to exercise reasonable care in making such representations and communicating such information. Such false or misleading representations were justifiably relied upon by Plaintiff and proximately caused injury to Plaintiff as heretofore set out.

X.
DECLARATORY JUDGMENT

41. Defendant Town of Addison has raised an easement, required to be given to the Town as a defense to this action. Plaintiff contends that a proper reading and interpretation does not shield the Town. Wherefore, Plaintiff requests that this Court declare the rights of the Parties in the easement. Further, pursuant to the Declaratory Judgment Act, Plaintiff request her attorneys's fees related to same.

XI.
APPLICATION FOR PERMANENT INJUNCTION

42. The diversion and overflow of surface water is causing continuing irreparable damage to Plaintiff by the flooding and erosion of her land and home which is unique in character. Plaintiff has no adequate remedy at law for the damages suffered which are ongoing.

43. Pursuant to Texas Water Code §11.086, Plaintiff seeks a permanent injunction enjoining Defendants from further diverting the natural flow of surface water onto Plaintiff's and ordering Defendants to amend their drainage plans so as to restore drainage to its condition prior to the diversion of surface water created by Defendants.

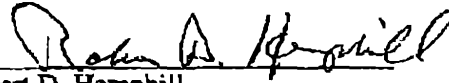
44. In accordance with Texas Water Code §11.0841, Plaintiff prays for recovery of its attorneys fees and other litigation costs and expenses incurred herein.

WHEREFORE, PREMISES CONSIDERED Plaintiff prays for judgment as follows:

(1) for permanent injunctive relief enjoining Defendants and all persons acting in privity or in concert with them from further diverting the natural flow of surface water onto Plaintiff's property in any manner including, but not limited to the alteration of the terrain of the adjacent property by developing the property and a mandatory injunction requiring Defendants to restore the natural drainage to the extent necessary to prevent further flooding on Plaintiff's land;

- (2) actual damages for the taking, use and damage to Plaintiff's property and recovery for Plaintiff's mental anguish and emotional distress in excess of the minimal jurisdictional limits of the Court sustained by Plaintiff by the acts of Defendants;
- (3) exemplary damages against all Defendants;
- (4) pre-judgment and post-judgment interest according to law;
- (5) attorneys fees and other litigation expenses;
- (6) court costs and such other and further relief to which Plaintiff may be justly entitled.

Respectfully submitted,



Robert D. Hemphill
 State Bar No. 09413800
 5646 Milton St., Suite 940
 Dallas, Texas 75206
 (214) 368-1226 Telephone
 (214) 368-7694 Telecopy
 ATTORNEYS FOR PLAINTIFF
 PAT MILLIKEN

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing instrument has been forwarded by facsimile and/or via first class United States mail, postage prepaid, to all counsel of record in accordance with the Texas Rules of Civil Procedure on this 4th day of March, 2005



ROBERT D. HEMPHILL


VERIFICATION

STATE OF TEXAS

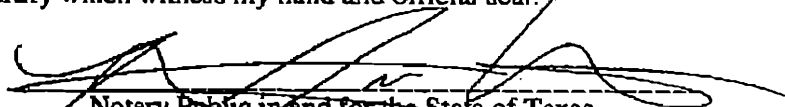
COUNTY OF DALLAS

03/04/05 08

Before me, on this day, personally appeared Pat Milliken, known to me to be the person whose name is subscribed hereto and upon his oath stated that she has read the foregoing Plaintiffs' Second Amended Original Petition and Application for Injunctive Relief and the facts set out therein are true and correct of her own personal.


Pat Milliken, Affiant

7th **SUBSCRIBED AND SWORN TO BEFORE ME**, by Pat Milliken, Affiant, on the day of March, 2005, to certify which witness my hand and official seal.


Notary Public in and for the State of Texas



Maris & Lanier

A Professional Corporation

1450 Meadow Park Bldg., LB 702
10440 N. Central Expressway
Dallas, Texas 75231

Telephone: (214) 706-0920
Telefax: (214) 706-0921
Direct: (214) 706-0922

March 4, 2005

VIA FACSIMILE

Robert D. Hemphill
5646 Milton Street, Suite 940
Dallas, Texas 75206

VIA FACSIMILE

Zach T. Mayer
FEE SMITH SHARP & VITULLO, L.L.P.
One Galleria Tower
13355 Noel Road, Ste. 1200
Dallas, Texas 75240

VIA FACSIMILE

J. Robert Miller, Jr.
MILLER & BROWN, L.L.P.
400 South Ervay Street
Dallas, Texas 75201-5513

Re: *Pat Milliken v. Town of Addison, et al*
Cause No. 02-4715-F in the 116th District Court, Dallas County
File No. 607-066

Dear Counsel:

It appears that the mediator's confirmation letter of February 28, 2005 contained a clerical error with regard to the mediation date. The mediation is actually scheduled for March 11, 2005 at 1:30 p.m., rather than May 11, 2005 at 1:30 p.m. Unfortunately, our clients are not available the afternoon of March 11, 2005 and we will therefore need to cancel same and reschedule for another date. By copy of this letter, I am requesting the mediator to provide alternative available dates for scheduling same.

Should you have any questions, comments, or concerns, please do not hesitate to call.

Sincerely,



Amy J. Walker
Legal Assistant to Robert F. Maris
MARIS & LANIER, P.C.

cc: **VIA FACSIMILE**
Gary Berman
Law Offices of Gary Berman
2017 Young Street
Dallas, Texas 75201

bcc: VIA EMAIL
Ken Dipple
Rickey Garen
Lynne Chandler
Scott Chutchian

Maris & Lanier ←

A Professional Corporation

1450 Meadow Park Bldg., LB 702
10440 N. Central Expressway
Dallas, Texas 75231

Telephone: (214) 706-0920
Telefax: (214) 706-0921
Direct: (214) 706-0925

TELECOPIER COVER SHEET

PLEASE DELIVER TO ADDRESSEE IMMEDIATELY

Date: February 14, 2005

To: Rickey Garen Via Telecopier Number: (512)491-2366

To: Ken Dippel Via Telecopier Number: (214)672-2020

To: Mike Murphy Via Telecopier Number: (972)450-2837

From: Amy L. Walker, Legal Assistant

Direct Phone Number : (214) 706-0922

Direct Telecopier Number : (214) 706-0921

Pages: Cover + 10

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL Debbie at: 214-706-0920

Re: File No. 607-066; Pat Milliken v. Town of Addison

Message: See attached Town of Addison's Response to Motion for Continuance.

Original will follow by mail Original will NOT follow by mail

The information contained in this facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any unauthorized dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone at the numbers listed. Thank you.

Maris & Lanier

A Professional Corporation

1450 Meadow Park Bldg., LB 702
10440 N. Central Expressway
Dallas, Texas 75231

Telephone: (214) 706-0920
Telefax: (214) 706-0921
Direct: (214) 706-0922

February 14, 2005

Court Clerk, 116th Judicial District Court
600 Commerce Street, Suite 693
Dallas, Texas 75202

Re: *Pat Milliken v. Town of Addison, et al*
Cause No. 02-4715-F
File No. 607-066

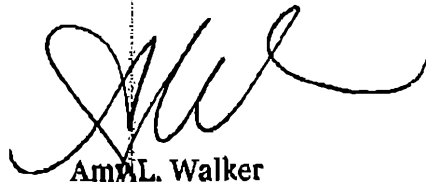
Dear Court Clerk:

Enclosed please find the original and one (1) copy of Town of Addison's Response to Motion for Continuance.

Please file the original and return a file-marked stamped copy of the enclosed back to me in the self-addressed stamped envelope provided herein.

Should you have any questions, please do not hesitate to contact me. Thanking you in advance for your time and attention.

Sincerely,



Amy L. Walker
Legal Assistant to Robert F. Maris
MARIS & LANIER, P.C.

Enclosure

COURT CLERK
February 14, 2005
PAGE 2

cc: **Robert D. Hemphill**
5646 Milton Street, Suite 940
Dallas, Texas 75206
VIA FACSIMILE NO. 214-368-7694
(w/encl.)

Zach T. Mayer
FEE SMITH SHARP & VITULLO, L.L.P.
One Galleria Tower
13355 Noel Road, Ste. 1200
Dallas, Texas 75240
VIA FACSIMILE NO. 972-934-9200
(w/encl.)

J. Robert Miller, Jr.
MILLER & BROWN, L.L.P.
400 South Ervay Street
Dallas, Texas 75201-5513
VIA FACSIMILE NO. 214-747-5324
(w/encl.)

COURT CLERK
February 14, 2005
PAGE 3

bcc: Rickey Garen
Texas Municipal League
Intergovernmental Risk Pool
P.O. Box 149194
Austin, Texas 78754
VIA FACSIMILE
(w/encl.)

Ken Dippel
Cowles & Thompson
901 Main Street, Suite 4000
Dallas, TX 75202
VIA FACSIMILE
(w/encl.)

Michael E. Murphy, P.E.
Lynn Chandler
Town of Addison
16801 Westgrove Drive
Addison, Texas 75001-9010
VIA FACSIMILE
(w/encl.)

CAUSE NO. 02-4715-F

PAT MILLIKEN,

Plaintiff,

v.

TOWN OF ADDISON, THE PRESTON
GROUP DESIGNERS AND BUILDERS,
WILLIAM LONG, PRESTON HOMES,
INC. and JON B. COLEMAN,

Defendants.

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IN THE DISTRICT COURT

116th JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

**TOWN OF ADDISON'S RESPONSE
TO MOTION FOR CONTINUANCE**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Defendant Town of Addison ("Addison") and files this response to the Motion for Continuance of Summary Judgment Hearings filed by Plaintiff Pat Milliken ("Plaintiff"). In support thereof, the Addison respectfully shows this Honorable Court the following:

I.

Summary of Relevant Facts

1. Plaintiff initiated this suit against Addison on May 24, 2002 alleging that Addison was responsible for flooding that occurred on her property. Plaintiff alleged that Addison was liable to her on theories of negligence, trespass, violation of §11.086 of the Texas Water Code and inverse condemnation. After considerable discovery, Addison filed a Motion for Summary Judgment on each of Plaintiff's claims. Plaintiff filed her summary judgment response on April 19, 2004. After a hearing held on April 26, 2004, this court

entered an order Addison's Motion for Summary Judgment as to Plaintiff's claim for negligence, except to the extent that Plaintiff contends that Addison constructed the drainage system outside of the five (5) foot easement, as to Plaintiff's entire claim for trespass and as to Plaintiff's entire claim for violation of §11.086 of the Texas Property Code. This court denied Addison's Motion for Summary Judgment as to Plaintiff's claim for inverse condemnation.

2. In June, 2004, the Supreme Court of Texas issued two (2) opinions clarifying the evidence necessary to establish intent on a claim for inverse condemnation.¹ Based upon these rulings, the evidence filed by Plaintiff in support of her claim for inverse condemnation was insufficient to establish the requisite intent. Therefore, on December 22, 2004, Addison filed the current motion asking that this court reconsider its ruling. Addison provided Plaintiff with notice that this matter will be heard on February 16, 2005 by letter dated January 3, 2005. Now, just seven (7) days prior to the hearing, Plaintiff requests a continuance on the grounds that her new counsel had not had sufficient time to adequately respond.²

II.

Arguments & Authorities

3. It is uncontroverted that Plaintiff received adequate notice of the summary judgment hearing in accordance with Rules 166a(c) and 21a of the Texas Rules of Civil Procedure. Therefore, Plaintiff is requesting that this Court grant Respondent *more* time

¹ *City of Dallas v. Jennings*, 142 S.W.3d 310 (Tex. 2004) and *Tarrant Regional Water District v. Cragg*, 2004 WL 1439646, 47 Tex.Sup.Ct.J. 707 (Tex. June 25, 2004).

² Plaintiff's prior counsel, Tom Keen, withdrew effective December, 2004.

to respond to Addison's motion. See *Tenneco, Inc. v. Enterprise Prods. Co.*, 925 S.W.2d 640, 647 (Tex.1996). A motion for continuance requesting additional time to respond to a summary judgment motion must comply with **all** of the requirements of Rules 166a(g) and 252 of the Texas Rules of Civil Procedure. *Id.*

4. Factors considered when determining whether a trial court has abused its discretion by denying a motion for continuance of a summary judgment hearing include: a) the length of time the case was on file; b) the materiality of the discovery sought; and c) whether due diligence was used in obtaining discovery. *Holquin v. Ysleta Del Sur Pueblo*, 954 S.W.2d 843, 854 (Tex.App.--El Paso 1997, writ denied); *Levinthal v. Kelsey-Seybold Clinic*, 902 S.W.2d 508, 510 (Tex.App.--Houston [1stDist.] 1994, writ denied). These requirements are proscribed by Rules 166a(g) and 252 of the Texas Rules of Civil Procedure.

5. A motion for continuance in compliance with Rule 166a(g) must set forth specific, not general, facts establishing that: i) the non-movant cannot himself present facts essential to justify its opposition to the motion for summary judgment by affidavit or other evidence; and ii) the non-movant needs additional time to secure affidavits from third-parties or conduct discovery. See TEX.RUL.CIV.PRO Rule 166a(g).

6. In addition, the non-movant must provide an affidavit showing: (iii) a description of specific discovery or affidavits that it intends to procure; (iv) the materiality of the testimony or evidence; (v) the non-movant's diligence in procuring the evidence or witness; and (vi) the length of time the suit has been on file. See TEX.RUL.CIV.PRO Rule 166a(g).

7. Plaintiff's request to continue the hearing on Addison's motion fails to comply with Rules 166a(g) and 252 of the Texas Rules of Civil Procedure by: i) failing to state why Plaintiff herself could not provide facts essential to justify opposition to the motion for summary judgment, by affidavit or otherwise; ii) failing to describe the necessary discovery or affidavit; iii) failing to describe the diligence in which Plaintiff used to procure the necessary discovery; and iv) failing to show that the length of the time that the suit has been on file has prevented him from procuring the necessary affidavits. Therefore, Addison contends that Plaintiff has failed to show that she is entitled to have this court consider a motion for continuance.

8. The fact is that Plaintiff was represented by adequate counsel when her summary judgment response was filed nearly ten (10) months ago. Inverse condemnation, and the requisite element of intent, was in direct controversy at that time. In fact, Addison challenged Plaintiff to present evidence on intent and Plaintiff presented the available evidence to support her allegation of intent. These facts have not changed. The only thing that has changed is the legal standard. Therefore, nothing can be accomplished by the granting of Plaintiff's motion for continuance, except causing Addison more time and expense.

9. This Court has the discretion to grant or deny a **proper** motion for continuance. *State v. Wood Oil Distrib., Inc.*, 751 S.W.2d 863, 865 (Tex.1988). In a summary judgment context, it is not an abuse of discretion to deny a motion for continuance if the non-movant received the twenty-one days' notice required by Rule 166a(c). *Dallas Indep. Sch. Dist. v. Finlan*, 27 S.W.3d 220, 235-36 (Tex.App.--Dallas 2000,

pct. denied), cert. denied, 122 S.Ct. 342 (2001); see also *Cronen v. Nix*, 611 S.W.2d 651, 653 (Tex.App.--Houston [1stDist.] 1980, writ ref'd n.r.e), cert. denied, 454 U.S. 833 (1981). However, in the absence of a motion for continuance that complies with Rules 166a(g) and 252 of the Texas Rules of Civil Procedure, this Court must deny Plaintiff's request to continue the summary judgment hearing.

V.

Prayer

WHEREFORE, premises considered, Addison respectfully requests that this Honorable Court deny Plaintiff's motion to continue the summary judgment hearing on Addison's Motion to Reconsider its Motion for Summary Judgment and to grant Addison any and all relief to which it may show itself justly entitled.

Respectfully submitted,

MARIS & LANIER, P.C.



Robert F. Maris
State Bar No. 12986300
Marigny A. Lanier
State Bar No. 11933200
Michael J. McKleroy, Jr.
State Bar No. 24000095
1450 Meadow Park Building
10440 N. Central Expressway
Dallas, Texas 75231
214-706-0920 telephone
214-706-0921 facsimile

ATTORNEYS FOR DEFENDANT
TOWN OF ADDISON

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing instrument has been served in accordance with Rule 21a of the Texas Rules of Civil Procedure on this the 14th day of February, 2005, to:

Robert D. Hemphill
5646 Milton Street, Suite 940
Dallas, Texas 75206
VIA FACSIMILE NO. 214-368-7694

Zach T. Mayer
FEE SMITH SHARP & VITULLO, L.L.P.
One Galleria Tower
13355 Noel Road, Ste. 1200
Dallas, Texas 75240
VIA FACSIMILE NO. 972-934-9200

J. Robert Miller, Jr.
MILLER & BROWN, L.L.P.
400 South Ervay Street
Dallas, Texas 75201-5513
VIA FACSIMILE NO. 214-747-5324



Robert F. Maris

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**TOWN OF ADDISON'S RESPONSE
TO MOTION FOR CONTINUANCE**

PAGE 6

CAUSE NO. 02-4715-F

PAT MILLIKEN,

Plaintiff,

v.

TOWN OF ADDISON, THE PRESTON
GROUP DESIGNERS AND BUILDERS,
WILLIAM LONG, PRESTON HOMES,
INC. and JON B. COLEMAN,

Defendants.

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IN THE DISTRICT COURT

116th JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

**ORDER DENYING PLAINTIFF'S MOTION FOR
CONTINUANCE OF SUMMARY JUDGMENT HEARINGS**

On the 16th day of February, 2005, came on for hearing the Motion for Continuance of Summary Judgment Hearings filed by Plaintiff Pat Milliken ("Plaintiff"). Upon consideration of Plaintiff's motion, the response filed by Defendant Town of Addison ("Addison"), the papers on file with this court and the arguments of counsel, this court finds that Plaintiff's motion should be DENIED as follows:

IT IS THEREFORE ORDERED, ADJUDGED and DECREED that Plaintiff's Motion for Continuance of Summary Judgment Hearings is denied.

SIGNED on the ____ day February, 2005.

JUDGE PRESIDING

607.00566\continuemsj.ord.wpd



September 17, 2004

Mr. Steve Chutchian, P.E.
Town of Addison
16801 Westgrove Drive
PO Box 9010
Addison, TX 75001-9010

Re: 14905 Lake Forest Drive Lot Survey
Letter Agreement for Surveying Services

Dear Mr. Chutchian:

Pursuant to your request, Grantham & Associates, Inc. (G&A) has prepared this letter agreement for surveying services at 14905 Lake Forest Drive. The scope of services for this project is being proposed in two phases as outlined below:

Scope of Services

Phase 1 – Lot Survey

This phase of the project will set down the lot and the existing easements, as well as determine the location of the drainage structures. The following details the scope to be performed during this phase.

- Project control will be established on the site. Per the Town's request, G&A will be setting local control on this lot. The survey will not be tied into the Town's control system.
- Look for property corners at 14905 Lake Forest Drive and survey those corners that are found.
- The existing drainage structures along the rear lot line will be surveyed.
- The Town will supply the subdivision plat, which G&A will review.
- G&A will prepare an exhibit that incorporates the above information.

Phase 2 – Topographic Lot Survey

G&A will perform a topographic survey of the property. The following details the scope to be performed during this phase.

- This phase assumes that Phase 1 has been completed or is completed simultaneously.
- Drainage patterns on the property and deck will be established through surveyed elevations.
- All trees on the property will be tied down.
- The house will be located, including the deck and all downspouts.
- The topographic information will be incorporated into the exhibit described in Phase 1.

Schedule

The required field work will be completed on September 24th, weather permitting. All deliverables will be submitted to the Town within one week of completing the field work.

Compensation

G&A will complete the above Scope of Services for the following fixed fee:

Phase 1 – Lot Survey	\$ 1,450
Phase 2 – Topographic Survey	\$ 2,100
Project Expenses	<u>\$ 200</u>
Total Fee:	\$ 3,750

Assumptions

The following assumptions have been made in preparing this proposal:

- The Town will supply the subdivision plat and drainage plans.
- Phase 2 assumes that Phase 1 has been completed or is being completed simultaneously.
- All field work must be completed September 24, 2004, weather permitting.
- The Town will provide the field crew with the authority necessary to enter the property. This may include Town staff on-site to insure that there is not disruption by the property owner of the work to be performed.

Terms and Conditions

- **Access to Site:** Unless otherwise stated, Grantham & Associates, Inc. (G&A) will have access to the site for activities necessary for the performance of the services. G&A will take precautions to minimize damage due to these activities, but has not included in the fee the cost of restoration of any resulting damage.
- **Dispute Resolution:** Any claims or disputes made during design, construction or post construction between the Client and G&A will be submitted to nonbinding mediation. Client and G&A agree to include a similar mediation agreement with all contractors, subcontractors, subconsultants, suppliers and fabricators, thereby providing for mediation as the primary method for dispute resolution among all parties.
- **Billings/Payments:** Invoices for G&A's services will be submitted on a monthly basis. Invoices will be payable within 30 days after the invoice date.
- **Indemnification:** The Client will, to the fullest extent permitted by law, indemnify and hold harmless G&A, its officers, directors, employees, agents and subconsultants from and against all damage, liability and cost including reasonable attorney's fees and defense costs, arising out of or in any way connected with the performance of the services under this agreement by any of the parties above named, excepting only those damages, liabilities or costs attributable to the sole negligence or willful misconduct of G&A.
- **Certifications/Responsibilities:** G&A will not be required to execute any document that would result in its certifying, guaranteeing or warranting the existence of conditions whose existence G&A cannot ascertain. Furthermore, G&A will not be responsible for the means, methods, procedures, techniques, or sequences of construction, nor for safety on the job site.

Mr. Steve Chutchian, P.E.
September 17, 2004
Page 3

- **Termination of Services:** This agreement may be terminated by the Client or G&A should the other fail to perform its obligations hereunder. In the event of termination, the Client will pay G&A for all services rendered to the date of termination, all reimbursable expenses and reimbursable termination expenses.
- **Ownership of Documents:** All documents produced by G&A under this agreement will remain the property of G&A, unless otherwise stated, and may not be used by the Client for any other endeavor without the written consent of G&A.

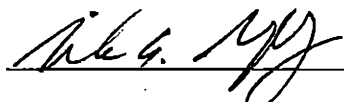
If you have any questions about this proposal, please contact me.

Very truly yours,


Bruce Grantham, P.E.
President

BG/jf

APPROVED BY:

 9/22/04
Town of Addison Date

Arboricultural Systems Integration

www.Arboricultural.com

ASI



Stan Randall
Staff Arboriculturist

The Formally Educated Tree and Landscape Professionals

Metro 972-772-5314
N.E. Texas 903/485-4771
Arborethic@aol.com





Civil Engineering • Planning • Surveying

August 24, 2004

Mr. Steve Chutchian
Town of Addison
16801 Westgrove Drive
Addison, Texas 75001

Re: Proposal for Surveying Services
Lots 1B and 2, Milliken Addition
Addison, Texas

Dear Mr. Chutchian:

ARS Engineers, Inc. is pleased to present this proposal for surveying services. We understand the site is located on Lake Forset Drive and involves Lots 1B and 2 of the Milliken Addition. Summarized below is our proposed scope of work, followed by our fee proposal.

SCOPE OF WORK

Task 1 – Prepare an exhibit indicating the location of existing drainage facilities located along the west line of Lots 1B and 2 in relation to the lot line and 5 foot wide drainage easement

1. Field locate the property lines
2. Field locate surface drainage structures
3. Uncover and field locate the existing storm sewer pipe every 25 feet along the route across Lot 2, special attention will be given to locating the pipe at bends
4. Prepare an exhibit (11 x 17 or larger) showing the lot line, drainage easement and existing drainage facilities
5. All work will be performed under the direct supervision of a registered public land surveyor

Task 2 – In addition to Task 1, prepare a detailed topographic survey of Lot 2

1. Transfer a benchmark to the site from a nearby Town of Addison monument
2. Field locate all surface features including, fences, trees, building, drives, walks, pool, stairs, steps, downspouts, other drainage features, roof lines
3. Field locate ground elevations
4. Prepare a detailed topographic contour map indicating all above ground improvements and the drainage facilities from Task 1 with contours not to exceed one foot interval. Spot elevations will be provided, when needed to describe the direction of fall.

Consulting Engineers

Mr. Steve Chutchian
Lots 1B & 2, Milliken Addition

Page 2
August 24, 2004

ARS proposes to perform the work beginning September 13, 2004. Completion of the exhibit for Task 1 will be completed by September 24, 2004 and completion of the topographic map will be completed by October 1, 2004.

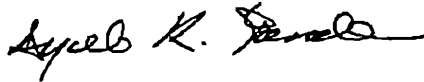
We propose to perform the work on a lump sum basis per the following schedule:

Task 1	\$3,950
Task 2	<u>\$4,950</u>
Total	\$8,900

Task 1 can be authorized singularly without Task 2. However Task 2 requires authorization of Task 1 also. We have provided separate authorizations below.

Please feel free to call if you have any questions.

Sincerely,
ARS Engineers, Inc.



Ayub R. Sandhu, P.E., R.P.L.S.
President

Task 1 Authorization to Proceed

Sign	Date	Printed Name & Title
------	------	----------------------

Task 1 & 2 Authorization to Proceed

Sign	Date	Printed Name & Title
------	------	----------------------

Addison!

STEVEN Z. CHUTCHIAN, P.E.
Assistant City Engineer
(972) 450-2886
(972) 450-2837 FAX
(214) 673-2518 Mobile
schutchian@ci.addison.tx.us E-mail

Town of Addison 16801 Westgrove Dr. P.O. Box 9010, Addison, Texas 75001-9010

12/15/02

Gayle -

CAN YOU FILE THIS PERMANENT
EASEMENT. WE NEED TO SEND A RECORDED
COPY TO THE OWNER AFTERWARDS.
THANKS! STEVE C.

✓ see attached
Gayle W.
12/18/02.

After Recording Return To:

Angela K. Washington
Cowles & Thompson, P.C.
901 Main Street, Suite 4000
Dallas, Texas 75202

TOWN OF ADDISON
DRAINAGE EASEMENT



STATE OF TEXAS

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§
§

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF DALLAS

That The Preston Group, hereinafter referred to as Grantor, for and in consideration of the sum of Ten and no/100 (\$10.00) and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, does by these presents grant, sell and convey unto the Town of Addison of the County of Dallas, State of Texas, its successors and assigns, hereinafter termed Grantee, a perpetual easement and right-of-way in, under, over, along and across the property described in attached Exhibit A (Field Note Description).

This easement and right-of-way with all rights and privileges hereby granted may be used for the purpose of constructing, operating, repairing, reconstructing and perpetually maintaining storm drainage facilities in, over, through and under the premises hereinabove described. Grantee, its employees, agents, and licensees shall at all times have the right and privilege to access the perpetual easement herein granted. Grantor agrees not to construct or place within the premises described above any buildings, fences, shrubs, trees or other improvements, without the prior written consent of Grantee.

To have and to hold the same, together with all and singular the rights and hereditaments thereunto in anywise belonging unto Grantee, its successors and assigns, for the purposes of the perpetual easement herein granted.

And Grantor hereby binds itself, its heirs, executors, agents and assigns to warrant and defend all and singular the above described easement and rights unto Grantee, its successors and assigns, against every person whosoever lawfully claiming or to claim the same or any part thereof.

EXECUTED this 3rd day of December, 2002.

THE PRESTON GROUP

By [Signature]

Print Name William Long

Title V. President

STATE OF TEXAS
COUNTY OF DALLAS

§
§

BEFORE ME, the undersigned notary public in and for said county and state, on this 3rd day of December, 2002, personally appeared William Lone on behalf of The Preston Group, a TEXAS CORPORATION, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person or entity upon behalf of which he acted executed the instrument for the uses and purposes therein set forth.

GIVEN UNDER my hand and seal of office the day and year last above written.

Laura L Nelson
Notary Public in and for the State of Texas

MY COMMISSION EXPIRES:

10-5-2005

[SEAL]

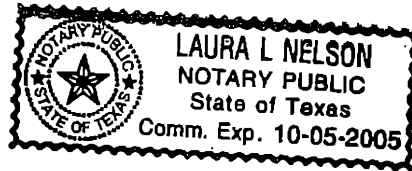


EXHIBIT A

**DRAINAGE EASEMENT
TOWN OF ADDISON
DALLAS COUNTY, TEXAS**

Being a description of a permanent drainage easement situated in the A. Bledsoe Survey, Abstract No. 157, Town of Addison, Dallas County, Texas, and being a portion of Lot 2, Medley Estates, an addition to the Town of Addison, as conveyed to The Preston Group, said permanent drainage easement being more particularly described by metes and bounds as follows:

COMMENCING at the northwest corner of said Lot 2, Medley Estates Addition, as evidenced by plat filed on August 24, 1998, and recorded in the Deed Records of Dallas County, Texas, and being a point at the northwest corner of said Lot 2, Medley Estates and common to the northeast line of Lot 89, Block B, Oaks North Addition, as evidenced by plat filed and recorded in Volume 79010, Page 1960, of the Deed Records of Dallas County, Texas;

THENCE, N 89 degrees 49 minutes 08 seconds E, a distance of 10.00 feet to a point;

THENCE, S 00 degrees 00 minutes 10 seconds W, a distance of 119.58 feet to a point, said point being along the north line of Lot 1, Medley Estates Addition;

THENCE, S 89 degrees 54 minutes 02 seconds W, a distance of 10 feet to a point, said point being along the west line of said Lot 2 and the east line of Lot 87, Block B, Oaks North Addition;

THENCE, N 00 degrees 00 minutes 10 seconds E, a distance of 119.57 feet to the **POINT OF BEGINNING**;

CONTAINING an area of 1195.75 square feet or 0.0275 acres of land within the metes recited.

After Recording Return To:
Angela K. Washington
Cowles & Thompson, P.C.
901 Main Street, Suite 4000
Dallas, Texas 75202

2112756

TOWN OF ADDISON
DRAINAGE EASEMENT

12/16/02 3610486 \$13.00
Deed

STATE OF TEXAS

§
§
§

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF DALLAS

That The Preston Group, hereinafter referred to as Grantor, for and in consideration of the sum of Ten and no/100 (\$10.00) and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, does by these presents grant, sell and convey unto the Town of Addison of the County of Dallas, State of Texas, its successors and assigns, hereinafter termed Grantee, a perpetual easement and right-of-way in, under, over, along and across the property described in attached Exhibit A (Field Note Description).

This easement and right-of-way with all rights and privileges hereby granted may be used for the purpose of constructing, operating, repairing, reconstructing and perpetually maintaining storm drainage facilities in, over, through and under the premises hereinabove described. Grantee, its employees, agents, and licensees shall at all times have the right and privilege to access the perpetual easement herein granted. Grantor agrees not to construct or place within the premises described above any buildings, fences, shrubs, trees or other improvements, without the prior written consent of Grantee.

To have and to hold the same, together with all and singular the rights and hereditaments thereunto in anywise belonging unto Grantee, its successors and assigns, for the purposes of the perpetual easement herein granted.

And Grantor hereby binds itself, its heirs, executors, agents and assigns to warrant and defend all and singular the above described easement and rights unto Grantee, its successors and assigns, against every person whosoever lawfully claiming or to claim the same or any part thereof.

EXECUTED this 3rd day of December, 2002.



TRUE AND CORRECT
COPY OF ORIGINAL
FILED IN DALLAS
COUNTY CLERK'S OFFICE

THE PRESTON GROUP

By [Signature]

Print Name William Lamb

Title V. President

202243 00082

STATE OF TEXAS
COUNTY OF DALLAS

§
§

BEFORE ME, the undersigned notary public in and for said county and state, on this 3rd day of December, 2002, personally appeared William Long on behalf of The Preston Group, a TEXAS CORPORATION, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person or entity upon behalf of which he acted executed the instrument for the uses and purposes therein set forth.

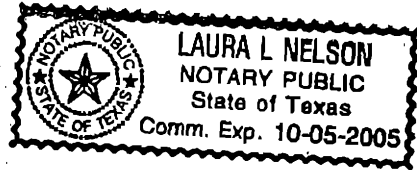
GIVEN UNDER my hand and seal of office the day and year last above written.

Laura Nelson
Notary Public in and for the State of Texas

MY COMMISSION EXPIRES:

10-5-2005

[SEAL]



TRUE AND CORRECT
COPY OF ORIGINAL
FILED IN DALLAS
COUNTY CLERK'S OFFICE

EXHIBIT A

**DRAINAGE EASEMENT
TOWN OF ADDISON
DALLAS COUNTY, TEXAS**

Being a description of a permanent drainage easement situated in the A. Bledsoe Survey, Abstract No. 157, Town of Addison, Dallas County, Texas, and being a portion of Lot 2, Medley Estates, an addition to the Town of Addison, as conveyed to The Preston Group, said permanent drainage easement being more particularly described by metes and bounds as follows:

COMMENCING at the northwest corner of said Lot 2, Medley Estates Addition, as evidenced by plat filed on August 24, 1998, and recorded in the Deed Records of Dallas County, Texas, and being a point at the northwest corner of said Lot 2, Medley Estates and common to the northeast line of Lot 89, Block B, Oaks North Addition, as evidenced by plat filed and recorded in Volume 79010, Page 1960, of the Deed Records of Dallas County, Texas;

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THENCE, S 00 degrees 00 minutes 10 seconds W, a distance of 119.58 feet to a point, said point being along the north line of Lot 1, Medley Estates Addition;

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THENCE, N 00 degrees 00 minutes 10 seconds E, a distance of 119.57 feet to the **POINT OF BEGINNING**;

CONTAINING an area of 1195.75 square feet or 0.0275 acres of land within the metes recited.



TRUE AND CORRECT
COPY OF ORIGINAL
FILED IN DALLAS
COUNTY CLERK'S OFFICE

2022 12 16 12:03 PM

FILED

2002 DEC 16 PM 12:03

EARL BULLOCK
COUNTY CLERK
DALLAS COUNTY

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law.
STATE OF TEXAS
I hereby certify this instrument was filed on the date and time stamped hereon by me and was duly recorded in the volume and page of the named records of Dallas County, Texas as stamped hereon by me.

COUNTY OF DALLAS

DEC 16 2002



Earl Bullock
COUNTY CLERK, Dallas County, Texas

THE STATE OF TEXAS }
COUNTY OF DALLAS }

I hereby certify that the above and foregoing is a full, true, and correct photographic copy of the original record now in my lawful custody and possession, filed on the date stamped thereon and as the same is recorded in the Recorder's Records in my office under the volume and page stamped thereon. I hereby certify on

DEC 16 2002



COPY OF ORIGINAL
FILED IN DALLAS
COUNTY CLERK'S OFFICE



Earl Bullock
COUNTY CLERK, Dallas County, Texas

By *Jolanda Crain*
Deputy

Town of Addison
P.O. Box 9010
Addison, TX 75001-9010

Steve Chutchian

From: Mike Murphy
Sent: Monday, October 27, 2003 11:43 AM
To: Steve Chutchian
Subject: FW: Milliken vs. Town of Addison; Our File No. 607.066

steve,

fyi

Mike

Michael E. Murphy, PE
Director of Public Works
(972) 450-2878 Work
(214) 215-5280 Mobile
(972) 450-2857 Fax
E-Mail: mmurphy@ci.addison.tx.us

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

From: Amy Walker [mailto:awalker@marislanier.com]
Sent: Monday, October 27, 2003 10:46 AM
To: Mike Murphy; Rickey Garen; Ken Dipple
Subject: Milliken vs. Town of Addison; Our File No. 607.066

The mediation has been reset for December 9, 2003 beginning at 9:30 a.m. I will be forwarding the mediator's confirmation letter via facsimile. Thanks.

Amy L. Walker
Legal Assistant to Robert F. Maris
Maris & Lanier, P.C.
10440 N. Central Expressway, Suite 1450
Dallas, Texas 75231
214-706-0922 Direct Dial
214-706-0920 Fax
awalker@marislanier.com

The preceding e-mail message (including any attachments) contains information that may be confidential, be protected by the attorney-client or other applicable privileges, or constitute non-public information. It is intended to be conveyed only to the designated recipient(s). If you are not an intended recipient of this message, please notify the sender by replying to this message and then delete it from your system. Use, dissemination, distribution, or reproduction of this message by unintended recipients is not authorized and may be unlawful.

10/28/2003

See Ellen,
Does this
Belong to your
department.
Thanks
Paula

After Recording Return To:
Angela K. Washington
Cowles & Thompson, P.C.
901 Main Street, Suite 4000
Dallas, Texas 75202

2112756

TOWN OF ADDISON
DRAINAGE EASEMENT

Deed 12/16/02 3610486 \$13.00

COUNTY OF DALLAS

§
§ KNOW ALL MEN BY THESE PRESENTS:
§

That The Preston Group, hereinafter referred to as Grantor, for and in consideration of the sum of Ten and no/100 (\$10.00) and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, does by these presents grant, sell and convey unto the Town of Addison of the County of Dallas, State of Texas, its successors and assigns, hereinafter termed Grantee, a perpetual easement and right-of-way in, under, over, along and across the property described in attached Exhibit A (Field Note Description).

This easement and right-of-way with all rights and privileges hereby granted may be used for the purpose of constructing, operating, repairing, reconstructing and perpetually maintaining storm drainage facilities in, over, through and under the premises hereinabove described. Grantee, its employees, agents, and licensees shall at all times have the right and privilege to access the perpetual easement herein granted. Grantor agrees not to construct or place within the premises described above any buildings, fences, shrubs, trees or other improvements, without the prior written consent of Grantee.

To have and to hold the same, together with all and singular the rights and hereditaments thereunto in anywise belonging unto Grantee, its successors and assigns, for the purposes of the perpetual easement herein granted.

And Grantor hereby binds itself, its heirs, executors, agents and assigns to warrant and defend all and singular the above described easement and rights unto Grantee, its successors and assigns, against every person whosoever lawfully claiming or to claim the same or any part thereof.

EXECUTED this 3rd day of December, 2002.

THE PRESTON GROUP
By [Signature]
Print Name William Long
Title V. President

200243 00082

STATE OF TEXAS
COUNTY OF DALLAS

§
§

BEFORE ME, the undersigned notary public in and for said county and state, on this 3rd day of December, 2002, personally appeared William Loh on behalf of The Preston Group, a TEXAS CORPORATION, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person or entity upon behalf of which he acted executed the instrument for the uses and purposes therein set forth.

GIVEN UNDER my hand and seal of office the day and year last above written.

Laura L Nelson
Notary Public in and for the State of Texas

MY COMMISSION EXPIRES:

10-5-2005

[SEAL]

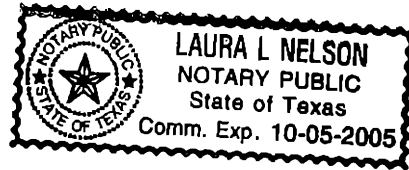


EXHIBIT A

**DRAINAGE EASEMENT
TOWN OF ADDISON
DALLAS COUNTY, TEXAS**

Being a description of a permanent drainage easement situated in the A. Bledsoe Survey, Abstract No. 157, Town of Addison, Dallas County, Texas, and being a portion of Lot 2, Medley Estates, an addition to the Town of Addison, as conveyed to The Preston Group, said permanent drainage easement being more particularly described by metes and bounds as follows:

COMMENCING at the northwest corner of said Lot 2, Medley Estates Addition, as evidenced by plat filed on August 24, 1998, and recorded in the Deed Records of Dallas County, Texas, and being a point at the northwest corner of said Lot 2, Medley Estates and common to the northeast line of Lot 89, Block B, Oaks North Addition, as evidenced by plat filed and recorded in Volume 79010, Page 1960, of the Deed Records of Dallas County, Texas;

THENCE, N 89 degrees 49 minutes 08 seconds E, a distance of 10.00 feet to a point;

THENCE, S 00 degrees 00 minutes 10 seconds W, a distance of 119.58 feet to a point, said point being along the north line of Lot 1, Medley Estates Addition;

THENCE, S 89 degrees 54 minutes 02 seconds W, a distance of 10 feet to a point, said point being along the west line of said Lot 2 and the east line of Lot 87, Block B, Oaks North Addition;

THENCE, N 00 degrees 00 minutes 10 seconds E, a distance of 119.57 feet to the **POINT OF BEGINNING**;

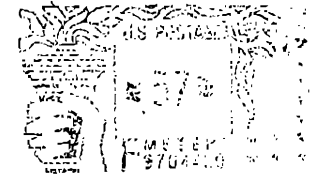
CONTAINING an area of 1195.75 square feet or 0.0275 acres of land within the metes recited.



COUNTY CLERK

509 Main St., Ste. 2013
Dallas, Texas 75202-3551

Cynthia Calhoun



THIS ENVELOPE CONTAINS

IMPORTANT

LEGAL INSTRUMENTS

FOR YOUR SAFE KEEPING

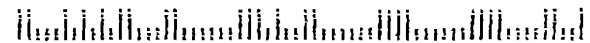
JAN 29 1998

TOWN OF ADDISON

PO BOX 9010

Addison TX 75001-9010

75001+9010 90



2



PUBLIC WORKS DEPARTMENT

(972) 450-2871

Post Office Box 9010 Addison, Texas 75001-9010

16801 Westgrove

November 20, 2002

Mr. William Long
The Preston Group
2301 Ohio Drive, Suite 235
Plano, Texas 75093

Re: Drainage Easements
Medley Addition

Dear Mr. Long:

In March 2002, the Town of Addison requested and received a 10' x 10' drainage easement, located at the northwest corner of Lot 2, Medley Addition. Subsequently, we discussed the need to extend the drainage easement through the remainder of Lot 2 and across Lot 1 of this addition. Easement forms were prepared and forwarded to you for signature and notarization. To date, the Town has not received these easement documents, and we are unable to file and record them as final disposition of this matter.

Attached are copies of the two permanent drainage easement forms across Lots 1 & 2. Please sign and notarize each document at your earliest convenience and return them to Steve Chutchian, P.E., Assistant City Engineer. Your consideration and attention is greatly appreciated.

Sincerely,

Michael Murphy, P.E.
Director of Public Works

After Recording Return To:
Angela K. Washington
Cowles & Thompson, P.C.
901 Main Street, Suite 4000
Dallas, Texas 75202

TOWN OF ADDISON
DRAINAGE EASEMENT

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

That **The Preston Group**, hereinafter referred to as **Grantor**, for and in consideration of the sum of **Ten and no/100 (\$10.00)** and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, does by these presents grant, sell and convey unto the **Town of Addison** of the County of Dallas, State of Texas, its successors and assigns, hereinafter termed **Grantee**, a perpetual easement and right-of-way in, under, over, along and across the property described in attached **Exhibit A** (Field Note Description).

This easement and right-of-way with all rights and privileges hereby granted may be used for the purpose of constructing, operating, repairing, reconstructing and perpetually maintaining storm drainage facilities in, over, through and under the premises hereinabove described. **Grantee**, its employees, agents, and licensees shall at all times have the right and privilege to access the perpetual easement herein granted. **Grantor** agrees not to construct or place within the premises described above any buildings, fences, shrubs, trees or other improvements, without the prior written consent of **Grantee**.

To have and to hold the same, together with all and singular the rights and hereditaments thereunto in anywise belonging unto **Grantee**, its successors and assigns, for the purposes of the perpetual easement herein granted.

And **Grantor** hereby binds itself, its heirs, executors, agents and assigns to warrant and defend all and singular the above described easement and rights unto **Grantee**, its successors and assigns, against every person whosoever lawfully claiming or to claim the same or any part thereof.

EXECUTED this _____ day of _____, 2002.

THE PRESTON GROUP
By _____
Print Name _____
Title _____

STATE OF TEXAS
COUNTY OF DALLAS

§
§

BEFORE ME, the undersigned notary public in and for said county and state, on this _____ day of _____, 2002, personally appeared _____, _____ on behalf of The Preston Group, a _____, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person or entity upon behalf of which he acted executed the instrument for the uses and purposes therein set forth.

GIVEN UNDER my hand and seal of office the day and year last above written.

Notary Public in and for the State of Texas

MY COMMISSION EXPIRES:

[SEAL]

EXHIBIT A

**DRAINAGE EASEMENT
TOWN OF ADDISON
DALLAS COUNTY, TEXAS**

Being a description of a permanent drainage easement situated in the A. Bledsoe Survey, Abstract No. 157, Town of Addison, Dallas County, Texas, and being a portion of Lot 1, Medley Estates, an addition to the Town of Addison, as conveyed to The Preston Group, said permanent drainage easement being more particularly described by metes and bounds as follows:

BEGINNING at the northwest corner of said Lot 1, Medley Estates Addition, as evidenced by plat filed on August 24, 1998, and recorded in the Deed Records of Dallas County, Texas, and being a point at the northwest corner of said Lot 1, Medley Estates Addition and common to the southwest corner of Lot 2, Medley Estates Addition

THENCE, N 89 degrees 54 minutes 02 seconds E, a distance of 10.00 feet to a point;

THENCE, S 00 degrees 00 minutes 10 seconds W, a distance of 137.58 feet to a point, said point being along the south line of Lot 1, Medley Estates Addition, and being a point along the north line of Lot 2, Coppola Estates, as evidenced by plat filed and recorded in Volume 89084, Page 2503, of the Deed Records of Dallas County, Texas;

THENCE, S 89 degrees 58 minutes 57 seconds W, a distance of 10 feet to a point, said point being along the west line of said Lot 1 and the east line of Lot 84, Block B, Oaks North Addition, as evidenced by plat filed and recorded in Volume 79010, Page 1960, of the Deed Records of Dallas County, Texas;

THENCE, N 00 degrees 00 minutes 10 seconds E, a distance of 137.57 feet to the **POINT OF BEGINNING**;

CONTAINING an area of 1375.75 square feet or 0.0316 acres of land within the metes recited.

**After Recording Return To:
Angela K. Washington
Cowles & Thompson, P.C.
901 Main Street, Suite 4000
Dallas, Texas 75202**

**TOWN OF ADDISON
DRAINAGE EASEMENT**

STATE OF TEXAS

§
§
§

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF DALLAS

That The Preston Group, hereinafter referred to as **Grantor**, for and in consideration of the sum of **Ten and no/100 (\$10.00)** and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, does by these presents grant, sell and convey unto the **Town of Addison** of the County of Dallas, State of Texas, its successors and assigns, hereinafter termed **Grantee**, a perpetual easement and right-of-way in, under, over, along and across the property described in attached **Exhibit A** (Field Note Description).

This easement and right-of-way with all rights and privileges hereby granted may be used for the purpose of constructing, operating, repairing, reconstructing and perpetually maintaining storm drainage facilities in, over, through and under the premises hereinabove described. **Grantee**, its employees, agents, and licensees shall at all times have the right and privilege to access the perpetual easement herein granted. **Grantor** agrees not to construct or place within the premises described above any buildings, fences, shrubs, trees or other improvements, without the prior written consent of **Grantee**.

To have and to hold the same, together with all and singular the rights and hereditaments thereunto in anywise belonging unto **Grantee**, its successors and assigns, for the purposes of the perpetual easement herein granted.

And **Grantor** hereby binds itself, its heirs, executors, agents and assigns to warrant and defend all and singular the above described easement and rights unto **Grantee**, its successors and assigns, against every person whosoever lawfully claiming or to claim the same or any part thereof.

EXECUTED this _____ day of _____, 2002.

THE PRESTON GROUP

By _____

Print Name _____

Title _____

STATE OF TEXAS
COUNTY OF DALLAS

§
§

BEFORE ME, the undersigned notary public in and for said county and state, on this _____ day of _____, 2002, personally appeared _____, _____ on behalf of The Preston Group, a _____, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person or entity upon behalf of which he acted executed the instrument for the uses and purposes therein set forth.

GIVEN UNDER my hand and seal of office the day and year last above written.

Notary Public in and for the State of Texas

MY COMMISSION EXPIRES:

[SEAL]

EXHIBIT A

**DRAINAGE EASEMENT
TOWN OF ADDISON
DALLAS COUNTY, TEXAS**

Being a description of a permanent drainage easement situated in the A. Bledsoe Survey, Abstract No. 157, Town of Addison, Dallas County, Texas, and being a portion of Lot 2, Medley Estates, an addition to the Town of Addison, as conveyed to The Preston Group, said permanent drainage easement being more particularly described by metes and bounds as follows:

COMMENCING at the northwest corner of said Lot 2, Medley Estates Addition, as evidenced by plat filed on August 24, 1998, and recorded in the Deed Records of Dallas County, Texas, and being a point at the northwest corner of said Lot 2, Medley Estates and common to the northeast line of Lot 89, Block B, Oaks North Addition, as evidenced by plat filed and recorded in Volume 79010, Page 1960, of the Deed Records of Dallas County, Texas;

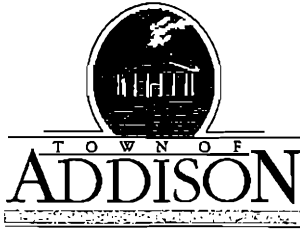
THENCE, N 89 degrees 49 minutes 08 seconds E, a distance of 10.00 feet to a point;

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CONTAINING an area of 1195.75 square feet or 0.0275 acres of land within the metes recited.



PUBLIC WORKS DEPARTMENT

(972) 450-2871

Post Office Box 9010 Addison, Texas 75001-9010

16801 Westgrove

Mr. William Long
Mr. John Coleman
The Preston Group
2301 Ohio Drive, Suite 235
Plano, Texas 75093

Re: Drainage Easements
Medley Addition

Gentlemen:

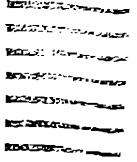
In March 2002, the Town of Addison requested and received a 10' x 10' drainage easement, located at the northwest corner of Lot 2, Medley Addition. Subsequently, we discussed the need to extend the drainage easement through the remainder of Lot 2 and across Lot 1 of this addition. Easement forms were prepared and forwarded to you for signature and notarization. To date, the Town has not received these easement documents, and we are unable to file and record them as final disposition of this matter.

Attached are copies of the two permanent drainage easement forms across Lots 1 & 2. Please sign and notarize each document at your earliest convenience and return them to Steve Chutchian, P.E., Assistant City Engineer. Your consideration and attention is greatly appreciated.

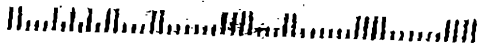
Sincerely,

Michael Murphy, P.E.
Director of Public Works

Bill Long Custom Homes, Inc.
2301 Ohio Drive, Suite 235
Plano, Texas 75093



Town of Addison
Attn: Michael E. Murphy, P.E.
Director of Public Works
P.O. Box 9010
Addison, Texas 75001-9010

75001+9010 

TOWN OF
ADDISON

PUBLIC WORKS

To: PETE WALSH

From: STEVE CHUTCHAN

Company: PRECISION LANDSCAPE

FAX #: 972-241-6616

Date: 3/27/02

No. of pages (including cover): 3

Phone: 972/450-2886

Fax: 972/450-2837

16801 Westgrove
P.O. Box 9010
Addison, TX 75001-9010

PETE, WE ARE READY TO
GO ON OUR END. THANKS!

Steve CHUTCHAN



LANDSCAPE PROPOSAL

**FOR
TOWN OF ADDISON**

**ATTN: Ron Lee
Sodding and Temporary Irrigation @ Lakeshore Residence**

March 25, 2002

Proposed Installation of solid Sod St Augustine, temporary irrigation and (4) 4 1/2 - 5" cal. Cedar Elms to include the preparation and fine grading of turf areas:

1. Installation, prep and fine grading of Solid Sod St Augustine
Total Cost: \$ 6,600.00
2. Installation of (4) 4 1/2"-5" cal Cedar Elms
Total Cost: \$ 2,000.00
3. Installation of Temporary Irrigation.
Total Cost: \$ 2,000.00

** IF ANY UNDERGROUND OBSTACLES (ROCK, UTILITIES, CONCRETE, ETC.) ARE ENCOUNTERED AND IF THEY CREATE ADDITIONAL WORK ABOVE AND BEYOND THAT LISTED ABOVE THEN THERE WILL BE AN EXTRA CHARGE FOR THE WORK.*

** IRRIGATION ADAPTATIONS AND/OR CHANGES ARE NOT INCLUDED IN THE ABOVE PRICES.*

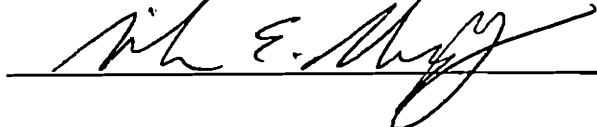
PROPOSED BY:



PRECISION LANDSCAPE MANAGEMENT, INC.

3-25-02
DATE

ACCEPTED BY:



3/27/02



LANDSCAPE PROPOSAL

**FOR
TOWN OF ADDISON**

**ATTN: Ron Lee
Sodding and Irrigation Repair @ Oaks North Triangle**

March 25, 2002

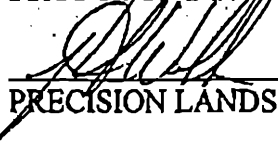
Proposed Installation of solid Sod St Augustine, Steel Edging, Burford Holly shrubs, minor grading @ drainage inlet and irrigation repair.

- 1. Landscape Installation Total Cost: \$ 3,791.00
- 2. Irrigation Repair. Total Cost: \$ 1,350.00

** IF ANY UNDERGROUND OBSTACLES (ROCK, UTILITIES, CONCRETE, ETC.) ARE ENCOUNTERED AND IF THEY CREATE ADDITIONAL WORK ABOVE AND BEYOND THAT LISTED ABOVE THEN THERE WILL BE AN EXTRA CHARGE FOR THE WORK.*

** IRRIGATION ADAPTATIONS AND/OR CHANGES ARE NOT INCLUDED IN THE ABOVE PRICES.*

PROPOSED BY:

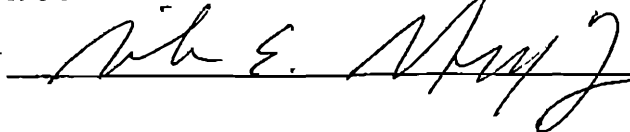


 PRECISION LANDSCAPE MANAGEMENT, INC.

3-25-02

 DATE

ACCEPTED BY:



3/27/02



PRECISION

Landscape Management, Inc.

2222 Valwood, Dallas, TX 75234

Phone: (972) 241-3789

Fax: (972) 241-6616

DATE: 3-25-02

TO: RON LEE

COMPANY: TOWN OF ADDISON

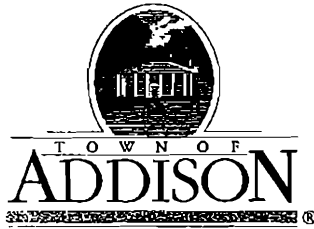
PROPERTY: _____

FAX #: 972-450-2834

FROM: PETE WALSH

OF PAGES: (3)

AS soon as you OK this,
 I will get P.O. issued &
 worked schedule nailed down



Post Office Box 9010

Addison, Texas 75001-9010

Pat Milliken

Home : 972-387-3177

After Recording Return To:
Angela K. Washington
Cowles & Thompson, P.C.
901 Main Street, Suite 4000
Dallas, Texas 75202



TOWN OF ADDISON
DRAINAGE EASEMENT

STATE OF TEXAS
COUNTY OF DALLAS

§
§
§

KNOW ALL MEN BY THESE PRESENTS:

That **The Preston Group**, hereinafter referred to as **Grantor**, for and in consideration of the sum of **Ten and no/100 (\$10.00)** and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, does by these presents grant, sell and convey unto the **Town of Addison** of the County of Dallas, State of Texas, its successors and assigns, hereinafter termed **Grantee**, a perpetual easement and right-of-way in, under, over, along and across the property described in attached **Exhibit A** (Field Note Description).

This easement and right-of-way with all rights and privileges hereby granted may be used for the purpose of constructing, operating, repairing, reconstructing and perpetually maintaining storm drainage facilities in, over, through and under the premises hereinabove described. **Grantee**, its employees, agents, and licensees shall at all times have the right and privilege to access the perpetual easement herein granted. **Grantor** agrees not to construct or place within the premises described above any buildings, fences, shrubs, trees or other improvements, without the prior written consent of **Grantee**.

To have and to hold the same, together with all and singular the rights and hereditaments thereunto in anywise belonging unto **Grantee**, its successors and assigns, for the purposes of the perpetual easement herein granted.

And **Grantor** hereby binds itself, its heirs, executors, agents and assigns to warrant and defend all and singular the above described easement and rights unto **Grantee**, its successors and assigns, against every person whatsoever lawfully claiming or to claim the same or any part thereof.

EXECUTED this 21 day of March, 2002.

THE PRESTON GROUP

By [Signature]

Print Name William Lowe

Title V President

STATE OF TEXAS
COUNTY OF DALLAS

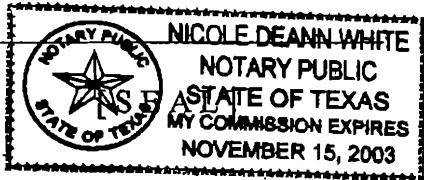
§
§

BEFORE ME, the undersigned notary public in and for said county and state, on this 2 day of April, 2002, personally appeared William Long, Vice President on behalf of The Preston Group, a _____, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person or entity upon behalf of which he acted executed the instrument for the uses and purposes therein set forth.

GIVEN UNDER my hand and seal of office the day and year last above written.

Nicole Deann White
Notary Public in and for the State of Texas

MY COMMISSION EXPIRES:



**DRAINAGE EASEMENT
TOWN OF ADDISON
DALLAS COUNTY, TEXAS**

Being a description of a permanent drainage easement situated in the A. Bledsoe Survey, Abstract No. 157, Town of Addison, Dallas County, Texas, and being a portion of Lot 2, Medley Estates, an addition to the Town of Addison, as conveyed to The Preston Group, said permanent drainage easement being more particularly described by metes and bounds as follows:

BEGINNING at the northwest corner of said Lot 2, Medley Estates addition, as evidenced by plat filed on August 24, 1998, and recorded in the Deed Records of Dallas County, Texas, and being a point at the northwest corner of said Lot 2, Medley Estates and common to the northeast corner of Lot 89, Block B, Oaks North Addition, as evidenced by plat filed and recorded in Volume 79010, Page 1960, of the Deed Records of Dallas County, Texas;

THENCE, N 89 degrees 49 minutes 08 seconds E, a distance of 10.00 feet to a point, said point being along the north line of said Lot 2;

THENCE, S 00 degrees 00 minutes 10 seconds W, a distance of 10.00 feet to a point;

THENCE, S 89 degrees 49 minutes 08 seconds W, a distance of 10 feet to a point, said point being along the west line of said Lot 2 and the east line of said Lot 89, Block B, Oaks North Addition;

THENCE, N 00 degrees 00 minutes 10 seconds E, a distance of 10.00 feet to the **POINT OF BEGINNING**;

CONTAINING an area of 100.00 square feet or 0.0023 acres of land within the metes recited.

EXHIBIT A

Original
w/ seal
(see back page)

1782830

Deed 04/09/02 3178266 \$13.00

**TOWN OF ADDISON
DRAINAGE EASEMENT**

STATE OF TEXAS §
COUNTY OF DALLAS §

KNOW ALL MEN BY THESE PRESENTS:

That **The Preston Group**, hereinafter referred to as **Grantor**, for and in consideration of the sum of **Ten and no/100 (\$10.00)** and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, does by these presents grant, sell and convey unto the **Town of Addison** of the County of Dallas, State of Texas, its successors and assigns, hereinafter termed **Grantee**, a perpetual easement and right-of-way in, under, over, along and across the property described in attached **Exhibit A** (Field Note Description).

This easement and right-of-way with all rights and privileges hereby granted may be used for the purpose of constructing, operating, repairing, reconstructing and perpetually maintaining storm drainage facilities in, over, through and under the premises hereinabove described. **Grantee**, its employees, agents, and licensees shall at all times have the right and privilege to access the perpetual easement herein granted. **Grantor** agrees not to construct or place within the premises described above any buildings, fences, shrubs, trees or other improvements, without the prior written consent of **Grantee**.

To have and to hold the same, together with all and singular the rights and hereditaments thereunto in anywise belonging unto **Grantee**, its successors and assigns, for the purposes of the perpetual easement herein granted.

And **Grantor** hereby binds itself, its heirs, executors, agents and assigns to warrant and defend all and singular the above described easement and rights unto **Grantee**, its successors and assigns, against every person whosoever lawfully claiming or to claim the same or any part thereof.

EXECUTED this 21 day of March, 2002.

THE PRESTON GROUP

By [Signature]

Print Name William Lowe

Title V. President



TRUE AND CORRECT
COPY OF ORIGINAL
FILED IN DALLAS
COUNTY CLERK'S OFFICE

STATE OF TEXAS
COUNTY OF DALLAS

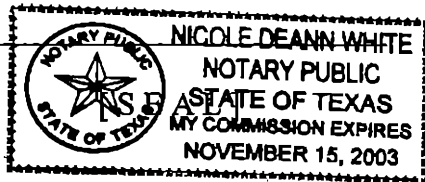
§
§

BEFORE ME, the undersigned notary public in and for said county and state, on this 2 day of April, 2002, personally appeared William Long, Vice President on behalf of The Preston Group, a _____, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person or entity upon behalf of which he acted executed the instrument for the uses and purposes therein set forth.

GIVEN UNDER my hand and seal of office the day and year last above written.

Nicole Deann White
Notary Public in and for the State of Texas

MY COMMISSION EXPIRES:



TRUE AND CORRECT
COPY OF ORIGINAL
FILED IN DALLAS
COUNTY CLERK'S OFFICE

**DRAINAGE EASEMENT
TOWN OF ADDISON
DALLAS COUNTY, TEXAS**

Being a description of a permanent drainage easement situated in the A. Bledsoe Survey, Abstract No. 157, Town of Addison, Dallas County, Texas, and being a portion of Lot 2, Medley Estates, an addition to the Town of Addison, as conveyed to The Preston Group, said permanent drainage easement being more particularly described by metes and bounds as follows:

BEGINNING at the northwest corner of said Lot 2, Medley Estates addition, as evidenced by plat filed on August 24, 1998, and recorded in the Deed Records of Dallas County, Texas, and being a point at the northwest corner of said Lot 2, Medley Estates and common to the northeast corner of Lot 89, Block B, Oaks North Addition, as evidenced by plat filed and recorded in Volume 79010, Page 1960, of the Deed Records of Dallas County, Texas;

THENCE, N 89 degrees 49 minutes 08 seconds E, a distance of 10.00 feet to a point, said point being along the north line of said Lot 2;

THENCE, S 00 degrees 00 minutes 10 seconds W, a distance of 10.00 feet to a point;

THENCE, S 89 degrees 49 minutes 08 seconds W, a distance of 10 feet to a point, said point being along the west line of said Lot 2 and the east line of said Lot 89, Block B, Oaks North Addition;

THENCE, N 00 degrees 00 minutes 10 seconds E, a distance of 10.00 feet to the **POINT OF BEGINNING**;

CONTAINING an area of 100.00 square feet or 0.0023 acres of land within the metes recited.

EXHIBIT A



TRUE AND CORRECT
COPY OF ORIGINAL
FILED IN DALLAS
COUNTY CLERK'S OFFICE

2002069 00032

2002069 00033

FILED

2002 APR -9 PM 12:53

EARL BULLOCK
COUNTY CLERK
DALLAS COUNTY

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law.

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

APR 9 2002



Earl Bullock
COUNTY CLERK, Dallas County, Texas



TRUE AND CORRECT
COPY OF ORIGINAL
FILED IN DALLAS
COUNTY CLERK'S OFFICE

TOWN OF ADDISON, CITY SECRETARY
P.O. BOX 9010
ADDISON, TX 75001-9010

THE STATE OF TEXAS }
COUNTY OF DALLAS }

I hereby certify that the above and foregoing is a full, true, and correct photographic copy of the original record now in my lawful custody and possession, filed on the date stamped thereon and as the same is recorded in the Recorder's Records in my office under the volume and page stamped thereon. I hereby certify on

APR 9 2002



Earl Bullock
COUNTY CLERK, Dallas County, Texas

**DRAINAGE EASEMENT
TOWN OF ADDISON
DALLAS COUNTY, TEXAS**

Being a description of a permanent drainage easement situated in the A. Bledsoe Survey, Abstract No. 157, Town of Addison, Dallas County, Texas, and being a portion of Lot 2, Medley Estates, an addition to the Town of Addison, as conveyed to The Preston Group, said permanent drainage easement being more particularly described by metes and bounds as follows:

BEGINNING at the northwest corner of said Lot 2, Medley Estates addition, as evidenced by plat filed on August 24, 1998, and recorded in the Deed Records of Dallas County, Texas, and being a point at the northwest corner of said Lot 2, Medley Estates and common to the northeast corner of Lot 89, Block B, Oaks North Addition, as evidenced by plat filed and recorded in Volume 79010, Page 1960, of the Deed Records of Dallas County, Texas;

THENCE, N 89 degrees 49 minutes 08 seconds E, a distance of 10.00 feet to a point, said point being along the north line of said Lot 2;

THENCE, S 00 degrees 00 minutes 10 seconds W, a distance of 10.00 feet to a point;

THENCE, S 89 degrees 49 minutes 08 seconds W, a distance of 10 feet to a point, said point being along the west line of said Lot 2 and the east line of said Lot 89, Block B, Oaks North Addition;

THENCE, N 00 degrees 00 minutes 10 seconds E, a distance of 10.00 feet to the **POINT OF BEGINNING**;

CONTAINING an area of 100.00 square feet or 0.0023 acres of land within the metes recited.

**DRAINAGE EASEMENT
TOWN OF ADDISON
DALLAS COUNTY, TEXAS**

Being a description of a permanent drainage easement situated in the A. Bledsoe Survey, Abstract No. 157, Town of Addison, Dallas County, Texas, and being a portion of Lot 2, Medley Estates, an addition to the Town of Addison, as conveyed to The Preston Group, said permanent drainage easement being more particularly described by metes and bounds as follows:

COMMENCING at the northwest corner of said Lot 2, Medley Estates Addition, as evidenced by plat filed on August 24, 1998, and recorded in the Deed Records of Dallas County, Texas, and being a point at the northwest corner of said Lot 2, Medley Estates and common to the northeast corner of Lot 89, Block B, Oaks North Addition, as evidenced by plat filed and recorded in Volume 79010, Page 1960, of the Deed Records of Dallas County, Texas;

THENCE, S 00 degrees 00 minutes 10 seconds W, a distance of 10.00 feet to the **POINT OF BEGINNING**, said point being along the west line of said Lot 2, Medley Estates;

THENCE, N 89 degrees 49 minutes 08 seconds E, a distance of 10.00 feet to a point;

THENCE, S 00 degrees 00 minutes 10 seconds W, a distance of 119.58 feet to a point, said point being along the north line of Lot 1, Medley Estates Addition;

THENCE, S 89 degrees 54 minutes 02 seconds W, a distance of 10 feet to a point, said point being along the west line of said Lot 2 and the east line of Lot 87, Block B, Oaks North Addition;

THENCE, N 00 degrees 00 minutes 10 seconds E, a distance of 119.57 feet to the **POINT OF BEGINNING**;

CONTAINING an area of 1195.75 square feet or 0.0275 acres of land within the metes recited.

After Recording Return To:
Angela K. Washington
Cowles & Thompson, P.C.
901 Main Street, Suite 4000
Dallas, Texas 75202

TOWN OF ADDISON
DRAINAGE EASEMENT

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

That The Preston Group, hereinafter referred to as **Grantor**, for and in consideration of the sum of **Ten and no/100 (\$10.00)** and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, does by these presents grant, sell and convey unto the **Town of Addison** of the County of Dallas, State of Texas, its successors and assigns, hereinafter termed **Grantee**, a perpetual easement and right-of-way in, under, over, along and across the property described in attached **Exhibit A** (Field Note Description).

This easement and right-of-way with all rights and privileges hereby granted may be used for the purpose of constructing, operating, repairing, reconstructing and perpetually maintaining storm drainage facilities in, over, through and under the premises hereinabove described. **Grantee**, its employees, agents, and licensees shall at all times have the right and privilege to access the perpetual easement herein granted. **Grantor** agrees not to construct or place within the premises described above any buildings, fences, shrubs, trees or other improvements, without the prior written consent of **Grantee**.

To have and to hold the same, together with all and singular the rights and hereditaments thereunto in anywise belonging unto **Grantee**, its successors and assigns, for the purposes of the perpetual easement herein granted.

And **Grantor** hereby binds itself, its heirs, executors, agents and assigns to warrant and defend all and singular the above described easement and rights unto **Grantee**, its successors and assigns, against every person whosoever lawfully claiming or to claim the same or any part thereof.

EXECUTED this _____ day of _____, 2002.

THE PRESTON GROUP

By _____

Print Name _____

Title _____

STATE OF TEXAS
COUNTY OF DALLAS

§
§

BEFORE ME, the undersigned notary public in and for said county and state, on this _____ day of _____, 2002, personally appeared _____, _____ on behalf of The Preston Group, a _____, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person or entity upon behalf of which he acted executed the instrument for the uses and purposes therein set forth.

GIVEN UNDER my hand and seal of office the day and year last above written.

Notary Public in and for the State of Texas

MY COMMISSION EXPIRES:

[S E A L]

**DRAINAGE EASEMENT
TOWN OF ADDISON
DALLAS COUNTY, TEXAS**

Being a description of a permanent drainage easement situated in the A. Bledsoe Survey, Abstract No. 157, Town of Addison, Dallas County, Texas, and being a portion of Lot 2, Medley Estates, an addition to the Town of Addison, as conveyed to The Preston Group, said permanent drainage easement being more particularly described by metes and bounds as follows:

BEGINNING at the northwest corner of said Lot 2, Medley Estates addition, as evidenced by plat filed on August 24, 1998, and recorded in the Deed Records of Dallas County, Texas, and being a point at the northwest corner of said Lot 2, Medley Estates and common to the northeast corner of Lot 89, Block B, Oaks North Addition, as evidenced by plat filed and recorded in Volume 79010, Page 1960, of the Deed Records of Dallas County, Texas;

THENCE, N 89 degrees 49 minutes 08 seconds E, a distance of 10.00 feet to a point, said point being along the north line of said Lot 2;

THENCE, S 00 degrees 00 minutes 10 seconds W, a distance of 10.00 feet to a point;

THENCE, S 89 degrees 49 minutes 08 seconds W, a distance of 10 feet to a point, said point being along the west line of said Lot 2 and the east line of said Lot 89, Block B, Oaks North Addition;

THENCE, N 00 degrees 00 minutes 10 seconds E, a distance of 10.00 feet to the **POINT OF BEGINNING**;

CONTAINING an area of 100.00 square feet or 0.0023 acres of land within the metes recited.

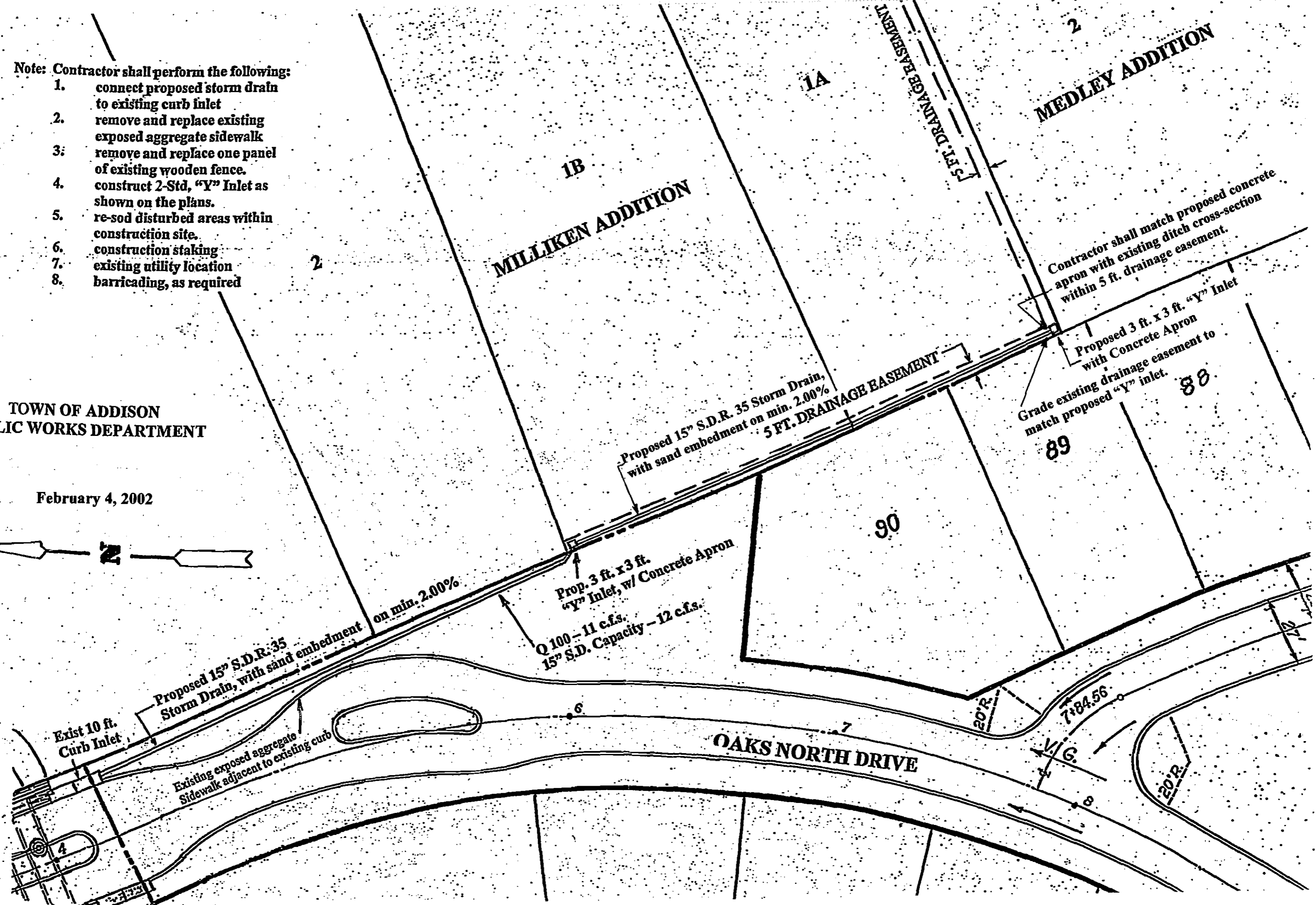
EXHIBIT A

Note: Contractor shall perform the following:

1. connect proposed storm drain to existing curb inlet
2. remove and replace existing exposed aggregate sidewalk
3. remove and replace one panel of existing wooden fence.
4. construct 2-Std, "Y" Inlet as shown on the plans.
5. re-sod disturbed areas within construction site.
6. construction staking
7. existing utility location
8. barricading, as required

TOWN OF ADDISON
PUBLIC WORKS DEPARTMENT

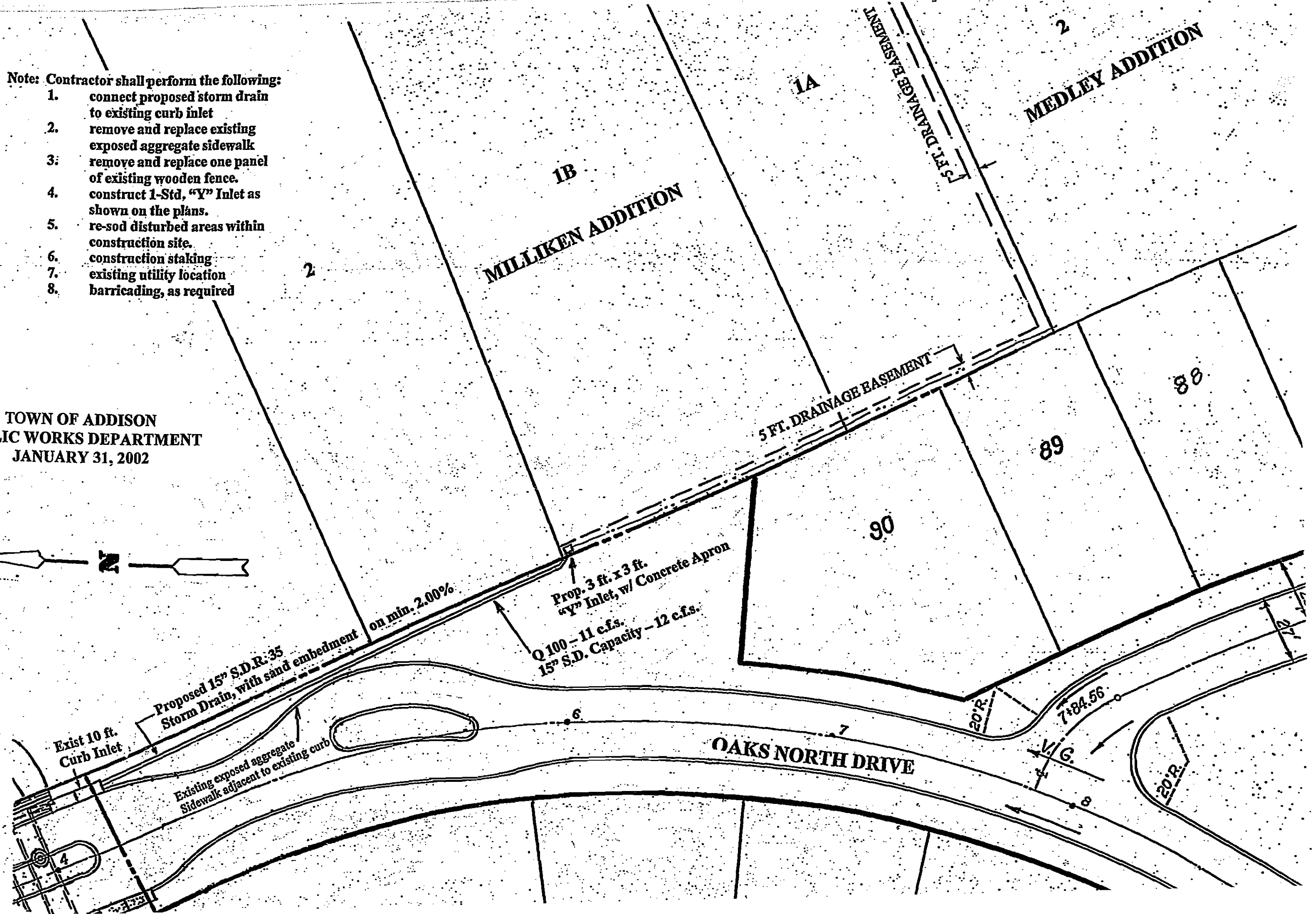
February 4, 2002



Note: Contractor shall perform the following:

1. connect proposed storm drain to existing curb inlet
2. remove and replace existing exposed aggregate sidewalk
3. remove and replace one panel of existing wooden fence.
4. construct 1-Std, "Y" Inlet as shown on the plans.
5. re-sod disturbed areas within construction site.
6. construction staking
7. existing utility location
8. barricading, as required

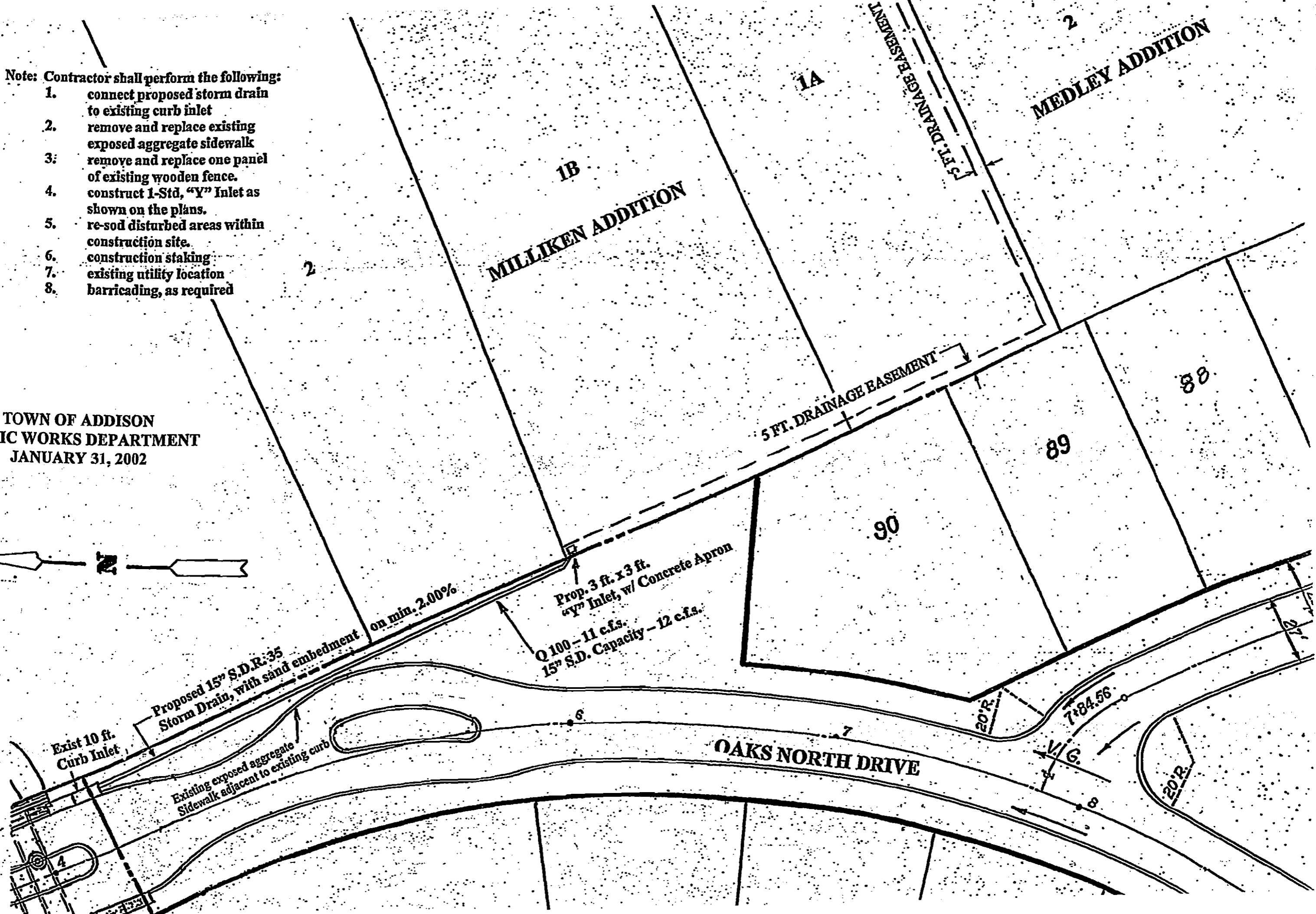
TOWN OF ADDISON
PUBLIC WORKS DEPARTMENT
JANUARY 31, 2002



Note: Contractor shall perform the following:

1. connect proposed storm drain to existing curb inlet
2. remove and replace existing exposed aggregate sidewalk
3. remove and replace one panel of existing wooden fence.
4. construct 1-Std, "Y" Inlet as shown on the plans.
5. re-sod disturbed areas within construction site.
6. construction staking
7. existing utility location
8. barricading, as required

TOWN OF ADDISON
PUBLIC WORKS DEPARTMENT
JANUARY 31, 2002

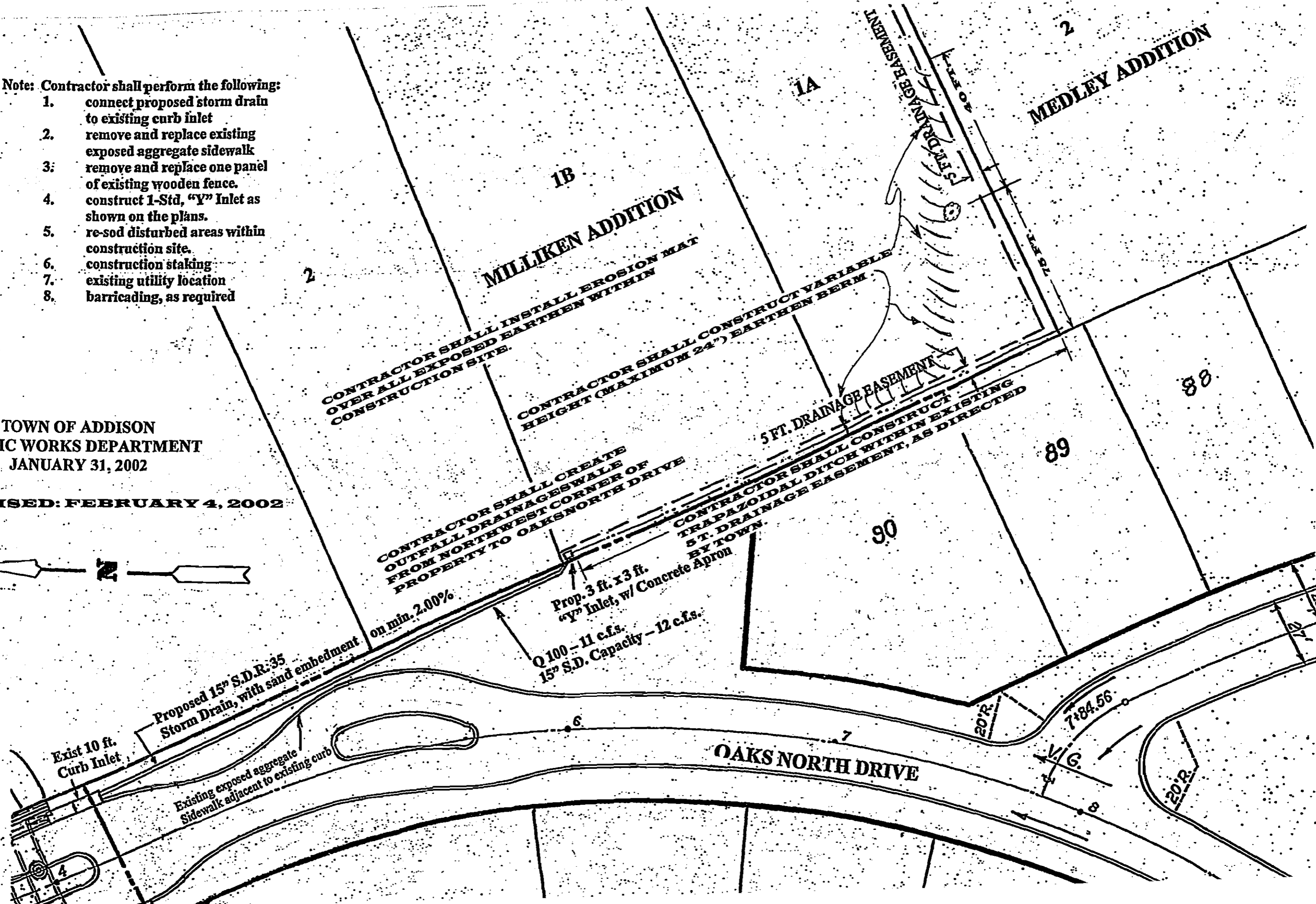


Note: Contractor shall perform the following:

1. connect proposed storm drain to existing curb inlet
2. remove and replace existing exposed aggregate sidewalk
3. remove and replace one panel of existing wooden fence.
4. construct 1-Std, "Y" Inlet as shown on the plans.
5. re-sod disturbed areas within construction site.
6. construction staking
7. existing utility location
8. barricading, as required

TOWN OF ADDISON
PUBLIC WORKS DEPARTMENT
JANUARY 31, 2002

REVISED: FEBRUARY 4, 2002

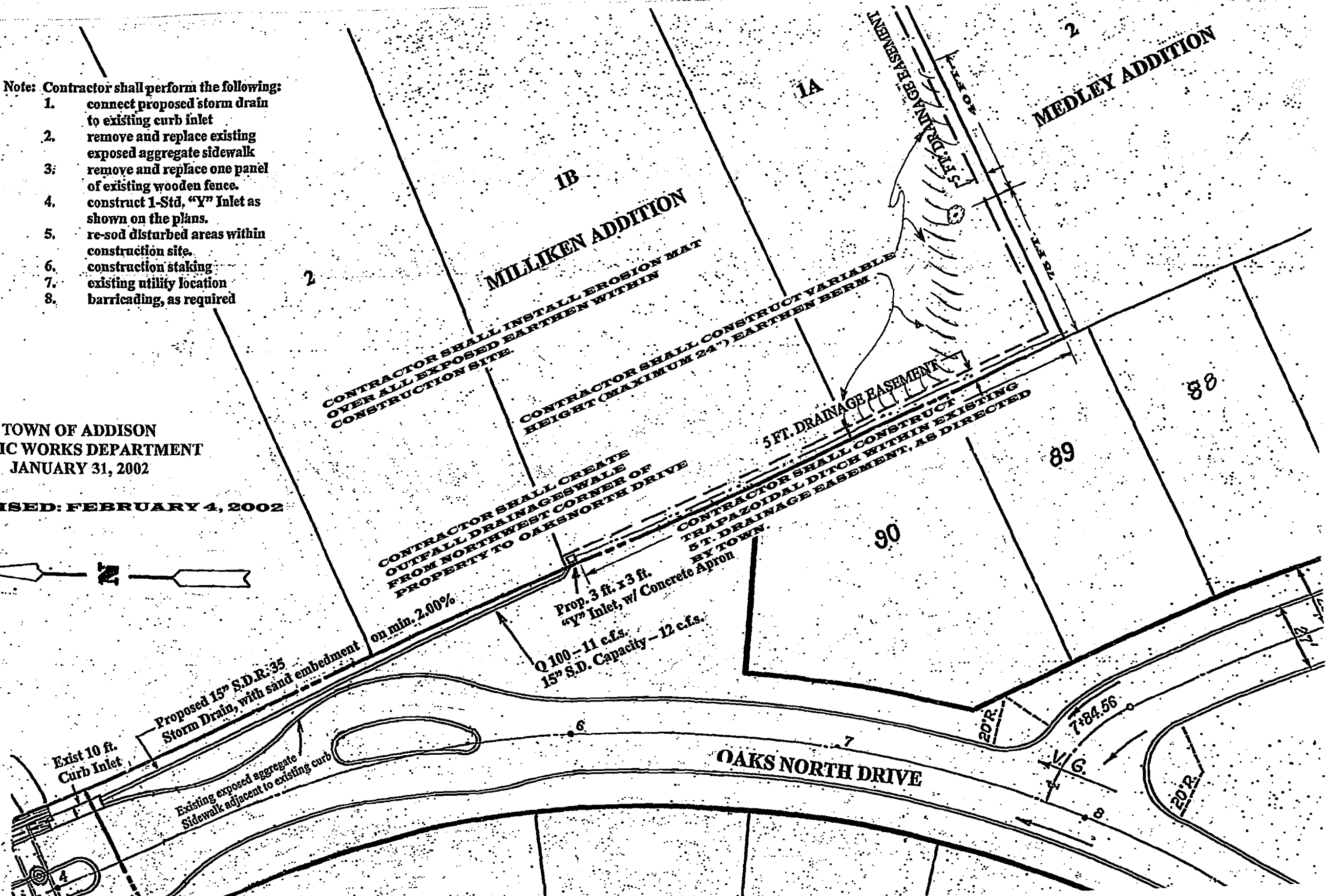


Note: Contractor shall perform the following:

1. connect proposed storm drain to existing curb inlet
2. remove and replace existing exposed aggregate sidewalk
3. remove and replace one panel of existing wooden fence.
4. construct 1-Std. "Y" Inlet as shown on the plans.
5. re-sod disturbed areas within construction site.
6. construction staking
7. existing utility location
8. barricading, as required

TOWN OF ADDISON
PUBLIC WORKS DEPARTMENT
JANUARY 31, 2002

REVISED: FEBRUARY 4, 2002



CONTRACTOR SHALL INSTALL EROSION MAT OVER ALL EXPOSED EARTHEN WITHIN CONSTRUCTION SITE.

CONTRACTOR SHALL CONSTRUCT VARIABLE HEIGHT (MAXIMUM 24") EARTHEN BERM.

CONTRACTOR SHALL CREATE OUTFALL DRAINAGE SWALE FROM NORTHWEST CORNER OF PROPERTY TO OAKS NORTH DRIVE

CONTRACTOR SHALL CONSTRUCT TRAPZOIDAL DITCH WITHIN EXISTING 5 FT. DRAINAGE EASEMENT, AS DIRECTED BY TOWN.

Prop. 3 ft. x 3 ft. "Y" Inlet, w/ Concrete Apron

Q 100 - 11 c.f.s.
15" S.D. Capacity - 12 c.f.s.

Proposed 15" S.D.R. 35 Storm Drain, with sand embedment on min. 2.00%

Exist 10 ft. Curb Inlet

Existing exposed aggregate Sidewalk adjacent to existing curb

OAKS NORTH DRIVE

MEDLEY ADDITION

MILLIKEN ADDITION

1A

1B

88

89

90

7+84.56

20'R

20'R

V/G

8

7

6

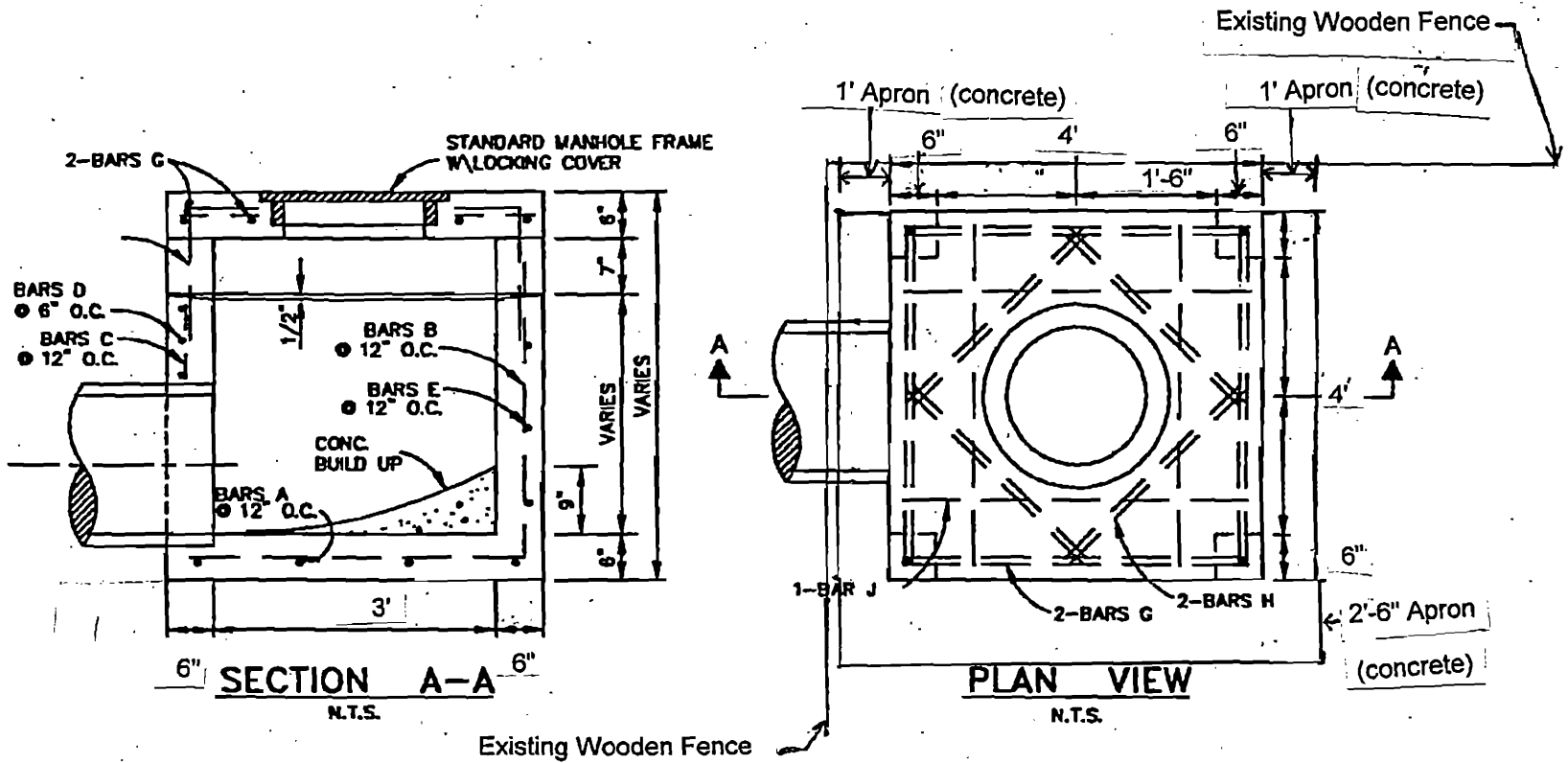
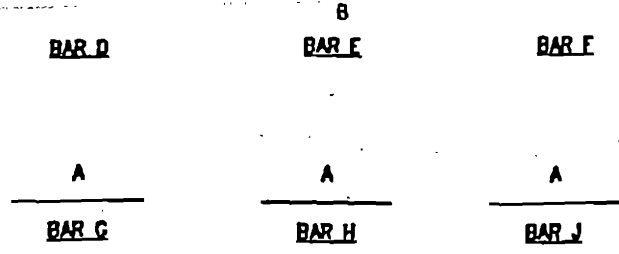
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2

2



NOTE:
 BARS "A" & "E" ARE USED
 IN THE WALLS PARALLEL TO THE R.C.P..
 BARS "B" ARE IN THE WALL OPPOSITE THE R.C.P..



"Y" TYPE INLET DETAILS

NOTE:
 BARS "A" & "E" ARE USED
 IN THE WALLS PARALLEL TO THE R.C.P..
 BARS "B" ARE IN THE WALL OPPOSITE THE R.C.P..

BAR D

BAR E

BAR F

A

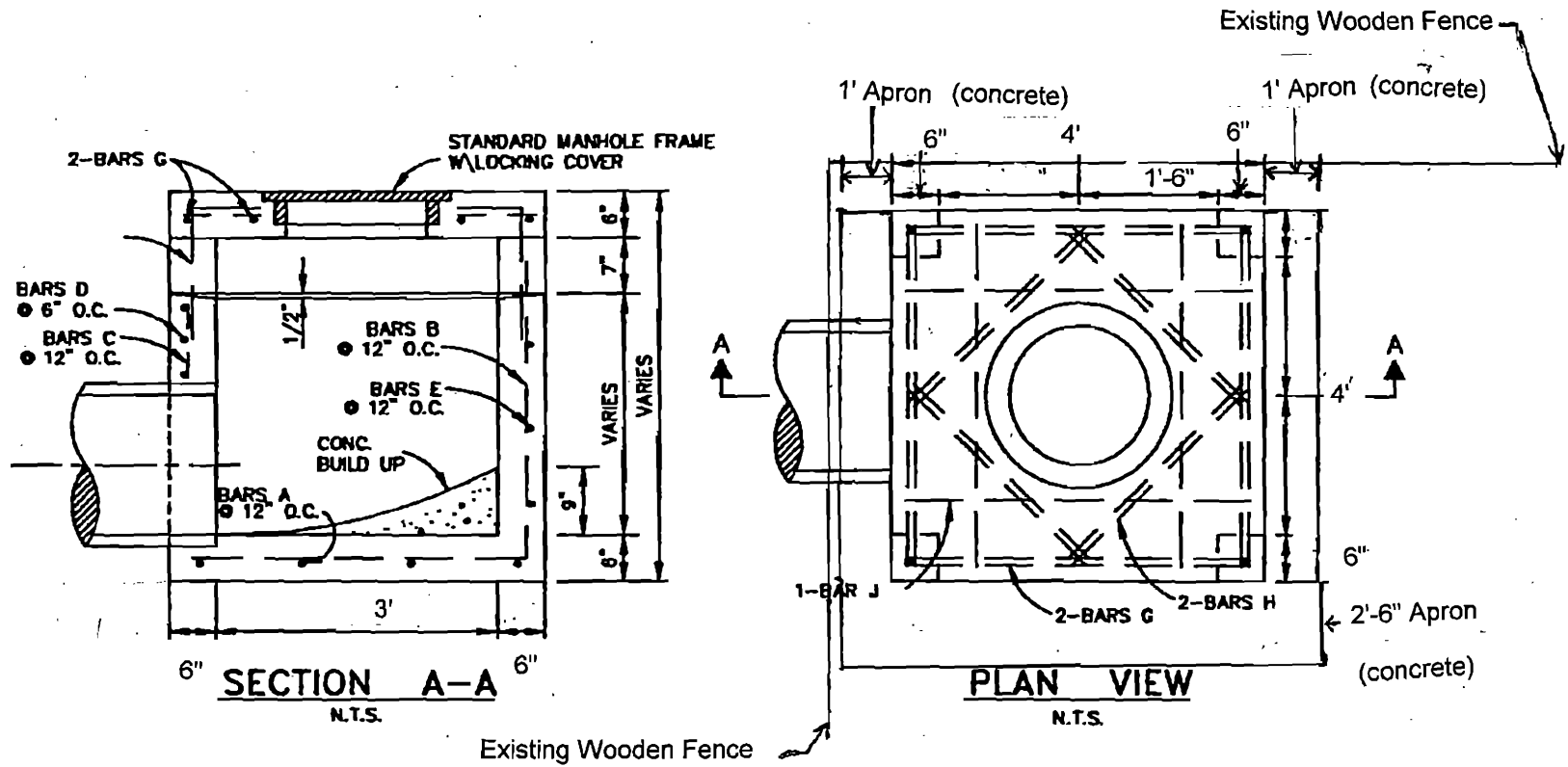
A

A

BAR G

BAR H

BAR J



SECTION A-A
 N.T.S.

PLAN VIEW
 N.T.S.

"Y" TYPE INLET DETAILS