

WESTCHESTER SQUARE MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("MOU"), dated December 30, 2011 between and among the New York City Department of Transportation ("DOT") with offices at 55 Water Street, New York, NY 10041, and the New York City Department of Parks and Recreation ("DPR") located at The Arsenal, 830 Fifth Avenue, New York, NY.

WITNESSETH

WHEREAS, DOT has jurisdiction of that portion of the right of way that comprises East Tremont, Westchester and Lane Avenues in the Borough of the Bronx, NY (the "Site"); and

WHEREAS, the Site will be reconstructed as described herein as part of a Sidewalk, Curb and Roadway Application ("SCARA"), Application # 2011-12 for Owen Dolen Park site, a DPR project located at East Tremont, Lane and Westchester Avenues, Bronx, NY 10451 (the "Project"); and

WHEREAS, DPR has agreed to remove existing pavers on the Site and install distinctive special pavers on the sidewalk ("Distinctive Sidewalk") within the bed of the Site as shown in **Exhibit A**; and

WHEREAS, DOT within the course of its review of SCARA for the Project has requested that DPR additionally provide the maintenance of the Distinctive Sidewalk; and

WHEREAS, DPR has agreed to assume responsibility for the maintenance and repair of the Distinctive Sidewalk to be installed by DPR and/or its contractor for so long as such elements remain at the Site or in the event the Site is reverted back to a vehicular lane of traffic.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the parties agree as follows:

1. DPR agrees that the Distinctive Sidewalk installed by DPR and/or its contractor shall meet with all applicable DOT specifications.
2. DPR shall be responsible for the maintenance, repair, reconstruction and/or replacement, in perpetuity, of the Distinctive Sidewalk, including, but not limited to snow removal, litter removal and any other functions necessary to make the area safe.
3. DOT consents to the installation of the Distinctive Sidewalk by DPR and shall approve the submitted SCARA, **see Exhibit B**.

4. DPR and DOT acknowledge that the Site will remain the jurisdictional property of DOT, available for DOT purposes and uses as needed. DPR and DOT further acknowledge that the Site is not intended to be formal or implied dedicated parklands.
5. DPR will have operational jurisdiction over the Site for the purpose of enforcing DPR Rules and Regulations, including the regulation of any DPR permitted activity and the issuance of permits. DOT shall continue to regulate the rights of way in and around the Site
6. Should DPR fail to perform any of its obligations, pursuant to this MOU, DOT, after thirty (30) days written notice thereof to DPR outlining in reasonable detail, the alleged deficiencies, shall have the right to perform any and all such functions at its sole discretion and charge the reasonable costs thereof and other administrative costs thereto to DPR. Should DPR (i) commence the work prior to the expiration of such thirty (30) days, (ii) notify DOT of the same, and (iii) diligently and continuously prosecute the same to completion, no breach of this MOU shall be deemed to exist.
7. Nothing in this MOU shall be construed so as to limit in any way DOT's right to perform any non-emergency work or provide any non-emergency service at its sole cost and expense to the Site, which it may deem necessary or proper, including permanent removal and replacement of the Distinctive Sidewalk. DOT shall provide DPR with thirty (30) day notice of any such non-emergency work or service.
8. Nothing in this MOU shall be construed so as to limit in any way DOT's right to perform emergency work or provide any emergency service to the Site, which it may deem necessary or proper, including the permanent removal and replacement of the Distinctive Sidewalk. DOT shall provide DPR with reasonable notice of any such emergency work or service.
9. In the event that DOT desires DPR to return any portion of the Site for other DOT purposes, DOT shall provide DPR with reasonable notice of same. DPR shall be responsible for the removal of vertical impediments (raised planters, berms, landscaping) to that portion of the Site and return it in good condition, reasonable wear and tear accepted. DOT shall be responsible for reverting the right of way back to a vehicular lane of traffic (if warranted).
10. This MOU shall be for the sole and exclusive benefit of DOT and DPR, and shall not vest any right or benefit in any other party.
11. All contractors hired by DPR to perform work on the Site shall be required to indemnify and hold the City of New York harmless in relation to the work performed at the Site. Additionally, all contractors will be required to provide insurance in accordance with DPR's standard insurance requirements.

12. DPR shall notify DOT of the placement of any writing, posters, plaques, or banners on the Distinctive Sidewalk at any time. It is expressly understood that all advertising shall be prohibited.
13. In the event that a tort claim or an action is commenced in relation to this MOU, DPR shall act as the liaison agency for the New York City Law Department.
14. No modification, amendment, waiver, or release of any provision of this MOU shall be valid or binding, for any purpose, unless in writing and duly executed by each party.
15. Each notice, demand, request or other communication in connection with this MOU, shall be in writing and delivered by regular mail, to:

Bronx Borough Commissioner
New York City Department of Transportation
1400 Williamsbridge Road
Bronx, NY 10461

Bronx Borough Commissioner
New York City Department of Parks and Recreation
Ranaqua
1 Bronx River Parkway
Bronx, New York 10462

With a copy to:

General Counsel
New York City Department of Parks and Recreation
The Arsenal
830 Fifth Avenue, Room 313
New York, NY 10065

General Counsel
New York City Department of Transportation
55 Water Street, 9th Floor
New York, NY 10041

or to such other address as may be specified by written notice sent, in accordance herewith.

16. This MOU contains all the terms and conditions agreed upon by the parties hereto, and no other agreement, oral or otherwise, regarding the subject matter

of this MOU shall be deemed to exist, or to bind any of the parties hereto, or to vary any of the terms contained herein.

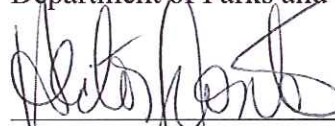
IN WITNESS WHEREOF, the parties hereto have caused this MOU to be signed on the day and year first above written.

City of New York
Department of Transportation



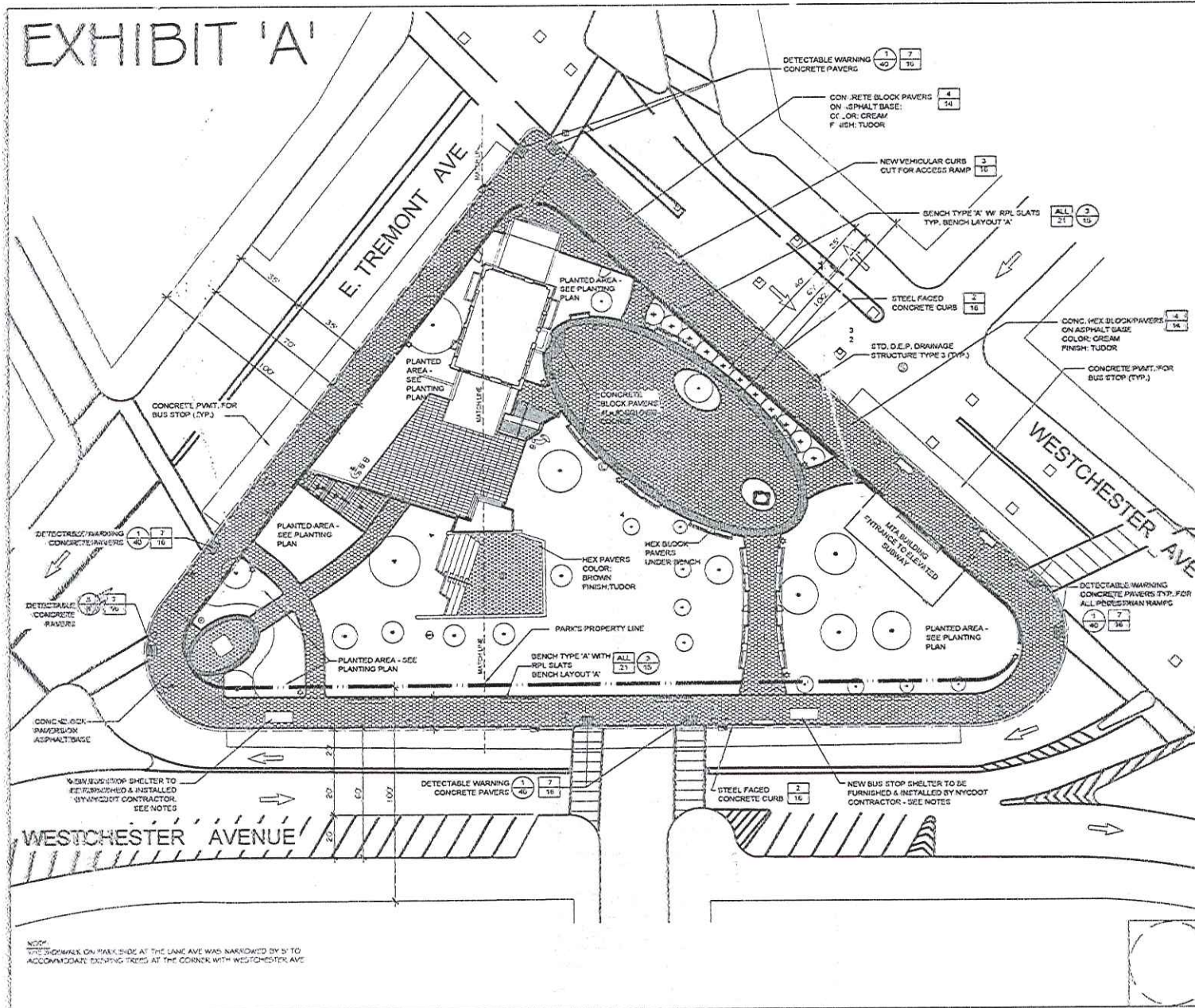
Constance Moran
Bronx Borough Commissioner

City of New York
Department of Parks and Recreation






















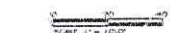
Hector Aponte
Bronx Borough Commissioner

EXHIBIT 'A'



LEGEND

- | | |
|---|--|
|  | EXISTING TREE |
|  | PROPOSED TREE |
|  | PROPOSED LIGHT POLE |
|  | PROPOSED BENCH |
|  | PROPOSED BUS SHELTER |
|  | PROPOSED CONC. CURB |
|  | DOUBLE GATE FOR STEEL PICKET FENCE |
|  | 4'-6" STEEL FENCE ON CONC. CURB |
|  | PIPE RAIL FENCE ON CONC. CURB |
|  | CONTRACT LIMIT LINE |
|  | CONSTRUCTION FENCE |
|  | CONTRACT DETAIL REFERENCE SYMBOL |
|  | DPI STANDARD DETAIL REFERENCE SYMBOL |
|  | PROPOSED PAVED AREA
CONCRETE BLOCK ON ASPHALT BASE
COLOR: CREAM TUDOR FINISH |
|  | PROPOSED PAVED AREA
CONCRETE BLOCK ON ASPHALT BASE
COLOR: BROWN TUDOR FINISH |
|  | PROPOSED PLANTED AREA (SEE PLANTING PLAN) |
|  | PROPOSED SOLDIER COURSE: BROWN |
|  | PROPOSED SOLDIER COURSE COLOR: CHARCOAL |
|  | EXISTING CONCRETE PAVERS ON ROOF |

REMARKS: 1. DIMENSIONS FOR STREET LANE AND SIDEWALKS
BASE PROPOSED LANE

City of New York
Parks & Recreation
Climate Center

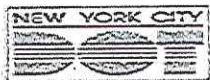
Flushing Meadows Corona Park

Flushing, New York 11368

ORIGINALLY BUILT THE RECONSTRUCTION OF OWNED HOUSE. FURNITURE, CENTER, BATHING
LOCATED IN EAST TOWN OF WESTMINSTER, NEW YORK.
NORTH OF THE CHURCH

UNCLASSIFIED

DESIGNATION SA PRATT, RIA	DEPARTMENT PRATT, RIA	CLASSIFIED BY J. VITKUS, RIA
REPORTING OFFICE ADDRESS DANIEL J. GORMAN, RIA	REPORTING OFFICE CODE DANIEL J. GORMAN, RIA	APPROVING AUTHORITY (NAME OF OFFICE) DANIEL J. GORMAN, RIA
REPORTING OFFICE OF DESIGN DANIEL J. GORMAN, RIA	APPROVING AUTHORITY (NAME OF OFFICE) DANIEL J. GORMAN, RIA	
ISSUANCE 15 THOMAS JAN JULY 2015	ISSUANCE NO. 15 THOMAS JAN JULY 2015	CONTRACT NO. XDC-1029A SUPPORTING 2. AM. 3. S. 1029A



NEW YORK CITY Department of Transportation

NEW YORK CITY
DEPARTMENT OF TRANSPORTATION

APPENDIX A (FORM 1 of 3)
SIDEWALK, CURB AND ROADWAY
APPLICATION (SCARA)

Approved 8/18/2011
Maden R...

Date received: 7/18/2011

Tell us about this proposed construction project.

Which of the following are involved? Check ALL that apply:

LOG # 2011-12

	Required approvals by others		Submit the following:					DOT Review
	Landmarks ⁱ	Design Commission ⁱⁱ	Plan Type ⁱⁱⁱ (3 Originals)	Certification Type ^{iv}	Material Testing	Maintenance Agreement	As Built	Type ^v
<input type="checkbox"/> Sidewalk								
<input type="checkbox"/> Standard concrete Flags	YES	NO	A	NONE	NO	NO	NO	PMCC
<input type="checkbox"/> Standard concrete with special tint (coloring)	YES	YES	B	1	NO	YES	NO	PMCC
<input type="checkbox"/> Standard concrete with special scoring pattern	YES	YES	B	2	NO	YES	NO	PMCC
<input type="checkbox"/> Standard granite cobble stone paver	YES	YES	D	2	YES	YES	NO	SSP
<input checked="" type="checkbox"/> Special paver Distinctive Sidewalk	YES	YES	D	2	YES	YES	YES	SSP
<input type="checkbox"/> Relocating Utility Lines	YES	NO	C	3	NO	NO	YES	SSP
<input type="checkbox"/> New grade for sidewalk	YES	NO	E	4	NO	NO	YES	SSP
<input type="checkbox"/> Fire Hydrant	YES	NO	C	6	NO	NO	NO	PMCC
<input type="checkbox"/> Tree pits	YES	NO	A	7	NO	NO	NO	PMCC
<input type="checkbox"/> Vaults	YES	NO	B	5	NO	NO	YES	PMCC
<input type="checkbox"/> Bollards	YES	YES	C	8	NO	NO	NO	PMCC
<input type="checkbox"/> Other:								
<input type="checkbox"/> Curb								
<input type="checkbox"/> Replace/Resetting (at established grade)	YES	NO	A	2	NO	NO	NO	PMCC
<input type="checkbox"/> New grade (elevation)	YES	NO	E	10	NO	NO	YES	SSP
<input type="checkbox"/> New curb Alignment	YES	NO	E	10	NO	NO	YES	SSP
<input type="checkbox"/> Standard concrete	YES	NO	A	2	NO	NO	NO	PMCC
<input type="checkbox"/> Standard steel face	YES	NO	A	2	NO	NO	NO	PMCC
<input type="checkbox"/> Distinctive	YES	YES	D	2	NO	YES	NO	SSP
<input type="checkbox"/> Other:								

i If in a Landmark Preservation Commission (LPC) District

ii Public Design Commission approval is not required if the project is in a Landmarked District (in this case approval shall come from LPC)

iii Submit 3 originals of the most detailed Plan Type checked: B=least detailed, F=most detailed. If only Plan Type A applies, this application (SCARA) is not required.

iv Submit the Certification Type(s) for each box checked

v PMCC=Permit Management & Construction Control SSP=Special Street Pavement 55 Water Street, 7th Floor, New York, NY 10041 - Phone: (212) 839-9653

APPENDIX A FORM 2 OF 3 (SCARA)

NEW YORK CITY
Department of TransportationLOG # 2011-12Approved 8/31/2011

Tell us about this proposed construction project.

Which of the following are involved? Check ALL that apply:

	Required approvals by others		Submit the following:						DOT Review
	Landmarks ⁱ	Design Commission ⁱⁱ	Plan Type ⁱⁱⁱ (3 Originals)	Certification Type ^{iv}	Material Testing	Maintenance Agreement	As Built	Type ^v	
<input type="checkbox"/> Roadway									
<input type="checkbox"/> Replace (standard, wearing surface only)	NO	NO	A	2	NO	NO	NO	PMCC	
<input type="checkbox"/> Replace (distinctive wearing surface only)	YES	YES	D	1	YES	YES	NO	PMCC	
<input type="checkbox"/> Reconstruction (standard, includes base)	NO	NO	F	11	NO	NO	YES	SSP	
<input type="checkbox"/> Reconstruction (distinctive, includes base)	YES	YES	F	11	YES	YES	YES	SSP	
<input type="checkbox"/> New or relocating catch basin	NO	NO	A	6	NO	NO	NO	PMCC	
<input type="checkbox"/> Hydrant offset (fenders)	NO	NO	A	6	NO	NO	NO	PMCC	
<input type="checkbox"/> Bicycle lane (Class I – separate facility)	YES	NO	F	11	YES	YES	YES	SSP	
<input type="checkbox"/> Other _____									

For property located at:

Street Address: East Tremont and Westchester AvenuesBorough/Zip Code: BronxBlock: 3981, 3984Lot: 100, 100Landmark District Name (or, N/A): N/AI have verified with the Landmarks Preservation Commission that this is is not a Landmarked District (circle one)Property Owner: ☐ Private ☒ GovernmentName: NYC Parks & RecreationPhone #: 718-760-6723Fax #: 718-760-6823Street Address: 117-02 Roosevelt Ave.City/State/Zip: Flushing/ NY / 11368Project Manager/Contact Person: Renata SokolowskiPhone #: 718-760-6625I am submitting this application with the Plan Type: D, Certification Type(s): 2 as required by my project.Owner or Authorized Representative's Signature: [Signature]Print Name and Title: Bo Kim, Deputy Chief of Construction

ALL SIGNATURES MUST BE ORIGINAL.

Calculation of Fee based on NYCDOT Fee Schedule^{vi}
1,004 LF

X

\$4.00

= \$

\$4,016.00

Total linear feet of property fronting public street (round to nearest foot)

Current fee per linear foot for Plan Type C, D, E, or F

Total Fee or Filing Fee (Payable to NYCDOT)

^{vi} Plan Type Fee Schedule

Plan Type Fee Schedule

A	B	C	D	E	F
No Fee	\$35 Filing Fee	\$2 Per Linear Foot	\$4 Per Linear Foot	\$4 Per Linear Foot	\$8 Per Linear Foot

Approved 8/31/2011 *AW R*

STATEMENT OF PROFESSIONAL CERTIFICATION

I am John J. Natoli, a licensed PE in the State of New York, License No. 061364.
 (name) (PE, RA, RLA)

Olmsted Ctr 117-02 Roosevelt Ave.,

I am submitting this application under professional certification. My business address is: Flushing NY 11368.
 My business phone # is: (718) 760-6725.

I understand the Department of Transportation may audit this application at its sole discretion.

I certify that:

1. All work shown on Plan No. 2 4 2 complies fully with the document "INSTRUCTIONS AND GUIDELINES FOR FILING PLANS AND FOR THE DESIGN OF SIDEWALKS, CURBS, ROADWAYS AND OTHER INFRASTRUCTURE COMPONENTS" (Instruction and Guidelines).
2. I will remove any work constructed under this plan that in the judgement of the DOT, violates any of the provisions of the Instructions and Guidelines because of a design error.
3. I will revise or repair any as-built work as necessary to the satisfaction of the Department when its design is not full compliance with the Instructions and Guidelines.
4. I will amend or revise the plan or provide additional survey data when, in judgement of the DOT the material I have presented does not meet the DOT's published requirements.

I understand that if I fail to carry out any of the above provisions when required, the DOT may cancel the work permits and/or deny acceptance of the work.

Signature

John J. Natoli

Seal



Date:

7/15/11

DO NOT ALTER THE CERTIFICATE ITEMS.

APPENDIX A (SCARA)
PLAN TYPES

Approved 8/31/2011 *[Signature]*

LOG # 2011-12

- A Plan does not have to be to scale. Plan must show: property lines, curb lines, sidewalk width and length, encroachments, street furniture.
- B Plan must be to scale: drawing 1" = 30' on 2'x3' (24"x 36") and drawings to DOT standard, including DOT drawing symbols- see Appendix F. Plan must show: block #, lot #, property lines, curb line, sidewalk width and length, encroachments, street furniture.
- C Plan must be to scale: drawing 1" = 30' on 2'x3' (24"x 36") and drawings to DOT standard, including DOT drawings symbols- see Appendix F. Plan must show block #, lot #, property lines, curb line, sidewalk width and length, encroachments, street furniture, driveways and existing and relocated layout of utility lines.
- D Plan must be to scale: drawing 1" = 30' on 2'x3' (24"x 36") and drawings to DOT standard, including DOT drawings symbols- see Appendix F. Plan must show block #, lot #, property lines, curb line, sidewalk width and length, encroachments, street furniture, driveways, drainage details and cross section showing details of the placement and composition of pavers, mortar bed, base, sub-base and method of installation and construction. In addition, photographs that show existing conditions and are clearly labeled, identifying the location from which the photos were taken and the view (north, south, east, west), must be included.
- E Plan must be to scale: drawing 1" = 30' on 2'x3' (24"x 36") and drawings to DOT standard, including DOT drawings symbols- see Appendix F. Plan must show block #, lot #, property lines, curb line, sidewalk width and length, encroachments, street furniture and elevations from curb to first floor/sidewalk, any slope breaks, grades 25' of abutting sidewalk. A topographical survey shall be required and shall include all information required by Appendix C in the manner specified there. A preliminary Design & Investigation report (PDI) shall be submitted if previously required (i.e. by DOT or, other agency).
- F Scale drawing 1" = 30' on 2'x3' (24"x 36") drawings to DOT standard, including DOT drawing symbols- see Appendix F. Plan must show or include the following:
- 1) PLAN VIEW & PROFILE VIEW- Existing and proposed infrastructure conditions in all streets abutting the property line, existing and proposed sewers, basins and manholes, extent of proposed pavement, sidewalk and curb, existing portions of pavements, sidewalks and curbs, profiles along all sides of the proposed improvement of existing grade, legal grade at the property line, curb line and gutter reveal, widths of sidewalks and roadways, both mapped and existing, property frontage/lot lines for which the builder(s) are making an application, adjoining street elevations and location plan area, including elevations at 25 feet and 50 feet past the project limit lines, street address of project, lot and block numbers, names of streets, avenues, lanes, etc. and with whom title is vested, including all information on non-mapped areas, i.e. Tax maps, rights-of-way, prescriptive streets, easements and in-rem properties, all information required by Appendix D (plan view) and Appendix E (profile view) in the manner specified there.
 - 2) LOCATION MAP- A small-scale map showing the location of the property in relation to the block and the surrounding streets shall be shown. The map shall show the full extent of the block and the alignment of all streets that abut it. The street names shall be shown. The following maps are acceptable for use as a location map: Sanborn map, Tax map, Final Section map, Zoning map (enlarged)
 - 3) TOPOGRAPHICAL SURVEY- A topographical survey shall be required and shall include all information required by Appendix C in the manner specified there.
 - 4) PRELIMINARY DESIGN & INVESTIGATION REPORT- A preliminary design & investigation report (PDI) shall be submitted if previously required (i.e., by DOT or, other agency)

*Note: Some elements of the plan descriptions stated above must be referenced to various DOT and other governmental publications which provide more detailed technical information.

Plan Type:	A	B	C	D	E	F
Fee Schedule:	No Fee	\$35 Filling Fee	\$2 per Linear Feet	\$4 per Linear Feet	\$4 per Linear Feet	\$8 per Linear Feet