



**Pat Evans**  
Mayor

**Sally Magnuson**  
Mayor Pro Tem

**Jean Callison**  
Deputy Mayor Pro Tem

**Shep Stahel**  
Place 1

**Scott Johnson**  
Place 2

**Loretta Ellerbe**  
Place 3

**Harry LaRosiliere**  
Place 5

**Lee Dunlap**  
Place 8

**Thomas H. Muehlenbeck**  
City Manager

May 21, 2008

Mayor Pat Evans  
City Council Members  
City of Plano  
Plano, TX 75074

Honorable Mayor and City Council:

We will begin Executive Session on Tuesday at 5:00 p.m. with legal advice from the City Attorney. Under Item II, Personnel, the City Attorney will provide an overview of her duties and there will be discussion regarding Mayor Pro Tem and Deputy Mayor Pro Tem appointments. Potential business prospects will also be discussed.

The Preliminary Open Meeting will begin with Mayor Pro Tem and Deputy Mayor Pro Team appointments. Thereafter, Lloyd Neal will provide the Mobility Report and John McGrane will discuss the Comprehensive Monthly Financial Report.

I look forward to seeing you on Tuesday.

Sincerely yours,

Thomas H. Muehlenbeck  
City Manager

THM/cp

## PLANO CITY COUNCIL

**WILL CONVENE INTO EXECUTIVE SESSION AT 5:00 P.M. ON TUESDAY, MAY 27, 2008, FOLLOWED BY PRELIMINARY OPEN MEETING IMMEDIATELY THEREAFTER, IN THE PLANO MUNICIPAL BUILDING, 1520 K AVENUE, IN COMPLIANCE WITH VERNON'S TEXAS CODES ANNOTATED, GOVERNMENT CODE CHAPTER 551 (OPEN MEETINGS ACT), AS FOLLOWS:**

**Mission Statement: The mission of the City of Plano is to provide outstanding services and facilities, through cooperative efforts with our citizens, that contribute to the quality of life in our community.**

### **EXECUTIVE SESSION**

- |      |  |             |         |
|------|--|-------------|---------|
| I.   | Legal Advice   | Wetherbee   | 5 min.  |
|      | A. Respond to questions and receive legal advice on agenda items   |             |         |
| II.  | Personnel  |             |         |
|      | A. City Attorney Duties  | Wetherbee   | 10 min. |
|      | B. Discussion regarding Mayor Pro Tem and Deputy Mayor Pro Tem   | Council     | 5 min.  |
| III. | Economic Development   | Muehlenbeck | 10 min. |
|      | A. Discuss a financial offer or other incentive to a business prospect to locate, stay, or expand in Plano and consider any commercial and financial information from the business prospect. |             |         |

### **PRELIMINARY OPEN MEETING**

- |    |   |         |         |
|----|---|---------|---------|
| I. | Consideration and action resulting from Executive Session discussion: | Council | 10 min. |
|    | Personnel: Mayor Pro Tem and Deputy Mayor Pro Tem                     |         |         |

II.	Mobility Report	Neal	10 min.
III.	Comprehensive Monthly Financial Report	McGrane	10 min.
IV.	Council items for discussion/action on future agendas	Council	5 min.
V.	Consent and Regular Agenda	Council	5 min.
VI.	Council Reports	Council	5 min.
	A. Council May Receive Information, discuss and provide direction on the following reports:		
	B. Council may receive reports from its other members who serve as liaisons to boards, commissions, and committees		

**In accordance with the provisions of the Open Meetings Act, during Preliminary Open Meetings, agenda items will be discussed and votes may be taken where appropriate.**

***Municipal Center is wheelchair accessible. A sloped curb entry is available at the main entrance facing Avenue L, with specially marked parking spaces nearby. Access and special parking are also available on the north side of building. The Council Chamber is accessible by elevator to the lower level. Requests for sign interpreters or special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary at 972-941-7120.***



# CITY COUNCIL

1520 AVENUE K

DATE: May 27, 2008

CALL TO ORDER: 7:00 p.m.

INVOCATION: Dr. Scott Fenton  
Meadows Baptist Church

PLEDGE OF ALLEGIANCE: Brownie Troop 1688  
St. Mark's Catholic School

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p><b>THE MISSION OF THE CITY OF PLANO IS TO PROVIDE OUTSTANDING SERVICES AND FACILITIES, THROUGH COOPERATIVE EFFORTS WITH OUR CITIZENS THAT CONTRIBUTE TO THE QUALITY OF LIFE IN OUR COMMUNITY.</b></p> <p>The City Council may convene into Executive Session to discuss posted items in the regular meeting as allowed by law.</p> <p><b><u>PROCLAMATIONS AND SPECIAL RECOGNITION</u></b></p> <p><u>Presentation:</u> Special Recognition Plaques in Appreciation of Outgoing Council Members – Shep Stahel and Loretta Ellerbe</p> <p><u>Proclamation:</u> American Legion Auxiliary Poppy Month – 2008</p> <p><u>Presentation:</u> Outdoor Air Quality Poster Winners</p> <p><b><u>BOARD AND COMMISSION REPORT</u></b></p> <p>Planning and Zoning Commission – Maggie Armstrong, 2<sup>nd</sup> Vice Chair</p> <p><b><u>COMMENTS OF PUBLIC INTEREST</u></b></p> <p>This portion of the meeting is to allow up to five (5) minutes per speaker with thirty (30) total minutes on items of interest or concern and not on items that are on the current agenda. The Council may not discuss these items, but may respond with factual or policy information. The Council may choose to place the item on a future agenda.</p> <p><b><u>CONSENT AGENDA</u></b></p> <p>The Consent Agenda will be acted upon in one motion and contains items which are routine and typically noncontroversial. Items may be removed from this agenda for individual discussion by a Council Member, the City Manager or any citizen. Citizens are limited to two (2) items and discussion time of three (3) minutes each.</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
(a)	<p><b><u>Approval of Minutes</u></b></p> <p>May 12, 2008 May 15, 2008 May 20, 2008</p> <p><b><u>Approval of Expenditures</u></b></p> <p><b>Award/Rejection of Bid/Proposal: (Purchase of products/services through formal procurement process by this agency)</b></p> <p>(b) <b>Bid No. 2008-151-C</b> Environmental Waste Truck Parts (2) to Heil of Texas in the estimated annual amount of \$37,051 and RLS Services Inc. in the estimated annual amount of \$79,757. This will establish an annual fixed price contract with three optional one-year renewals.</p> <p><b>Purchase from Existing Contract/Agreement: (Purchase of products/services through Cooperative Purchasing Interlocal Contract with another governmental/quasi-governmental agency or an additional purchase from current City of Plano annual purchase agreement).</b></p> <p>(c) To approve expenditure for a Service Agreement between Motorola and the City of Plano in the amount of \$307,773 through an existing contract with the Department of Information Resources, and authorizing the City Manager to execute all necessary documents. (DIR-SDD-477).</p> <p><b><u>Approval of Contract</u></b></p> <p>(d) To approve and authorize a contract with Civil Associates, Inc. to provide Engineering Services in conjunction with Citywide Bicycle Improvements in an amount not to exceed \$155,192 and authorizing the City Manager to execute any and all documents necessary to effectuate the contract.</p> <p><b><u>Approval of Change Order</u></b></p> <p>(e) To Birkhoff, Hendricks &amp; Conway, L.L.P., increasing the professional services contract by \$10,000 for the Parker Road Elevated Storage Tank Repaint, Contract Modification No. 4. Additional design and construction services are required to complete this project.</p> <p><b><u>Approval of First Modification</u></b></p> <p>(f) To approve the first modification of agreement by City of Plano and HD Supply Waterworks, LTD.</p> <p><b><u>Adoption of Resolutions</u></b></p> <p>(g) To approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas and Glencoe Group Services Inc.; authorizing its execution by the City Manager; and providing an effective date.</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
(h)	To approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas and Ensemble Studios/Microsoft; authorizing its execution by the City Manager; and providing an effective date.	
(i)	To approve the terms and conditions of a Back-up Depository Contract by and between Wells Fargo Bank and the City of Plano; authorizing its execution by the City Manager; and providing an effective date.	
(j)	To approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano, Texas and the North Central Texas Council of Governments providing terms and conditions for the funding of a RecycleBank Pilot Program; authorizing its execution by the City Manager; and providing an effective date.	
(k)	To approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano, Texas, and the North Central Texas Council of Governments providing terms and conditions for the funding to facilitate (Compost Fair Grant) long-term changes in attitudes about source reduction, reuse and recycling; authorizing its execution by the City Manager; and providing an effective date.	
(l)	To approve the purchase of RISKMASTER MESA in the amount of \$97,976 from Computer Sciences Corporation, the sole source vendor of such services; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the purchase; and providing an effective date; and the approval of additional expenditures based on current and future necessity in the amount of \$96,800.	
<b><u>Adoption of Ordinances</u></b>		
(m)	To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 40.2± acres located at the northeast corner of the Dallas North Tollway and Plano Parkway, in the City of Plano, Collin County, Texas, from Regional Employment to Planned Development-Regional Employment; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. (Zoning Case 2008-27) Public Hearing held and zoning directed by City Council on 5/12/08. Applicant: Scarborough Parkway II, L.P.	
(n)	To repeal Ordinance No. 2004-8-16 and Ordinance No. 2006-2-7 codified as Article II, Fire Code, of Chapter 8 of the Code of Ordinances of the City; adopting the 2006 Edition of the International Fire Code, with certain additions, deletions, and amendments, as the Fire Code of the City of Plano; and providing a repealer clause, a severability clause, a savings clause, a penalty clause, and an effective date.	

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p><b><u>ITEMS FOR INDIVIDUAL CONSIDERATION:</u></b></p> <p><b>Public Hearing Items:</b> Applicants are limited to fifteen (15) minutes presentation time with a five (5) minute rebuttal, if needed. Remaining speakers are limited to thirty (30) total minutes of testimony time, with three (3) minutes assigned per speaker. The presiding officer may extend these times as deemed necessary.</p> <p><b>Non-Public Hearing Items:</b> The Presiding Officer may permit limited public comment for items on the agenda not posted for a Public Hearing. The Presiding Officer will establish time limits based upon the number of speaker requests, length of the agenda, and to ensure meeting efficiency, and may include a cumulative time limit. Speakers will be called in the order cards are received until the cumulative time is exhausted.</p> <p>(1) <b>Public Hearing and an Ordinance</b> – To designate a certain area within the City of Plano as Reinvestment Zone No. 113 for a Tax Abatement consisting of a 5.164 acre tract of land located at the northeast corner of the Dallas North Tollway and Legacy Drive, in the City of Plano, Texas, establishing the boundaries of such zone; ordaining other matters relating thereto; and providing an effective date.</p> <p>(2) <b>A Resolution</b> – To approve the terms and conditions of an agreement by and between the City of Plano, Texas, the County of Collin, Texas, and Ensemble Studios/Microsoft, a Washington corporation, and The Shops at Legacy (North) LLC, a Texas limited liability company, and providing for a real and business personal property tax abatement, and authorizing its execution by the City Manager, and providing an effective date.</p> <p>(3) <b>Public Hearing and Consideration of an Ordinance as Requested in Zoning Cases 2008-45 – 2008-50</b> all of which are limited to the repeal of certain Specific Use Permits for Private Clubs. The following ordinances are proposed to be repealed which, if approved, will result in the rescission of the Specific Use Permit for an additional use of a Private Club and the applicant is the City of Plano.</p> <p>(3a) <b>Zoning Case 2008-45</b> – Request to rescind Specific Use Permit #505 for Private Club on 3.1± acres located at the northwest corner of Spring Creek Parkway and Des Moines Drive. Zoned Retail.</p> <p>(3b) <b>Zoning Case 2008-46</b> – Request to rescind Specific Use Permit #510 for Private Club on 1.6± acres located on the west side of U.S. Highway 75, 1,050± feet north of Ruisseau Drive. Zoned Corridor Commercial.</p> <p>(3c) <b>Zoning Case 2008-47</b> – Request to rescind Specific Use Permit #512 for Private Club on 0.1± acre located 90± feet south of Legacy Drive and 150± feet west of Parkwood Boulevard. Zoned Planned Development-65-Central Business-1.</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
(3d)	<p><b>Zoning Case 2008-48</b> – Request to rescind Specific Use Permit #532 for Private Club on 1.6± acres located at the northeast corner of Park Boulevard and Prestwick Road. Zoned Planned Development-68-Retail.</p>	
(3e)	<p><b>Zoning Case 2008-49</b> – Request to rescind Specific Use Permit #536 for Private Club on 0.1± acre located on the south side of Parker Road, 495± feet west of Custer Road. Zoned Planned Development-90-Retail.</p>	
(3f)	<p><b>Zoning Case 2008-50</b> – Request to rescind Specific Use Permit #544 for Private Club on 0.8± acre located on the west side of U.S. Highway 75, 700± feet south of 15th Street. Zoned Corridor Commercial.</p> <p>All of the above locations are located within the City of Plano, Collin County, Texas, and the repeal of each ordinance will amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to reflect such action; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date.</p>	
(4)	<p><b>Public Hearing and consideration of an ordinance as requested in Zoning Case 2008-51</b> – To amend Subsection 2.821 (BG - Downtown Business/Government) of Section 2.800 (District Charts) of Article 2 (Zoning Districts and Uses) and related sections of the Zoning Ordinance pertaining to the regulations limiting the number of multifamily dwelling units per block and the requirement for a maximum 60% first floor residential use along street frontage within the Downtown Business/Government zoning district. Applicant: City of Plano.</p>	
(5)	<p><b>A Resolution</b> – To approve the terms and conditions of a Development Agreement by and between Pinnacle AMS Development Company, LLC and the City of Plano for the Development of Eastside Station-Plano; authorizing its execution by the City Manager; and providing an effective date.</p> <p><b>Municipal Center is wheelchair accessible. A sloped curb entry is available at the main entrance facing Municipal Avenue, with specially marked parking spaces nearby. Access and special parking are also available on the north side of the building. Training Room A/Building Inspections Training Room are located on the first floor. Requests for sign interpreters or special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary at 972-941-7120.</b></p>	

Preliminary Open Meeting Item I

Mayor Pro Tem and Deputy Mayor Pro Tem

Council



Transportation Engineering Division

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## Transportation Mobility / Safety Report

April 2008

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- Traffic Signals:
  - Midway Road @ McKamy Trail – Design New Traffic Signal: (20% completed)
  - Razor Road @ Ohio Drive: Design New Traffic Signal (10% completed)
  - Razor Road @ McDermott Road: Design New Traffic Signal (10% completed)
  - Completed 4 As-Built Traffic Signal Plans
  - Spring Creek Parkway @ Parkwood Blvd - Design New Traffic Signal: (92% completed)
  
- Traffic Safety:
  - ✓ **Annual High Accident Location (HAL) list completed**
  - ✓ **Spring Creek Pkwy @ Parker Rd (southbound); and Los Rios Blvd @ 14TH St (northbound); Changed signals to Protected Left-Turn operation.**
  - ✓ **Developing new Red-Light-Camera locations (10% completed)**
  - City-wide Speed Zone Survey Project: 30% completed
  - 2008 Intersection Improvement Project List: **95%** completed
  
- Safe Streets Program (SSP)
  - ✓ **2008-2009 Safe Streets Program Budget Development - Finalized budget proposal. No supplement will be requested.**
  - ✓ **Reviewing speed limit on McKamy Trail**
  - ✓ **Prestonwood Drive - Residential No-Parking Petition sent to the sponsor.**
  - ✓ **Emerson Drive - Received request for No-Parking Anytime signs along the southern boundary of Preston Meadow Park**
  - ✓ **Thunderbird Lane - Ordinance for No Parking Anytime approved by city council. Sign installation pending.**
  - ✓ **Cloverhaven Drive – Street did not qualify for SSP participation.**
  - ✓ **Wyeth Drive - Street did not qualify for SSP participation. .**
  - ✓ **Denham Way – Neighborhood Comment Form sent to neighborhood sponsor.**
  - ✓ **Silverstone and Parkhaven - Mailed Permanent Plan to residents.**
  - ✓ **Royal Oaks - Held neighborhood meeting to discuss alternatives.**
  - ✓ **Silverstone Drive and Parkhaven Drive: Permanent Plan mailed to residents.**
  - ✓ **Merriman Drive, Jeker Drive, Lavaca Drive, Dottie Drive, and Maryanne Lane: TAC grants waiver to participate in the Safe Streets Program.**
  - ✓ **Mission Ridge Road and the Royal Oaks Drive: Permanent Plan Comment Forms mailed to residents.**

### Participating Neighborhoods Active in the Program

- ✓ **Denham Way: Comment Form mailed to residents**
- Roundrock Trail from Parker to Spring Creek: **Petition forms not returned by neighborhood sponsor. Request closed-out**

- Winding Hollow Lane North of Park Boulevard (Petition forms sent to sponsor)
  - Peachtree Lane: Permanent Plan mailed 3/08
  - Silverstone Drive: **Permanent Plan mailed 4/08**
  - Parkhaven Drive: **Permanent Plan mailed 4/08**
  - Mission Ridge from Parker to Matterhorn: **Public meeting held 4/08**
  - Royal Oaks Drive: **Public meeting held 4/08**
  - Old Pond Drive: **Public meeting planned for 5/08**
  - Micarta Drive (Temporary Plan installation pending)
  - Robinson Road (Temporary Plan installation pending)
  - Russell Creek Drive East of Independence (Temporary Plan installation completed)
  - Enchanted Ridge Drive/Presidio Lane (On-hold, waiting response from sponsor)
- Long Range Planning:
    - ✓ **Attended SH 121 Toll Revenue meetings**
    - Thoroughfare Standards Rules and Regulations – **95% completed**
    - Senior Transportation/Taxi Voucher program – **Project proposal on hold due to pending budget constraints**
    - Develop structure for division Laser Fiche filing system (25% completed)
    - Attended monthly DRMC, RTC, TAC, STTC, and ITE meetings

Preliminary Open Meeting Item III

CMFR

McGrane

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**Discussion/Action Items for Future Council Agendas**

**2008**

***June 5 – District 3 Roundtable, PSA StarCenter, 7 p.m.***

**June 9**

Transition and Revitalization Commission

**June 23**

Board of Adjustment

Mobility Report

DART Report

Comprehensive Monthly Financial Report

***June 25 – City Council Retreat***

***June 27 – 29 – TCMA Conference, Arlington, Texas***

***July 4 – Independence Day***

**July 28**

Building Standards Commission

Mobility Report

DART Report

Comprehensive Monthly Financial Report

Board and Commission Reappointments

**\* July 30**

Budget Council Meeting

***August 9 – Police Department’s 50<sup>th</sup> Anniversary Celebration, 1:30 – 5:30 p.m.***

**August 11**

Retirement Security Plan Committee

***August 16 – Council Budget Worksession***

***August 21 – District 4 Roundtable, PSA StarCenter, 7 p.m.***

***August 23 – Board and Commission Reception, Municipal Center, 2 p.m.***

**August 25**

Parks and Recreation Planning Board  
Mobility Report  
DART Report  
Comprehensive Monthly Financial Report

***August 28 – Board and Commission Reception, PSA StarCenter, 6 p.m.***

***September 1 – Labor Day***

**September 8**

Self Sufficiency Committee

***September 19 – 24, ICMA Annual Conference, Richmond, VA***

**September 22**

Plano Housing Authority  
Mobility Report  
DART Report  
Comprehensive Monthly Financial Report

Board and Commission Appointments

**October 13**

TIF, No 1 & 2

Board and Commission Oath of Office

**October 27**

Youth Advisory Commission  
Mobility Report  
DART Report  
Comprehensive Monthly Financial Report

Board and Commission Certificates of Appreciation

***October 29 – 31 – TML Annual Conference, San Antonio***

**November 10**

***November 11 – 15 – NLC Congress of Cities, Orlando, FL***

***November 20 – District 2 Roundtable, Tom Muehlenbeck Center, 7 p.m.***

**November 24**

Mobility Report  
DART Report  
Comprehensive Monthly Financial Report

***November 27 & 28 – Thanksgiving Holidays***

**December 8**

***December 18 – Employee Holiday Luncheon, Plano Centre, 11 a – 1 p***

**December 22**

Mobility Report  
DART Report  
Comprehensive Monthly Financial Report

***December 25 & 26 – Christmas & Winter Holidays***



## CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Not Applicable
Council Meeting Date: <b>5/27/08</b>		Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	City Manager's Office		Initials	Date
Department Head	Tom Muehlenbeck		Executive Director	
Dept Signature:			City Manager	<i>[Signature]</i>
Agenda Coordinator (include phone #): <b>Sharon Wright ext. 7107</b>				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input checked="" type="checkbox"/> OTHER				
<b>CAPTION</b>				
Presentation: Special Recognition Plaques in Appreciation of Outgoing Council Members - Shep Stahel and Loretta Ellerbe				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS:				
<b>SUMMARY OF ITEM</b>				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Not Applicable
Council Meeting Date:	<b>05/27/08</b>		Reviewed by Legal	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Not Applicable
Department:	City Manager's Office		Initials	Date
Department Head	Tom Muehlenbeck		Executive Director	
Dept Signature:		City Manager	<i>[Signature]</i>	<i>5/13/08</i>
Agenda Coordinator (include phone #): <b>Sharon Wright ext. 7107</b>				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input checked="" type="checkbox"/> OTHER				

**CAPTION**

Proclamation: American Legion Auxiliary Poppy Month - 2008

**FINANCIAL SUMMARY**

NOT APPLICABLE     OPERATING EXPENSE     REVENUE     CIP

FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0

FUND(S):

COMMENTS:

**SUMMARY OF ITEM**

List of Supporting Documents:

Other Departments, Boards, Commissions or Agencies



## CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Not Applicable
Council Meeting Date: <b>5/27/08</b>		Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	City Manager's Office		Initials	Date
Department Head	Tom Muehlenbeck		Executive Director	
Dept Signature:			City Manager	<i>[Signature]</i> 5/1/08
Agenda Coordinator (include phone #): <b>Sharon Wright ext. 7107</b>				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input checked="" type="checkbox"/> OTHER				
<b>CAPTION</b>				
Presentation: Outdoor Air Quality Poster Winners				
<b>FINANCIAL SUMMARY</b>				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS:				
<b>SUMMARY OF ITEM</b>				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		

May 20, 2008

**MEMO**

**TO:** Thomas H. Muehlenbeck, City Manager  
Frank F. Turner, Executive Director

**FROM:** Phyllis M. Jarrell, Director of Planning

**SUBJECT:** Planning & Zoning Commission Work Program

In anticipation of the Planning & Zoning Commission's Board and Commission report at the May 27<sup>th</sup> City Council meeting, please find attached an updated copy of the Commission's work program for City Council's review. The work program indicates the current status of each item. The Commission reviewed and re-prioritized the work program items at its May 5<sup>th</sup> meeting. The work program has also been put into a table format to make it easier to read and use.

Since the last report to City Council in May 2007, the Commission has completed work on updates to three chapters of the Comprehensive Plan: the Land Use, Transportation and Economic Development elements.

As part of its work program review, the Commission removed a couple of items that had been on the work program for several years, but had not been completed because of competing priorities or for which the initial concerns that initiated the task have abated. The items removed were Planned Development Zoning Review and Downtown Architectural Guidelines (outside of the downtown heritage district).

The Commission added four items to its work program, as described below:

*Mixed-Use Policy Statement – Develop guidelines for determining appropriate locations, minimum size, use mix, layout, and organization of proposed “life style” projects, urban centers, and other forms of mixed-use development. Mixed use*

development may be considered for “greenfield”, redevelopment and infill properties.

Regulations for Golf Nets – Assess and develop regulations for golf nets, including consideration of “grandfathering” existing nets along golf courses, up to a certain height.

Research Technology Zoning Review – Re-evaluate the appropriateness of the RT regulations for the northeastern part of the district along 14<sup>th</sup> Street. Consider allowing additional retail and restaurant development within the district.

Rescind Unneeded Specific Use Permits for Private Clubs – As restaurants switch to TABC’s mixed beverage with food-and-beverage certificates to continue selling alcohol, rescind private club specific use permits that are no longer required.

2<sup>nd</sup> Vice Chairman Maggie Armstrong will be making the presentation on May 27<sup>th</sup>.

Please let me know if you need additional information.

**PLANNING & ZONING COMMISSION  
WORK PROGRAM**

<b>Title</b>	<b>Description</b>	<b>Current Status</b>	<b>Priority</b>
Comprehensive Plan Updates	Ongoing review and updates to the various Comprehensive Plan elements.	Land Use, Transportation, and Economic Development updates completed. Education and Technology Elements on hold.	High
Traffic Impact Analysis Update	With the pending completion of the city's thoroughfare system, develop amendments to the traffic impact analysis regulations that recognize the lack of mitigation factors and that focus on site-specific traffic management.	On hold. The Transportation Engineering staff will be managing this update.	High
RT Zoning Review	Re-evaluate the appropriateness of the RT regulations for the northeastern part of the district along 14 <sup>th</sup> Street. Consider allowing additional retail and restaurant development within the district.	The Planning & Zoning Commission has held two work sessions on this topic since the City Council requested that it look again at appropriate zoning.	High
Mixed-Use/Urban Center Policy Statement	Determine appropriate locations, minimum size, use mix, layout, and organization of proposed "life style" projects, urban centers, and other forms of mixed-use development.	P&Z Field Trip and work session held on May 13th	High

**PLANNING & ZONING COMMISSION  
WORK PROGRAM (CONT.)**

<b>Title</b>	<b>Description</b>	<b>Current Status</b>	<b>Priority</b>
Regulations for Golf Nets	Assess and develop regulations for golf nets, including consideration of “grandfathering” existing nets along golf courses, up to a certain height.	City Council has requested that P&Z reconsider regulations for golf nets for driving ranges and consider “grandfathering” existing nets up to a certain height.	High
Parking Garage Façade Standards	Develop façade and design requirements for parking structures.	Staff will be reactivating the discussion in the summer of 2008	Mid-Term
Revisions to Parking Regulations	Review existing parking regulations and devise new standards to address stormwater design issues and to assist in redevelopment requests.	On hold	Mid-Term
New Single-Family and Urban Townhouse Zoning Districts	Create a separate zoning district(s) for single-family development to address smaller lot and more flexible regulations for density, lot size, height, setbacks, and other design requirements.	On hold	Mid-Term
Rescind Unneeded Specific Use Permits for Private Clubs	As restaurants switch to TABC’s mixed beverage with food-and-beverage certificates to continue selling alcohol, rescind private club specific use permits that are no longer required.	Ongoing as staff time permits. 98 permits have been repealed to date.	Mid-Term
Stormwater Management Plan	Strengthen the city’s ordinances and development review procedures to protect stormwater quality and reduce stormwater quantity, in conformance with its EPA stormwater permit requirements.	Phase I amendments completed in 2006; additional ordinance changes anticipated in 2010	Longer-Term

High Priority -- *These projects should receive priority in scheduling and allocation of staff and budget resources to ensure prompt completion.*

Mid-Term Priority -- *These projects should be an active part of the Planning & Zoning Commission’s work program. The projects should be delayed only if it is determined to be necessary to complete high priority projects.*

Longer-Term Priority -- *Work may proceed provided it does not compromise the timely completion of higher priority projects.*

**PLANO CITY COUNCIL  
PRELIMINARY OPEN MEETING  
May 12, 2008**

**COUNCIL MEMBERS**

Pat Evans, Mayor  
Sally Magnuson, Mayor Pro Tem  
Jean Callison, Deputy Mayor Pro Tem  
Shep Stahel  
Scott Johnson  
Loretta Ellerbe  
Harry LaRosiliere  
Lee Dunlap

**STAFF**

Thomas H. Muehlenbeck, City Manager  
Frank Turner, Executive Director  
Bruce Glasscock, Executive Director  
Rod Hogan, Executive Director  
Diane C. Wetherbee, City Attorney  
John Gilliam, First Assistant City Attorney  
Diane Zucco, City Secretary

Mayor Evans called the meeting to order at 6:10 p.m., Monday, May 12, 2008, in Training Room A of the Municipal Center, 1520 K Avenue. All Council Members were present. Mayor Evans then stated that the Council would retire into Executive Session in compliance with Chapter 551, Government Code, Vernon's Texas Codes, Annotated, in order to consult with an attorney and receive Legal Advice, Section 551.071, and to discuss Economic Development, Section 551.087, for which a certified agenda will be kept in the office of the City Secretary for a period of two years as required.

Mayor Evans reconvened the meeting back into the Preliminary Open Meeting at 6:54 p.m. in the Council Chambers where the following matters were discussed.

**Consideration and Action Resulting From Executive Session**

No items were brought forward for consideration.

**Personnel Appointments**

Public Art Committee

The Council deferred consideration of this appointment.

**Council Items for Discussion/Action on Future Agendas**

Council Member Ellerbe requested review of the method utilized to maintain creeks.

a-1a

### **Consent and Regular Agendas**

Staff requested that Consent Agenda Item "H," a resolution to approve the costs for a Bundled Agreement for the acquisition of a File Management Software System with Thomson Elite, a Division of West Publishing Company, and a three year subscription for Web-based Research Services with Westlaw Publishing Company, in an amount not to exceed \$54,266 be withdrawn.

### **Council Reports**

Council Member Dunlap spoke to the City being honored by the Arts Centre of Plano as an organization supporting the Centre and presented with an award designed by Jim Bowman.

Council Member Stahel spoke to the Parks and Recreation Planning Board recognizing children who won the Junior Chess Championships.

Council Member Ellerbe spoke regarding attendance and events at the Asian Festival.

Nothing further was discussed. Mayor Evans adjourned the Preliminary Meeting at 6:57 p.m.

\_\_\_\_\_  
**Pat Evans, Mayor**

ATTEST

\_\_\_\_\_  
**Diane Zucco, City Secretary**

a-1b

**PLANO CITY COUNCIL**  
**May 12, 2008**

**COUNCIL MEMBERS**

Pat Evans, Mayor  
Sally Magnuson, Mayor Pro Tem  
Jean Callison, Deputy Mayor Pro Tem  
Shep Stabel  
Scott Johnson  
Loretta L. Ellerbe  
Harry LaRosiliere  
Lee Dunlap

**STAFF**

Thomas H. Muehlenbeck, City Manager  
Frank Turner, Executive Director  
Bruce Glasscock, Executive Director  
Rod Hogan, Executive Director  
Diane C. Wetherbee, City Attorney  
Diane Zucco, City Secretary

Mayor Evans convened the Council into the Regular Session on Monday, May 12, 2008, at 7:02 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present.

The invocation was led by Father R. James Balint with Prince of Peace Catholic Community.

The Pledge of Allegiance was led by Michael Johnson of Troop 111 of Christ United Methodist Church.

Mayor Evans presented the 2008 Paul L. Standberry Scholarship Awards and a proclamation for Public Service Recognition Week – 2008. Mayor Evans gave special recognition to 2008 Employee of the Year – Katherine McGuire.

**BOARD AND COMMISSION REPORT**

Clint Osteen, Heritage Commission Chair, spoke to Council regarding the responsibilities of the Commission to embrace history and culture, protect and enhance historic resources, promote tourism, encourage ongoing uses of resources, increase awareness in relation of past to present, and inform Council on preservation matters. He spoke to Certificate of Appropriateness review, tax exemption survey and recommendation, grants, and designation reviews and recommendations. He spoke to an increase in Certificates of Appropriateness from previous years, tax exemption program, and inspection format modifications. Mr. Osteen spoke to grant programs and stated the program supports area heritage-related activities by dedicating funds from hotel-motel taxes. He reviewed the Commission's completed projects which included preservation ordinance amendments, Bowman Cemetery achieving Texas Cemetery Designation, and Preservation Awards Ceremony.

a-1

Council Member Stahel stated the Heritage Commission has been instrumental in helping restore older properties in a way that is consistent with revitalization. Council Member Dunlap spoke to Heritage Commission's volunteer and architectural decision-making opportunities.

**COMMENTS OF PUBLIC INTEREST**

No one appeared to speak.

**CONSENT AGENDA**

Staff requested to withdraw Consent Agenda Item "H."

Upon a motion made by Mayor Pro Tem Magnuson and seconded by Council Member Johnson, the Council voted 8-0 to approve all items on the Consent Agenda as recommended and as follows:

**Approval of Minutes** [Consent Agenda Item (A)]

April 28, 2008

**Approval of Expenditures**

**Purchase from Existing Contract/Agreement:** (Purchase of products/services through Cooperative Purchasing Interlocal Contract with another governmental/quasi-governmental agency or an additional purchase from current City of Plano annual purchase agreement).

**RFP No. 2008-99-C** for Best Value Bid for Median and Right-of-Way US 75/North Dallas Tollway Project to American Civil Constructors in the amount of \$109, 607. [Consent Agenda Item (B)] (Exhibit "A")

**Approval of Contract:** (Purchase of products/services exempt from State of Texas Competitive Bid Laws)

**Adoption of Resolutions**

**Resolution No. 2008-5-1(R):** To appoint Scott M. Seidel to serve the remainder of the two year period previously approved for James P. Reid as investigator as required by Section 2-104 of the Code of Conduct of the City of Plano; and providing an effective date. [Consent Agenda Item (C)]

**Resolution No. 2008-5-2(R):** To approve and authorize the refunds of Property Tax Overpayments; and providing an effective date. [Consent Agenda Item (D)]

a-2

**Resolution No. 2008-5-3(R):** To approve the terms and conditions of an Interlocal Agreement by and between the City of Plano and Collin County through its Department of Homeland Security for sharing of Law Enforcement Data; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the agreement herein; and providing an effective date. [Consent Agenda Item (E)]

**Resolution No. 2008-5-4(R):** To authorize the City of Plano to participate in and receive funding through the Texas Highway Traffic Safety Program for a "Click It or Ticket" Project, to be conducted during Memorial Day holiday period; authorizing the City Manager to execute any other documents necessary to effectuate the action taken; and providing an effective date. [Consent Agenda Item (F)]

**Resolution No. 2008-5-5(R):** To approve a Licensing Agreement by and between the City of Plano and the North Central Texas Council of Governments; providing terms and conditions for the purchase of digital aerial photography in the amount of \$14,112; authorizing execution of the License Agreement by the City Manager; and providing an effective date. [Consent Agenda Item (G)]

To approve the costs for a Bundled Agreement for the acquisition of a File Management Software System with Thomson Elite, a Division of West Publishing Company, and a three year subscription for Web-based Research Services with Westlaw Publishing Company, in an amount not to exceed \$54,266; authorizing the City Manager to execute any and all documents in connection therewith; and providing an effective date. [Consent Agenda Item (H)] (Item withdrawn)

### Adoption of Ordinances

**Ordinance No. 2008-5-6:** To amend Ordinance No. 2008-3-8, currently codified under Chapter 12 (Motor Vehicles and Traffic), Article IV (Speed), Section 12-73(d) of the City of Plano Code of Ordinances, to revise the designated times of school zone operation located on Alma Drive between a point 250 feet north of 15<sup>th</sup> Street (FM 544) and a point 400 feet south of Janwood Drive for Sigler Elementary School and St. Mark Catholic School; providing a fine for criminal penalties not to exceed \$200.00 for each offense; and providing a repealer clause, a severability clause, a savings clause, a publication clause, and an effective date. [Consent Agenda Item (I)]

### END OF CONSENT

**Public Hearing and consideration of ordinances as requested in Zoning Cases 2008-37 through 2008-42** all of which are limited to the repeal of certain Specific Use Permits for Private Clubs. The following ordinances are proposed to be repealed which, if approved, will result in the rescission of the Specific Use Permit for an additional use of a Private Club and the applicant is the City of Plano. [Regular Agenda Item (1)]

**Adoption of Ordinance No. 2008-5-7** as requested in Zoning Case 2008-37 – Request to rescind Specific Use Permit #487 for Private Club on 0.1± acre located at the southwest corner of Bishop Road and Kincaid Road. Zoned Planned Development-65-Central Business-1. [Regular Agenda Item (1a)]

a-3

**Adoption of Ordinance No. 2008-5-8** as requested in Zoning Case 2008-38 -- Request to rescind Specific Use Permit #489 for Private Club on 0.1± acre located 80± feet south of Legacy Drive, 370± feet east of Dallas North Tollway. Planned Development-65-Central Business-1. [Regular Agenda Item (1b)]

**Adoption of Ordinance No. 2008-5-9** as requested in Zoning Case 2008-39 -- Request to rescind Specific Use Permit #490 for Private Club on 0.1± acre located on the east side of K Avenue, 75± feet south of 15th Street. Zoned Downtown Business/Government/Downtown Heritage Resource District. [Regular Agenda Item (1c)]

**Adoption of Ordinance No. 2008-5-10** as requested in Zoning Case 2008-40 -- Request to rescind Specific Use Permit #491 for Private Club on one lot on 0.1± acre located on the east side of Bishop Road, 340± feet south of Legacy Drive. Zoned Planned Development-65-Central Business-1/Dallas North Tollway Over-Lay District. [Regular Agenda Item (1d)]

**Adoption of Ordinance No. 2008-5-11** as requested in Zoning Case 2008-41 -- Request to rescind Specific Use Permit #492 for Private Club on one lot on 0.1± acre located 80± feet south of Legacy Drive, 250± feet west of Parkwood Boulevard. Zoned Planned Development-65-Central Business-1. [Regular Agenda Item (1e)]

**Adoption of Ordinance No. 2008-5-12** as requested in Zoning Case 2008-42 -- Request to rescind Specific Use Permit #504 for Private Club on one lot on 222.1± acres located on the north side of 14th Street, 800± feet east of Star Court. Zoned Agricultural. [Regular Agenda Item (1f)]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval of the requests as submitted.

Mayor Evans opened the Public Hearing. No one spoke either for or against the requests. The Public Hearing was closed.

Upon a motion made by Council Member Dunlap and seconded by Deputy Mayor Pro Tem Callison the Council voted 8-0 to adopt all the ordinances listed as recommended by the Planning and Zoning Commission and as designated by their zoning case number. The repeal of each amends the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to reflect such action; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date, and further adopts each ordinance.

**Public Hearing and adoption of Ordinance No. 2008-5-13 as requested in Zoning Case 2008-36** -- To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 5.6± acres located on the north side of State Highway 190, 620± feet west of Preston Road in the City of Plano, Collin County, Texas, from Light Commercial with Specific Use Permit No. 449 for New Car Dealer to Planned Development-198-Light Commercial with specific Use Permit No. 449 for New Car Dealer; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: Park Place Motors. [Regular Agenda Item (2)]

a-4

**Ordinance No. 2008-5-13 (Con't)**

Director of Planning Jarrell advised Planning and Zoning Commission recommended approval subject to:

1. The maximum floor area ratio for parking garages when they are the primary use, on the property including any accessory uses shall be 2:1. The maximum floor area ratio for all other uses shall be 0.8:1.
2. The maximum allowable height for parking garages shall be six stories (90 feet).
3. Structures shall have a minimum 10-foot front-yard setback from the fire lane, access and utility easement located on the north side of the property.

Ms. Jarrell stated all access is by fire lane and typically a parking garage would be located on the same lot as the primary use, and FAR restrictions would not apply. She further stated, in this case the garage is the primary use on the property. Ms. Jarrell responded regarding allowable height and clarified use of the building which would require ninety feet. She advised the adjacent property owner submitted a letter of opposition related to setbacks along the fire lane which triggers the requirement of a three-fourths vote to approve the case.

Mayor Evans opened the Public Hearing. Kirk Williams, Park Place Lexus Representative, spoke to setbacks, access to property, first floor service center, and plans for vehicles to be driven by dealership representatives. No one else spoke either for or against the request. Mayor Evans closed the Public Hearing.

Upon a motion made by Council Member Stahel and seconded by Council Member LaRosiliere the Council voted 8-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 5.6± acres located on the north side of State Highway 190, 620± feet west of Preston Road in the City of Plano, Collin County, Texas, as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2008-36 from Light Commercial with Specific Use Permit No. 449 for New Car Dealer to Planned Development-198-Light Commercial with Specific Use Permit No. 449 for New Car Dealer; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date; and further to adopt Ordinance No. 2008-5-13.

**Public Hearing and adoption of Ordinance No. 2008-5-14 as requested in Zoning Case 2008-44** – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 594 so as to allow the additional use of Private Street Subdivision on 69.2± acres of land located on the northwest corner of Spring Creek Parkway and Tennyson Parkway in the City of Plano, Collin County, Texas, presently zoned Single-Family Residence-9; Patio Home and Single-Family Residence Attached, directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: HW Spring Creek Partners, L.P. & ZCB Spring Creek, L.P. [Regular Agenda Item (3)]

Director of Planning Jarrell advised Planning and Zoning Commission recommended approval subject to:

1. Engineering and Fire Department approval of the design and access control for the gated entryways.
2. Submission, City Attorney approval, and filing of the property owner association documents providing maintenance for private streets and other private improvements prior to final plat approval for any phase of this development.

Ms. Jarrell summarized the guidelines for gated communities including the need to be isolated from other development, limited along thoroughfares, and not disrupting thoroughfares, and have seventy-five percent perimeter barrier requirements. She spoke to fixed boundaries of the property and stated though the site does not strictly comply with the requirement, the proposed subdivision meets the intent of the guideline. Ms. Jarrell responded to Council Member Dunlap regarding screening walls along the roadway and HOA responsibility to maintain creeks and drainage ways. She responded to Council Member LaRosiliere regarding emergency call response and stated routine patrols may not be offered.

Mayor Evans opened the Public Hearing. Cheryl Williams, representing the applicant, spoke to numerous requests from builders to create private street developments, demand for a gated community, and competition from other cities to serve this type of market. Ms. Williams stated the location is isolated from other subdivisions and no opposition was received from surrounding neighborhoods. Kirk Wellwood, project developer and builder, spoke to industry demands for this type of development. He responded to Council Member Dunlap regarding the natural border, and stated there will not be any fencing that prohibits someone from walking through the creek and accessing the property, and plans for a gatehouse. He responded to Council Member Johnson regarding maintenance of creek and ponds and spoke regarding the mix of housing. No one else spoke either for or against the request. Mayor Evans closed the Public Hearing.

a-b

**Ordinance No. 2008-5-14 (Con't)**

Upon a motion made by Council Member LaRosiliere and seconded by Deputy Mayor Pro Tem Callison, the Council voted 8-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 594 so as to allow the additional use of Private Street Subdivision on 69.2± acres of land located on the northwest corner of Spring Creek Parkway and Tennyson Parkway in the City of Plano, Collin County, Texas, as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2008-44 presently zoned Single-Family Residence-9; Patio Home and Single-Family Residence Attached, directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date; and further to adopt Ordinance No. 2008-5-14.

**Public Hearing and adoption of Ordinance No. 2008-5-15 as requested in Zoning Case 2008-43** – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 2.2± acres located on the south side of 14th Street, 1,030± feet east of Los Rios Boulevard in the City of Plano, Collin County, Texas, from Research/Technology Center to Light Industrial-1; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: Diane Nelson Revocable Living Trust [Regular Agenda Item (4)]

Director of Planning Jarrell advised the Council that the Planning and Zoning Commission recommended approval of the request as submitted. She stated the applicant has a pending lease agreement with neighboring property owner to the west (Allied Waste Services) to use the property for storage of trailers, plastic residential waste containers, and metal commercial waste containers pending approval of the requested rezoning.

Council Member Stahel expressed concern regarding open container storage without screening between the location and residential use. Ms. Jarrell spoke to Light-Industrial-1 Zoning (LI-1) and stated the screening is required from the street and not adjacent property. She stated storage can be on gravel, not on paved surface as in other zoning districts. Council Member Stahel spoke to Allied Waste Services need for additional space. Ms. Jarrell responded to Mayor Pro Tem Magnuson regarding the wooden fence currently in place as a screen along the western edge of the mobile home park.

a-7

**Ordinance No. 2008-5-15**

Ms. Jarrell responded to Mayor Evans regarding fencing requirements for LI-1 and stated it has to be either a chain link and landscaped with irrigation or a masonry screening wall and does not allow wood or chain link with plastic slats. She provided information on other types of zoning and restrictions on storage and Council discussed other uses in the area. Ms. Jarrell responded to Council Member Dunlap regarding review of the area as part of the Research Technology District. Council Member Stahel spoke to expansion of an existing use and to this being a unique situation. Ms. Jarrell spoke to the Zoning Ordinance which states a planned development cannot be created on a parcel less than five acres in size unless the City Council makes a finding that it is furthering a recommendation of the Comprehensive Plan. She stated a notice was sent to the mobile home park owner, but not the individual residences since the lots are leased.

Mayor Evans opened the Public Hearing. Darlene Carpenter, applicant, spoke to looking for best use of her property and stated the mobile home park already adjoins Allied. She spoke to Allied putting up a fence around the property in addition to the existing wooden fence and the lease being contingent with City Council's approval. She responded to Council Member Stahel that the proposed fence would be chain link and built within the existing wooden fence. Kathy Webster, representing the applicant, spoke to use of the location for open storage and the size of the property not being suitable at this point for Research Technology Zoning and stated the mobile home park already adjoins Allied. She spoke to screening for Allied's protection, and stated there were no letters of opposition. No one else spoke either for or against the request. Mayor Evans closed the Public Hearing.

Council Member Stahel spoke to approval with the additional appropriate screening wall adjacent to the mobile home park and a finding that a planned development is appropriate on a site smaller than five acres.

Upon a motion made by Council Member Stahel and seconded by Mayor Pro Tem Magnuson the Council voted 8-0 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 2.2± acres located on the south side of 14th Street, 1,030± feet east of Los Rios Boulevard in the City of Plano, Collin County, Texas, as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2008-43 from Research/Technology Center to Planned Development-199-Light Industrial-1; (with a stipulation for screening in accordance with open storage requirement to be installed along the eastern and southern boundary of the property and making a finding that the plan development district less than five acres in size furthers the recommendation of the Comprehensive Plan); directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date; and to further adopt Ordinance No. 2008-5-15 as revised.

a-8

**Hearing and Consideration of an Appeal of the Planning & Zoning Commission's Denial of Zoning Case 2008-27** – Request to rezone 40.2± acres located at the northeast corner of the Dallas North Tollway and Plano Parkway from Regional Employment to Planned Development-Regional Employment. Applicant Scarborough Parkway II, L.P. [Regular Agenda Item (5)]

Director of Planning Jarrell advised the Council that this request would create a planned development district including the following stipulations:

1. Retail and service uses may be constructed as freestanding buildings. Retail and service uses are not subject to the maximum 10 percent floor area for constructed buildings and site plan requirements of the RE district.
2. Freestanding restaurants may be any size and are not subject to the minimum 5,000 square feet of gross floor area requirement of the RE district. Restaurants shall not have drive-through lanes.
3. Freestanding parking structures accessory to hotel uses shall conform to the general RE height and setback standards of the RE district and shall not be subject to the RE hotel setback standards.
4. A 30-foot wide landscape edge shall be provided along Parkwood Boulevard. The landscape edge standards and improvements shall be those specified for the Dallas North Tollway Overlay District.
5. Except as otherwise provided herein, retail and services uses allowed by right and by SUP in the Retail (R) district shall be allowed by right and by SUP on the property.
6. Notwithstanding anything herein to the contrary, the maximum floor area for office and professional uses on the property is 850,000 square feet.
7. Other than office and professional uses, the maximum floor area for those uses allowed in the Retail district is 90,000 square feet.

Ms. Jarrell spoke to the development resulting in a negligible change in trip generation as indicated by the applicant's traffic impact analysis, review and denial by the Planning and Zoning Commission, and the requirement of a three-quarter vote for Council approval. She spoke to the Commission's concerns that this request is moving away from the original concept of the zoning districts in the corridor and that it might set a precedent for similarly situated properties. Ms. Jarrell reviewed the types of retail uses permitted in RE zoning and clarified that the applicant is requesting uses allowed by right or specific use permit under R zoning.

a-9

### Zoning Case 2008-27 (Con't)

Ms. Jarrell responded to Council Member Dunlap, stating that retail and service uses subject to the ten-percent gross area limitation are currently permitted as freestanding if the area is planned as one development and they are shown as part of the overall plan. She advised that the intent of the current zoning is to encourage uses supportive of office facilities, but a provision is included to allow additional retail if done with proper planning. Ms. Jarrell stated that the request allows the applicant the ability to develop retail in advance of other uses and allows a broader pallet than RE zoning.

Ms. Jarrell responded to Council Member Johnson, stating that under current zoning as office development occurs, retail may be added and may be outside of buildings if planned as part of an overall development. She further advised that all ten-percent of the retail/restaurant development could be freestanding and spoke to a maximum height of eight stories along the tollway stepping down as buildings approach the residential development. Ms. Jarrell responded to Council Member Dunlap, stating that typically there is a 10-foot landscaped edge along Parkwood Boulevard, but that the applicant is proposing a 30-foot edge.

Mayor Evans opened the Public Hearing. Kirk R. Williams, representing the applicant, spoke to ownership of 41 acres with 13 under contract to Cigna for development of an office site. He spoke to the original request for multi-family which was later retracted and stated if Cigna were to move forward with a 200,000 square-foot building, based on the 10% allocation 20,000 square feet of retail could be accommodated. Mr. Williams spoke to the reduced size requested for restaurants with no drive-throughs and requested clarification that the separation between a hotel's garage and the residential use may be less than 300 feet. He spoke to limiting development to assumptions utilized in the traffic impact analysis, the increased setback on Parkwood Boulevard and the effect of *The Retail Study of Underperforming and Vacant Retail Areas* preventing retail development in Plano. Mr. Williams provided elevations highlighting the differences between the current zoning and the proposal.

Padraig O'Suilleabhain, representing the Stone Lakes Homeowners Association, spoke to the maturation of the neighborhood, its quiet setting and the possible devaluation of property as a result of this request. Laird Schaller, of the Stone Lakes Homeowners Association, spoke to researching the property before purchasing his home, changes resulting in decreased property values, closed businesses on the western side of Plano and the *Retail Study* finding an overabundance of retail development in the City. He spoke to including retail/restaurants within office buildings and to upholding the decision by the Commission. Tonia Biggs of the Stone Lakes Homeowners Association, spoke to zoning in place when their homes were purchased, protection of current zoning, the struggling retail market, restricted access to this location, and working toward redevelopment of vacant properties. She spoke to the Cigna development as not being tied to this zoning change. Toni Hutchins of the Glen Heather Homeowners Association spoke to their opposition to the request, lack of notification or signage, lack of definitive plans for the project and the property's value under its current zoning. John Hornbrook, citizen of the City, spoke to the City's Comprehensive Plan calling for careful consideration of the compatibility of non-residential uses in close proximity to residential and ensuring corridors and entry-ways are attractive and inviting. He spoke in favor of having offices in place prior to retail development and in support of the Commission's decision.

a-10

### Zoning Case 2008-27 (Con't)

Mr. Williams stated that this request would result in a reduction in the amount of office/retail that can be placed on the property and to the uncertainty should current zoning be retained. He advised that the applicant would accept uses as defined in the RE district as currently zoned rather than R and the benefit of a planned-development district that would stay with the land. Mr. Williams spoke to having flexibility with regard to the timing of retail/restaurant development and restaurant size less than 5,000 square feet and responded to the Council that Cigna is not under contract for more than 13 acres at this time.

Ms. Jarrell clarified that the Cigna request is not a part of this plan and stated that when Cigna develops their office building, they will gain rights for retail development but it would need to be on their property. Mr. Williams spoke to rolling the properties into one development should this request be denied. Development Review Manager Elgin spoke the evolution of the requests as two cases due to Cigna's need to move ahead, thus prohibiting an accrual of uses. No one else spoke either for or against the request. The Public Hearing was closed.

Ms. Jarrell responded to Council Member Dunlap, stating that approval of this request would secure reductions in development on the southern 28 acres and spoke to Staff review of a concept plan only. Mr. Schaller expressed concerns regarding the timing of development and ambiguity of future buildings. Ms. Jarrell responded to Council Member Ellerbe, stating that if the request is denied, the applicant could revise the concept plan to include the northern property, thus permitting development of 20,000 square feet of retail. Council Member Johnson spoke to the request offering increased landscaping, retention of the RE designation, the value of the property, and the competitive nature of restaurants. He spoke to the changes as being positive.

Deputy Mayor Pro Tem Callison spoke to office development bringing the need for retail uses, poor access at this location and competition with northern suburbs with regard to retail. Mayor Evans spoke to being responsive to the current market, having fresh retail in the right locations, and amenities needed by office facilities. Council Member Ellerbe stated support for retaining the RE restrictions and allowing the market to determine direction. Council Member LaRosiliere spoke to employees seeking venues for lunch and Cigna attracting ancillary business.

Council Member Dunlap spoke to an increase in commercial property tax with development, information contained in the *Retail Study*, increasing development of residential/businesses to support retail and determining the "highest and best use" of the property. He spoke to similar locations (major intersections) containing only office buildings and problems of access at this site. Mr. Dunlap stated some support for retail should offices develop initially and concern with rezoning to change the timing of retail development.

Mayor Pro Tem Magnuson spoke to the age of the *Retail Study* and stated retail will not be built if the market is not there to support it. She spoke to assisting Cigna, the developer's willingness to abide by RE zoning and lower square footage for restaurants. Ms. Magnuson made a motion to approve the request as stipulated with further limitation only allowing uses in the RE district. Council Member Ellerbe seconded the motion. No vote was taken at this time.

a-11

**Zoning Case 2008-27 (Con't)**

Director of Planning Jarrell clarified for Council Member Dunlap that the applicant's proposal would set a cap of 90,000 square feet which is less than what could be gained from the maximum square footage possible on the property, uses would remain as defined in the Regional Employment district, that there is no change with regard to freestanding uses as long as they are included in the overall concept plan and that restaurants may be smaller than 5,000 square feet. She further responded that the motion requires additional landscape along Parkwood Boulevard thus limiting the amount space available for office use.

The motion by Mayor Pro Tem Magnuson was restated to approve a request to rezone 40.2± acres located at the northeast corner of the Dallas North Tollway and Plano Parkway from Regional Employment (RE) to Planned Development-Regional Employment with stipulations as referenced with the exclusion of Item #5 permitting uses of the Retail district. A second was made by Council Member Ellerbe and the Council voted 6-2 with Deputy Mayor Pro Tem Callison and Council Member Stahel in opposition. The motion carried.

Council Member Ellerbe expressed her appreciation to the Council and Staff and spoke regarding the positive steps taken during her tenure including the implementation of an economic development incentive fund.

There being no further discussion, Mayor Evans adjourned the meeting at 9:52 p.m.

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**Pat Evans, MAYOR**

ATTEST:

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**Diane Zucco, City Secretary**

a-12



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>		Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Council Meeting Date: <b>05/12/08</b>		Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department:	Purchasing	Initials	Date		
Department Head	Mike Ryan	Executive Director			
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	<i>[Signature]</i>	
Agenda Coordinator (include phone #): <b>SHARRON MASON / EXT. 7247</b>					
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input checked="" type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER					
<b>CAPTION</b>					
Award/Rejection of Bid/Proposal for RFP No. 2008-99-C for Best Value Bid for Median and Right-of-Way US75/North Dallas Tollway Project to American Civil Constructors in the amount of \$109,606.50.					
<b>FINANCIAL SUMMARY</b>					
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	2007-08; 2008-09	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	1,068,306	0	1,086,306
Encumbered/Expended Amount		0	-424,462	0	<b>-424,462</b>
This Item		0	-109,607	0	<b>109,607</b>
BALANCE		0	534,237	0	534,237
FUND(S): <b>GENERAL FUND</b>					
<b>COMMENTS:</b> Funding for this item is available in the FY 2007-08 Park Field Services budget. The remaining amount will be used for other contractual services.  <b>STRATEGIC PLAN GOAL:</b> Beautification of Plan's Medians and Right of Ways relate to the City's Goals of Premier City in Which to Live, and "Service Excellence".					
<b>SUMMARY OF ITEM</b>					
Staff recommends proposal of American Civil Constructors in the amount of \$109,606.50 be accepted based on competitive sealed proposal award criteria stated in the specifications conditioned upon timely execution of any necessary contract documents.					
List of Supporting Documents: Recommendation Memo and Recap			Other Departments, Boards, Commissions or Agencies		

**Plano City Council  
Multicultural Outreach Roundtable  
Joint Meeting  
May 15, 2008**

**COUNCIL MEMBERS**

Mayor Pat Evans  
Sally Magnuson, Mayor Pro Tem  
Jean Callison, Deputy Mayor Pro Tem  
Shep Stahel  
Scott Johnson  
Loretta Ellerbe  
Harry LaRosiliere  
Lee Dunlap

The Council and the Multi-Cultural Outreach Roundtable Committee met informally on Thursday, May 15, 2008 beginning with a reception at 6:52 p.m. at the Plano Independent School District's Sockwell Center, Dallas Room, 6301 Chapel Hill Boulevard, Plano, Texas. All Council Members were present with the exception of Council Members Stahel and LaRosiliere.

**The Purpose of this meeting is to discuss ideas and concerns regarding Plano's Hispanic community**

Following the reception, Mary Alice Garza, Co-Chair of the Multi-Cultural Outreach Roundtable Committee (MCOR) welcomed those in attendance and introduced co-chairs of the committee. She spoke to the establishment of MCOR, its initiative to foster mutual understanding and participation between the City and the diverse community, past events and standing committees. Ms. Garza spoke to the sister city relationship with San Pedro Garza Garcia, Mexico, provided demographic information regarding the City and invited interested parties to join MCOR.

Edward Retta of Cross Culture Communications spoke to the positive contributions of Hispanics to Texas. He spoke to migration, various cultures, and provided a historical perspective regarding the population. Mr. Retta spoke regarding the creation of jobs in Texas during the early- to mid-20<sup>th</sup> century, national and state demographics, political trends, religious affiliation and employment statistics. He spoke to the assimilation of Hispanics in the work force, transition to the use of English over generations, positive economic impact and factors contributing to the low crime rates in Hispanic neighborhoods. Mr. Retta spoke to Hispanic positive cultural values, challenges and role models.

Mayor Evans and the Council spoke to MCOR providing an opportunity to meet with diverse members of the community and maintaining dialogue. Adrian Rodriguez of Lulac moderated a session focused on questions/concerns of the Hispanic community.

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The Council spoke to plans for community revitalization on the east side, the effect of aging retail on neighborhoods and challenges of redevelopment, the use of federal funds, and individual neighborhood plans for improvement. They spoke regarding infrastructure improvements, the impact of DART, festivals in Haggard Park and the revitalization of the Downtown area.

Mayor Evans advised that the City has no intention of taking on the federal government's role with regard to verifying citizenship. Assistant Police Chief Drain spoke regarding the role of neighborhood officers in assisting citizens assimilate into the community. He spoke to the number of Hispanic officers and those in leadership roles in the Police Department. The Council spoke to meeting core services in the face of a possible deficit and Mayor Pro Tem Magnuson spoke to the legal requirement to create a balanced budget. Council Member Dunlap spoke to promoting home ownership through the First Time Homebuyer's Program, Habitat for Humanity and the Self Sufficiency Program. Mayor Pro Tem Magnuson spoke to the use of federal funds.

An audience member spoke regarding a partnership with the Plano Independent School District to further citizen education. Director of Parks and Recreation Wendell advised that Staff does not track use of facilities by ethnic groups, but expressed his view that all citizens are utilizing the options available. A citizen spoke to providing parks information to children via the school system. Mayor Evans spoke to possible issues of transportation of children to recreation venues and Deputy Mayor Pro Tem Callison spoke to consideration of more neighborhood-friendly facilities. A recommendation was made to use public service announcements on Hispanic radio and television stations to distribute information.

Assistant Police Chief Drain spoke to follow up with the federal government regarding citizenship status should an individual be taken into custody for another matter. The Council encouraged participation by all groups on the City's boards and commissions.

Mayor Evans introduced Staff in attendance and advised that the City will keep the dialogue open so Plano works for everyone. There being no further discussion, the meeting was closed at 8:41 p.m.

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Pat Evans, MAYOR

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Diane Zucco, City Secretary

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**PLANO CITY COUNCIL  
SPECIAL CALLED MEETING  
MAY 20, 2008**

**COUNCIL MEMBERS**

Pat Evans, Mayor  
Sally Magnuson, Mayor Pro Tem  
Jean Callison, Deputy Mayor Pro Tem  
Shep Stahel  
Scott Johnson  
Loretta Ellerbe  
Harry LaRosiliere  
Lee Dunlap

**Council Members Elected**

Pat Miner  
Mabrie Jackson  
Harry LaRosiliere  
Jean Callison, Deputy Mayor Pro Tem

**STAFF**

Thomas H. Muehlenbeck, City Manager  
Frank Turner, Executive Director  
Bruce Glasscock, Executive Director  
Rod Hogan, Executive Director  
Diane C. Wetherbee, City Attorney  
Diane Zucco, City Secretary

Mayor Evans called the meeting to order at 5:04 p.m., Tuesday, May 20, 2008, in the Council Chambers of the Municipal Center, 1520 K Avenue. All Council Members were present with the exception of Council Members Johnson, LaRosiliere and Ellerbe. The following matters were discussed.

**Resolution No. 2008-5-16(R):** To canvass the election returns of the General Election of May 10, 2008, for the election of four members of Council (Places 1, 3, 5 and 7) for a term of three years; declaring the results; and resolving other matters on the subject.

City Secretary Zucco read the number of votes received by each candidate at each precinct along with the sum totals of votes.

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Upon completion of the canvass, Council Member Stahel stated that the election returns of the General Election have been canvassed and that all votes are accounted for as certified by the Elections Administrator of Collin County, with a total of 7,459 City ballots cast and further made a motion to adopt a resolution to approve the canvass of the General Election returns of May 10, 2008, and declaring that Pat Miner was elected to Place One, Mabrie Jackson was elected to Place Three, Harry LaRosiliere was elected to Place Five and Jean Callison was elected to Place Seven for a period of three years. Mayor Pro Tem Magnuson seconded the motion and the Council voted 5-0 to approve and further adopt Resolution No. 2008-5-16(R).

Council Member Stahel thanked Staff for their efforts and spoke regarding his tenure on the Council. He spoke to his strong support for the Police and Fire Departments, maintaining high standards in the City and following the Comprehensive Plan. Mr. Stahel spoke to the renewal of the Downtown area, a broader geographic membership on boards and commissions and his passion for parks. He requested the incoming Council keep Oak Point Park and Nature Preserve high on their list of priorities and spoke to his obligation to effect positive change for the average citizen in Plano. Mr. Stahel spoke to learning from past and present members of Council, congratulated the new members and thanked everyone for the privilege of serving.

#### **Oaths of Office for newly-elected Council Members**

City Secretary Zucco administered oaths of office to newly elected Council Members Miner, Jackson, and Callison. Mayor Evans presented them with their Certificates of Election after which time they assumed their seats at the dais.

Nothing further was discussed. Mayor Evans adjourned the Preliminary Meeting at 5:20 p.m.

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**Pat Evans, Mayor**

ATTEST

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**Diane Zucco, City Secretary**

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## CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>		Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:	<b>5/27/08</b>	Reviewed by Legal	<input type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Purchasing	Initials	Date	
Department Head	Mike Ryan	Executive Director		
Dept Signature:	<i>Dee Galou</i>	City Manager	<i>[Signature]</i>	5.16.08
Agenda Coordinator (include phone #):		Becky Johansen Ext. 4396		
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input checked="" type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				

### CAPTION

Award/Rejection of Bid/Proposal for Bid No. 2008-151-C Environmental Waste Truck Parts (2) to Heil of Texas in the estimated annual amount of \$37,051.17 and RLS Services Inc. in the estimated annual amount of \$79,756.80.

### FINANCIAL SUMMARY

NOT APPLICABLE     OPERATING EXPENSE     REVENUE     CIP

FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
<b>BALANCE</b>	0	0	0	0

**FUND(S):**    MUNICIPAL WAREHOUSE FUND

**COMMENTS:** This item approves price quotes. Expenditures will be made in various departments within the approved budget appropriations. The estimated annual amount is \$116,808.00.

**STRATEGIC PLAN GOAL:** Environmental Waste Truck Parts relates to the City's goal of "Safe, Efficient Travel."

### SUMMARY OF ITEM

Staff recommends bids of Heil of Texas in the estimated annual amount of \$37,051.17 for items 3, 6, 9, 13 and 15 and RLS Services Inc. in the estimated annual amount of \$79,756.80 for items 1, 2, 4, 5, 11, 16 and 18 be accepted as lowest responsible bids conditioned upon timely execution of any necessary contract documents. No awards at this time for items 8, 10, 12, 14 and 17. This will establish an annual fixed price contract with three optional one-year renewals in the total estimated annual amount of \$116,807.87. The contract will be for the purchase of Environmental Waste Truck Parts (2).

List of Supporting Documents:  
Bid Recap

Other Departments, Boards, Commissions or Agencies

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# CITY OF PLANO

**BID NO. 2008-151-C  
Environmental Waste Truck Parts (2)  
BID RECAP**

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**Bid Opening Date/Time:** May 1, 2008 @ 4:00pm

**Number of Vendors Notified:** 336

**Vendors Submitting "No Bids":** 1

**Number of Bids Submitted:** 2

Heil of Texas  
RLS Services Inc

**Bids Evaluated Non-Responsive to Specification:** 0

**Recommended Vendor(s):**

Heil of Texas  
RLS Services Inc

*Becky Johansen*

Becky Johansen, Buyer

*May 12, 2008*

Date

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**CITY OF PLANO  
COUNCIL AGENDA ITEM**



<b>CITY SECRETARY'S USE ONLY</b>		Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date: <b>5/27/08</b>		Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department:	Technology Services		Initials	Date	
Department Head	David Stephens	Executive Director	<i>[Signature]</i>	<b>05.19.08</b>	
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	<b>5/19/08</b>	
Agenda Coordinator (include phone #): <b>Amy Powell X7342</b>					

**ACTION REQUESTED:**     ORDINANCE     RESOLUTION     CHANGE ORDER     AGREEMENT  
 APPROVAL OF BID     AWARD OF CONTRACT     OTHER EXISTING CONTRACT

**CAPTION**

Approval of expenditure for a service agreement between Motorola and the City of Plano in the amount of \$307,773 through an existing contract with the Department of Information Resources, and authorizing the City Manager or his designee to execute all necessary documents. (DIR-SDD-477).

**FINANCIAL SUMMARY**

NOT APPLICABLE     OPERATING EXPENSE     REVENUE     CIP

FISCAL YEAR: <b>2007-08</b>	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	700,000	0	<b>700,000</b>
Encumbered/Expended Amount	0	0	0	<b>0</b>
This Item	0	-307,773	0	<b>-307,773</b>
<b>BALANCE</b>	<b>0</b>	<b>392,227</b>	<b>0</b>	<b>392,227</b>

**FUND(s):**    **TECHNOLOGY SERVICES FUND (066)**

**COMMENTS:** Funds are included in the 2007-08 Technology Services budget. The remaining balance will be used throughout the year for other maintenance agreements.

**STRATEGIC PLAN GOAL:** Maintenance support contracts relate to the City's Goal of "Service Excellence".

**SUMMARY OF ITEM**

Technology Services recommends Council approve an expenditure, in the amount of \$307,773 for a service agreement, with Motorola, for maintenance and monitoring of the Wireless Mesh Network. The City is authorized to purchase from the State Contract List pursuant to Section 271 Subchapter D of the Local Government Code, and by doing so satisfies any State law requiring local government to seek competitive bids for this item. (DIR-SDD-477).

List of Supporting Documents: Motorola Statement of Work and Service Agreement Staff Memo	Other Departments, Boards, Commissions or Agencies
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# Memorandum

**To:** David Stephens, Director of Information Services  
**CC:**  
**From:** Michael Branch, Special Projects Manager  
**Date:** 5/8/2008  
**Re:** Wireless Mesh Network Maintenance from Motorola

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After accepting delivery of Phase 1 of the city-wide wireless mesh network it is imperative that we start maintenance on this mission critical infrastructure. This network will be used by Public Safety and non-Public Safety city employees for network connectivity in the field. Motorola is the implementation partner on this project and therefore is the best qualified source to provide 7x24 maintenance and monitoring on this network.

We recommend purchasing this maintenance for a total price of \$ 307,773.00 from Motorola through the State of Texas DIR contract no. DIR-SDD-477.

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## APPENDIX F

### SERVICE TERMS AND CONDITIONS

These SERVICE TERMS AND CONDITIONS AND EXHIBITS ("Agreement"), which are ADDITIONAL TERMS AND CONDITIONS to DIR CONTRACT NUMBER DIR-SDD-477 AND ITS APPENDICES ("Contract"), provide further detail for an order placed for services pursuant to the Contract. In the event of conflict between this Agreement and the Contract, the Contract controls.

Motorola, Inc., through its Commercial, Government, and Industrial Solutions Sector ("Motorola"), and \_\_\_\_\_ ("Customer") enter into this Agreement pursuant to DIR Contract Number DIR-SDD-477 by which Motorola will provide services to Customer, as described below. Motorola and Customer may be referred to individually as a "Party" and collectively as the "Parties." For good and valuable consideration, the Parties agree as follows:

#### Section 1 APPLICABILITY

These Service Terms and Conditions, which are Additional Terms and Conditions to DIR Contract Number DIR-SDD-477, apply to service contracts whereby Motorola agrees to provide to Customer either (1) maintenance, support and/or other services under a Motorola Service Agreement, or (2) installation services under a Motorola Installation Agreement.

#### Section 2 DEFINITIONS AND INTERPRETATION

- 2.1. "**Agreement**" means these Service Terms and Conditions to DIR Contract Number DIR-SDD-477; the cover page for the Motorola Service Agreement or the Motorola Installation Agreement, as applicable; and any other attachments, all of which are incorporated herein by this reference. In the event of conflict between this Agreement and the Contract, the Contract controls. In interpreting this Agreement and resolving any ambiguities herein, these Service Terms and Conditions will take precedence over any cover page, and the cover page will take precedence over any exhibits or attachments, unless the cover page or attachment specifically states otherwise.
- 2.2. "**Contract**" means DIR Contract Number DIR-SDD-477 and its Appendices, including Appendix D, Communications Services Agreement and its exhibits; Appendix E, Communications Products Agreement and its exhibits; and this Appendix F, Service Terms and Conditions and its exhibits.
- 2.3. "**Equipment**" means the equipment that is specified in the attachments or is subsequently added to this Agreement.
- 2.4. "**Services**" means those installation, maintenance, support, training, and other services described in this Agreement.

#### Section 3 ACCEPTANCE

Customer accepts these Service Terms and Conditions to DIR Contract Number DIR-SDD-477 and agrees to pay the prices set forth in the Agreement. This Agreement will become binding only when accepted in writing by Motorola. The term of this Agreement will begin on the "Start Date" indicated in this Agreement.

#### Section 4 SCOPE OF SERVICES

- 4.1. Motorola will provide the Services described in this Agreement or in a more detailed statement of work or other document attached to this Agreement. At Customer's request, Motorola may also provide additional services at Motorola's then-applicable rates for such services.

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- 4.2. If Motorola is providing Services for Equipment, Motorola parts or parts of equal quality will be used; the Equipment will be serviced at levels set forth in the manufacturer's product manuals; and routine service procedures that are prescribed by Motorola will be followed.
- 4.3. If Customer purchases from Motorola additional equipment that becomes part of the same system as the initial Equipment, the additional equipment may be added to this Agreement and will be billed at the applicable rates after the warranty for such additional equipment expires.
- 4.4. All Equipment must be in good working order on the Start Date or when additional equipment is added to the Agreement. Upon reasonable request by Motorola, Customer will provide a complete serial and model number list of the Equipment. Customer must promptly notify Motorola in writing when any Equipment is lost, damaged, stolen or taken out of service. Customer's obligation to pay Service fees for such Equipment will terminate at the end of the month in which Motorola receives such written notice.
- 4.5. Customer must specifically identify any Equipment that is labeled intrinsically safe for use in hazardous environments.
- 4.6. If Equipment cannot, in Motorola's reasonable opinion, be properly or economically serviced for any reason, Motorola may modify the scope of Services related to such Equipment; remove such Equipment from the Agreement; or increase the price to Service such Equipment, upon notice to Customer.
- 4.7. Customer must promptly notify Motorola of any Equipment failure. Motorola will respond to Customer's notification in a manner consistent with the level of Service purchased as indicated in this Agreement.

#### **Section 5 EXCLUDED SERVICES**

- 5.1. Services exclude the repair or replacement of Equipment that has become defective or damaged from use in other than the normal, customary, intended, and authorized manner; use not in compliance with applicable industry standards; excessive wear and tear; or accident, liquids, power surges, neglect, acts of God or other force majeure events.
- 5.2. Unless specifically included in this Agreement, Services exclude items that are consumed in the normal operation of the Equipment, such as batteries or magnetic tapes.; upgrading or reprogramming Equipment; accessories, belt clips, battery chargers, custom or special products, modified units, or software; and repair or maintenance of any transmission line, antenna, microwave equipment, tower or tower lighting, duplexer, combiner, or multicoupler. Motorola has no obligations for any transmission medium, such as telephone lines, computer networks, the internet or the worldwide web, or for Equipment malfunction caused by such transmission medium.

#### **Section 6 TIME AND PLACE OF SERVICE**

Services will be provided at the location specified in this Agreement. When Motorola performs Services at Customer's location, Customer will provide Motorola, at no charge, a non-hazardous work environment with adequate shelter, heat, light, and power and with full and free access to the Equipment. Waivers of liability from Motorola or its subcontractors will not be imposed as a site access requirement. Customer will provide all information pertaining to the hardware and software elements of any system with which the Equipment is interfacing so that Motorola may perform its Services. Unless otherwise stated in this Agreement, the hours of Service will be 8:00 a.m. to 5:00 p.m., local time, excluding weekends and holidays. Unless otherwise stated in this Agreement, the price for the Services exclude any charges or expenses associated with helicopter or other unusual access requirements; if these charges or expenses are reasonably incurred by Motorola in rendering the Services, Customer agrees to reimburse Motorola for such charges and expenses.

**Section 7 CUSTOMER CONTACT**

Customer will provide Motorola with designated points of contact (list of names and phone numbers) that will be available twenty-four (24) hours per day, seven (7) days per week, and an escalation procedure to enable Customer's personnel to maintain contact, as needed, with Motorola.

**Section 8 PAYMENT**

Unless alternative payment terms are specifically stated in this Agreement, Motorola will invoice Customer in advance for each payment period. All other charges will be billed monthly, and Customer will make payments to Motorola in accordance with Chapter 2251, Texas Government Code. Customer agrees to reimburse Motorola for all property taxes, sales and use taxes, excise taxes, and other taxes or assessments levied as a result of Services rendered under this Agreement (except income, profit, and franchise taxes of Motorola) by any governmental entity. Motorola acknowledges that Customer is exempt from sales and use taxes by Texas law. Motorola will not invoice for inapplicable taxes.

**Section 9 WARRANTY**

Motorola warrants that its Services under this Agreement will be free of defects in materials and workmanship for a period of ninety (90) days from the date the performance of the Services are completed. In the event of a breach of this warranty, Customer's sole remedy is to require Motorola to re-perform the non-conforming Service or to refund, on a pro-rata basis, the fees paid for the non-conforming Service. MOTOROLA DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**Section 10 DEFAULT/TERMINATION**

- 10.1. If either party defaults in the performance of this Agreement, the other party will give to the non-performing party a written and detailed notice of the default. The non-performing party will have thirty (30) days thereafter to provide a written plan to cure the default that is acceptable to the other party and begin implementing the cure plan immediately after plan approval. If the non-performing party fails to provide or implement the cure plan, then the injured party, in addition to any other rights available to it under law, may immediately terminate this Agreement effective upon giving a written notice of termination to the defaulting party.
- 10.2. Any termination of this Agreement will not relieve either party of obligations previously incurred pursuant to this Agreement, including payments which may be due and owing at the time of termination. All sums owed by Customer to Motorola will become due and payable immediately upon termination of this Agreement. Upon the effective date of termination, Motorola will have no further obligation to provide Services.

**Section 11 LIMITATION OF LIABILITY**

This limitation of liability provision shall apply notwithstanding any contrary provision in this Agreement. Except for personal injury or death, Motorola's total liability, whether for breach of contract, warranty, negligence, strict liability in tort, or otherwise, will be limited to the direct damages recoverable under law, but not to exceed the price of twelve (12) months of Services provided under this Agreement. **ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT MOTOROLA WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS; INCONVENIENCE; LOSS OF USE, TIME, DATA, GOOD WILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT OR THE PERFORMANCE OF SERVICES BY MOTOROLA PURSUANT TO THIS AGREEMENT.** No action for breach of this Agreement or otherwise relating to the transactions contemplated by this Agreement may be brought more than one (1) year after the accrual of such cause of action, except for money due upon an open account. This limitation of liability will survive the expiration or termination of this Agreement.

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## Section 12 EXCLUSIVE TERMS AND CONDITIONS

- 12.1. This Agreement supersedes all prior and concurrent agreements and understandings between the parties, whether written or oral, related to the Services, and there are no agreements or representations concerning the subject matter of this Agreement except for those expressed herein. The Agreement may not be amended or modified except by a written agreement signed by authorized representatives of both parties.
- 12.2. Customer agrees to reference this Agreement on any purchase order issued in furtherance of this Agreement, however, an omission of the reference to this Agreement shall not affect its applicability. In no event shall either party be bound by any terms contained in a Customer purchase order, acknowledgement, or other writings unless: (i) such purchase order, acknowledgement, or other writings specifically refer to this Agreement; (ii) clearly indicate the intention of both parties to override and modify this Agreement; and (iii) such purchase order, acknowledgement, or other writings are signed by authorized representatives of both parties.

## Section 13 PROPRIETARY INFORMATION; CONFIDENTIALITY; INTELLECTUAL PROPERTY RIGHTS

- 13.1. To the extent consistent with the Texas Public Information Act, any information or data in the form of specifications, drawings, reprints, technical information or otherwise furnished to Customer under this Agreement will remain Motorola's property, will be deemed proprietary, will be kept confidential, and will be promptly returned at Motorola's request. Customer may not disclose, without Motorola's written permission or as required by law, any such information or data to any person, or use such information or data itself for any purpose other than performing its obligations under this Agreement. The obligations set forth in this Section will survive the expiration or termination of this Agreement.
- 13.2. Unless otherwise agreed in writing, all commercial, financial or technical information disclosed in any manner or at any time by Customer to Motorola will be deemed secret or confidential. Motorola will have no obligation to provide Customer with access to its confidential and proprietary information, including cost and pricing data.
- 13.3. This Agreement does not grant directly or by implication, estoppel, or otherwise, any ownership right or license under any Motorola patent, copyright, trade secret, or other intellectual property including any intellectual property created as a result of or related to the Equipment sold or Services performed under this Agreement.

## Section 14 FCC LICENSES AND OTHER AUTHORIZATIONS

Customer is solely responsible for obtaining licenses or other authorizations required by the Federal Communications Commission or any other federal, state, or local government agency and for complying with all rules and regulations required by such agencies. Neither Motorola nor any of its employees is an agent or representative of Customer in any governmental matters.

## Section 15 COVENANT NOT TO EMPLOY

During the term of this Agreement and continuing for a period of two (2) years thereafter, Customer will not hire, engage on contract, solicit the employment of, or recommend employment to any third party of any employee of Motorola or its subcontractors without the prior written authorization of Motorola. This provision applies only to those employees of Motorola or its subcontractors who are responsible for rendering services under this Agreement. If this provision is found to be overly broad under applicable law, it shall be modified as necessary to conform to such law.

## Section 16 MATERIALS, TOOLS AND EQUIPMENT

All tools, equipment, dies, gauges, models, drawings or other materials paid for or furnished by Motorola for the purpose of this Agreement will be and remain the sole property of Motorola. Customer will safeguard all such property while it is in Customer's custody or control, be liable for any loss or damage

to such property, and return it to Motorola upon request. Such property will be held by Customer for Motorola's use without charge and may be removed from Customer's premises by Motorola at any time without restriction.

**Section 17 GENERAL TERMS**

- 17.1. If any court renders any portion of this Agreement unenforceable, the remaining terms will continue in full force and effect.
- 17.2. This Agreement and the rights and duties of the parties will be governed and interpreted in accordance with the laws of the State of Texas.
- 17.3. Failure to exercise any right will not operate as a waiver of that right, power, or privilege.
- 17.4. Neither party is liable for delays or lack of performance resulting from any causes such as strikes, material shortages, or acts of God that are beyond that party's reasonable control.
- 17.5. Motorola may assign its rights and obligations, and may subcontract any portion of its performance, under this Agreement subject to compliance with Section 4.D of Appendix A to DIR Contract Number DIR-SDD-477.
- 17.6. WHEREAS, A DIR MASTER CONTRACT DIR-SDD-477 IS IN PLACE, THIS AGREEMENT MAY BE RENEWED FOR AN ADDITIONAL ONE (1) YEAR TERM ON EVERY ANNIVERSARY OF THE START DATE BY CUSTOMER NOTIFYING THE OTHER PARTY IN WRITING OF ITS INTENTION TO EXTEND THE AGREEMENT NOT LESS THAN THIRTY (30) DAYS OF THAT ANNIVERSARY DATE. CUSTOMER CAN ONLY RENEW THIS AGREEMENT IF THE DIR MASTER CONTRACT DIR-SDD-477 HAS NOT EXPIRED OR BEEN TERMINATED.
- 17.7. If Motorola provides Services after the termination or expiration of this Agreement, the terms and conditions in effect at the time of the termination or expiration will apply to those Services and Customer agrees to pay for such services on a time and materials basis at Motorola's then effective hourly rates.

**ACCEPTED:**

**Motorola, Inc**

**Customer**

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

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

Name: \_\_\_\_\_

Name: \_\_\_\_\_

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

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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# SERVICE AGREEMENT

Attn: National Service Support  
 1309 East Algonquin Road  
 Schaumburg, IL 60196  
 (800) 247-2346

Contract Number: S00001011430  
 Contract Modifier:  
 Supercedes Agreement(s):

Date: 04/10/2008

Company Name: PLANO, CITY OF  
 Attn:  
 Billing Address: P O Box 860279  
 City, State, Zip: Plano, TX 75086  
 Customer Contact: Michael Branch  
 Phone: (972)816-9132  
 Fax:

Required P.O.: Yes  
 Customer #: 1011267912  
 Bill to Tag #: 0001  
 Contract Start Date: 05/01/2008  
 Contract End Date: 04/30/2009  
 Anniversary Day: Apr 30th  
 Payment Cycle: MONTHLY  
 Tax Exempt: Exempt From All Taxes  
 PO #: TBD

Qty	Model/Option	Description	Monthly Ext	Extended
		***** Recurring Services *****		
1	SVC01SVC0085A	ERNS TECH/SW SUPPORT	\$ 121.00	\$ 1,452.00
	SVC081AE	ERNS MESH EWR		
1	SVC078AE	ERNS MESH IAP		
1	SVC079AE	ERNS MESH MWR		
	SVC01SVC0088A	ERNS ADVANCED REPLACEMENT	\$ 34.00	\$ 408.00
	SVC096AE	ERNS MESH IAP		
1	SVC101AE	ERNS MESH MISC		
1	SVC097AE	ERNS MESH MWR		
1	SVC099AE	ERNS MESH EWR		
1	SVC01SVC2011C	SP - DISPATCH SERVICES NETWORK(S)	\$ 198.93	\$ 2,387.16
1	SVC02SVC0029C	SP - INFRASTRUCTURE REPAIR/ADVANCED REPLACEMENT NETWORK(S)	\$ 441.82	\$ 5,301.84
1	SVC02SVC0071A	SP-OIR WITH LOCAL DISPATCH NETWORK(S)	\$ 24,852.00	\$ 298,224.00

SPECIAL INSTRUCTIONS - ATTACH STATEMENT OF WORK FOR PERFORMANCE DESCRIPTIONS

Subtotal - Recurring Services	\$ 25,647.75	\$ 307,773.00
Subtotal - One-Time Event Services	\$ .00	\$ .00
Total	\$25,647.75	\$307,773.00
Taxes	-	-
Grand Total	\$ 25,647.75	\$ 307,773.00
THIS SERVICE AMOUNT IS SUBJECT TO STATE AND LOCAL TAXING JURISDICTIONS WHERE APPLICABLE, TO BE VERIFIED BY MOTOROLA.		

CITY OF PLANO CANOPY/MESH PHASE ONE SEE ATTACHED PRICE SHEET FOR DETAILED DESCRIPTION OF EQUIPMENT COVERED AND SERVICE PROVIDED

Subcontractor(s)	City	State
MOTOROLA SYSTEM SUPPORT CENTER	ELGIN	IL
MOTOROLA SYSTEM SUPPORT CTR-CALL CENTER D0066	SCHAUMBURG	IL
MOTOROLA SYSTEM SUPPORT-TECHNICAL SUPPORT D0068	SCHAUMBURG	IL
SCIENDEL WIRELESS LLC	PLANO	TX

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I received Statements of Work that describe the services provided on this Agreement. Motorola's Service Terms and Conditions, a copy of which is attached to this Service Agreement, is incorporated herein by this reference.

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AUTHORIZED CUSTOMER SIGNATURE	TITLE	DATE
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CUSTOMER (PRINT NAME)

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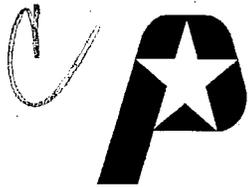
MOTOROLA REPRESENTATIVE (SIGNATURE)	TITLE	DATE
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Scott Urban

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MOTOROLA REPRESENTATIVE (PRINT NAME)	PHONE	FAX
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**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>		Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:	<b>5/27/08</b>		Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Parks and Recreation		Initials	Date	
Department Head	Don Wendell	Executive Director	<i>[Signature]</i>	5-15-08	
Dept Signature:	<i>Don Wendell</i>	City Manager	<i>[Signature]</i>	05-14-08	
Agenda Coordinator (include phone #):		Susan Berger (7255)			

**ACTION REQUESTED:**     ORDINANCE     RESOLUTION     CHANGE ORDER     AGREEMENT  
 APPROVAL OF BID     AWARD OF CONTRACT     OTHER

**CAPTION**

To approve and authorize a contract with Civil Associates, Inc. to provide Engineering Services in conjunction with Citywide Bicycle Improvements in an amount not to exceed \$155,192 and authorizing the City Manager or his designee to execute any and all documents necessary to effectuate the contract.

**FINANCIAL SUMMARY**

NOT APPLICABLE     OPERATING EXPENSE     REVENUE     CIP

FISCAL YEAR: <b>2007-08</b>	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	27,000	423,000	350,000	<b>800,000</b>
Encumbered/Expended Amount	-27,000	0	0	<b>-27,000</b>
This Item	0	-155,192	0	<b>-155,192</b>
<b>BALANCE</b>	0	267,808	350,000	<b>617,808</b>

**FUND(S):**    **PARK IMPROVEMENT CIP**

**COMMENTS:** Funds are included in the 2007-08 Park Improvement CIP. This item, in the amount of \$155,192, will leave a current year balance of \$267,808 for the Bikeway System project.

**STRATEGIC PLAN GOAL:** Improvements to the City-wide bikeway system relate to the City's Goal of Premier City in Which to Live.

**SUMMARY OF ITEM**

The attached Engineering Services Agreement with Civil Associates, Inc. is for the preparation of construction drawings that include plans and specifications for improvements to be implemented in conjunction with the City's Bicycle Transportation Plan. Improvements will include bike route signs, pavement markings and improved crossings of major thoroughfares to facilitate use of the on-street bicycle route system. The contract fee is \$155,192 including basic services and reimbursables.

The total contract fee is 9.6% of the construction budget of \$1,608,566. This fee is consistent with other park and engineering projects of this size and scope. The project is partially funded by a federal transportation grant in the amount of \$1,286,400. The balance of funding is available through the Park Improvement Bond Program.

Civil Associates, Inc. was selected for this project through the RFP Process (RFP 2007-228-B).

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**CITY OF PLANO  
COUNCIL AGENDA ITEM**

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
Engineering Services Agreement Bicycle Transportation Plan	

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**CITYWIDE BICYCLE IMPROVEMENTS**

**PROJECT NO. 5858**

**ENGINEERING SERVICES AGREEMENT**

**THIS AGREEMENT** is made and entered by and between the **CITY OF PLANO, TEXAS**, a Home-Rule Municipal Corporation, hereinafter referred to as "City", and **CIVIL ASSOCIATES, INC.**, a **TEXAS** Corporation, hereinafter referred to as "Engineer", to be effective from and after the date as provided herein.

**WITNESSETH:**

**WHEREAS**, the City desires to engage the services of the Engineer to prepare construction plans, specifications, details and special provisions and to perform other related engineering services in connection with the **CITYWIDE BICYCLE IMPROVEMENTS** project located in the City of Plano, Collin and Denton County, Texas, hereinafter referred to as the "Project"; and

**WHEREAS**, the Engineer desires to render such engineering services for the City upon the terms and conditions provided herein.

**NOW, THEREFORE**, for and in consideration of the covenants contained herein, and for the mutual benefits to be obtained hereby, the parties hereto agree as follows:

**I. Employment of the Engineer**

The City hereby agrees to retain the Engineer to perform professional engineering services in connection with the Project. Engineer agrees to perform such services in accordance with the terms and conditions of this Agreement.

**II. Scope of Services**

The parties agree that Engineer shall perform such services as are set forth and described in Exhibit "A", which is attached hereto and thereby made a part of this Agreement. The parties understand and agree that deviations or modifications in the form of written contract modifications may be authorized from time to time by the City.

**III. Schedule of Work**

The Engineer agrees to commence work immediately upon execution of this Agreement, and to proceed diligently with said work, except for delays beyond the

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reasonable control of Engineer, to completion as described in the Completion Schedule, attached hereto as Exhibit "B" and thereby made a part of this Agreement.

#### **IV. DBE/HUB PARTICIPATION**

Engineer shall meet the 20% participation goal established by the Texas Department of Transportation ("TxDOT") for Disadvantaged Business Enterprises and Historically Underutilized Businesses ("DBE/HUB") in the performance of this Contract. If Engineer does not satisfy this goal in its performance of this Contract, Engineer shall document in writing all good faith efforts made to comply with this goal.

#### **V. Compensation and Method of Payment**

The parties agree that Engineer shall be compensated for all services provided pursuant to this Agreement in the amount and manner described and set forth in the Payment Schedule attached hereto and incorporated herein as Exhibit "C". The contract amount specified in Exhibit "C" shall not be exceeded without the written permission of the City.

#### **VI. Information to be Provided by the City**

The City agrees to furnish, prior to commencement of work, all that information requested by Engineer and available in City's files.

#### **VII. Insurance**

Engineer agrees to meet all insurance requirements, and to require all consultants who perform work for Engineer to meet all insurance requirements, as set forth on Exhibit "D", which is attached hereto and thereby made a part of this Agreement.

#### **VIII. Indemnity**

Engineer shall release, defend, indemnify and hold City and its officers, agents and employees harmless from and against all damages, injuries (including death), claims, property damages (including loss of use), losses, demands, suits, judgments and costs, including reasonable attorney's fees and expenses, in any way arising out of, related to, or resulting from the services provided by Engineer and to the extent caused by the negligent act or omission or intentional wrongful act or omission of Engineer, its officers, agents, employees, subcontractors, licensees, invitees or any other third parties for whom Engineer is legally responsible (hereinafter "Claims"). Engineer is expressly required to defend City against all such Claims.

In its sole discretion, City shall have the right to approve defense counsel to be retained by Engineer in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. City reserves the right to provide a portion or all of its own defense; however, City is under no obligation to do so. Any such action by City is not to be construed as a waiver of Engineer's obligation to defend City or as a waiver of Engineer's obligation to indemnify City pursuant to this Agreement. Engineer shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Agreement. If Engineer fails to retain counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Engineer shall be liable for all costs incurred by City.

### **IX. Independent Contractor**

Engineer covenants and agrees that Engineer is an independent contractor and not an officer, agent, servant or employee of City; that Engineer shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondeat superior shall not apply as between City and Engineer, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Engineer.

### **X. Assignment and Subletting**

The Engineer agrees that neither this Agreement nor the work to be performed hereunder will be assigned or sublet without the prior written consent of the City. The Engineer further agrees that the assignment or subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve the Engineer from its full obligations to the City as provided by this Agreement.

### **XI. Audits and Records/Prohibited Interest**

The Engineer agrees that at any time during normal business hours and as often as City may deem necessary, Engineer shall make available to representatives of the City for examination all of its records with respect to all matters covered by this Agreement, and will permit such representatives of the City to audit, examine, copy and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement, all for a period of one (1) year from the date of final settlement of this Agreement or for such other or longer period, if any, as may be required by applicable statute or other lawful requirement.

The Engineer agrees that it is aware of the prohibited interest requirements of the City Charter and Code of Conduct and will abide by the same. Further, a lawful representative of Engineer shall execute the affidavit shown in Exhibit "E". Engineer understands and agrees that the existence of a prohibited interest during the term of this contract will render the contract voidable.

## **XII. Contract Termination**

The parties agree that City shall have the right to terminate this Agreement with or without cause upon thirty (30) days written notice to Engineer. In the event of such termination, Engineer shall deliver to City all finished or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs or other items prepared by Engineer in connection with this Agreement. Engineer shall be entitled to compensation for any and all work completed to the satisfaction of City in accordance with the provisions of this Agreement prior to termination.

## **XIII. Engineer's Opinion of Probable Construction Costs**

The parties recognize and agree that any and all opinions of probable construction costs prepared by Engineer in connection with the Project represent the best judgment of Engineer as a design professional familiar with the construction industry, but that the Engineer does not guarantee that any bids solicited or received in connection with the Project will not vary from opinions prepared by Engineer.

## **XIV. Ownership of Documents**

Original drawings and specifications are the property of the Engineer; however, the Project is the property of the City and Engineer may not use the drawings and specifications therefor for any purpose not relating to the Project without City's consent. City shall be furnished with such reproductions of drawings and specifications as City may reasonably require. Upon completion of the work or any earlier termination of this Agreement under Article XI, Engineer will revise drawings to reflect changes made during construction and he will promptly furnish the City with one (1) complete set of reproducible record prints. Prints shall be furnished, as an additional service, at any other time requested by City. All such reproductions shall be the property of the City who may use them without Engineer's permission for any proper purpose including, but not limited to, additions to or completion of the Project. However, use of the documents for other than their intended purpose shall be at the sole risk of the City.

## **XV. Complete Contract**

This Agreement, including the Exhibits lettered "A" through "E", constitute the entire agreement by and between the parties regarding the subject matter hereof and supersedes all prior or contemporaneous written or oral understandings. This

Agreement may only be amended, supplemented, modified or canceled by a duly executed written instrument.

#### **XVI. Mailing of Notices**

Unless instructed otherwise in writing, Engineer agrees that all notices or communications to City permitted or required under this Agreement shall be addressed to City at the following address:

City of Plano  
Engineering Department  
P.O. Box 860358  
Plano, TX 75086-0358

City agrees that all notices or communications to Engineer permitted or required under this Agreement shall be addressed to Engineer at the following address:

Civil Associates, Inc.  
1521 Northwest Highway  
Garland, TX 75041  
Attn: Larry Cervenka

All notices or communications required to be given in writing by one party or the other shall be considered as having been given to the addressee on the date such notice or communication is posted by the sending party.

#### **XVII. Miscellaneous**

A. Paragraph Headings:

The paragraph headings contained herein are for convenience only and are not intended to define or limit the scope of any provision in this Agreement.

B. Contract Interpretation:

Although this Agreement is drafted by the City, should any part be in dispute, the parties agree that the Agreement shall not be construed more favorably for either party.

C. Venue/Governing Law:

The parties agree that the laws of the State of Texas shall govern this Agreement, and that it is performable in Collin and Denton County, Texas. Exclusive venue shall lie in Collin County, Texas.

D. Successors and Assigns:

City and Engineer, and their partners, successors, subcontractors, executors, legal representatives, and administrators are hereby bound to the terms and conditions of this Agreement.

E. Severability:

In the event a term, condition, or provision of this Agreement is determined to be void, unenforceable, or unlawful by a court of competent jurisdiction, then that term, condition, or provision, shall be deleted and the remainder of the Agreement shall remain in full force and effect.

F. Effective Date:

This Agreement shall be effective from and after execution by both parties hereto.

**SIGNED** on the date indicated below.

**CIVIL ASSOCIATES, INC.**  
A TEXAS Corporation

DATE: 5/12/08

BY:   
Lena Peter  
VICE PRESIDENT

**CITY OF PLANO, TEXAS**

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Thomas H. Muehlenbeck  
CITY MANAGER

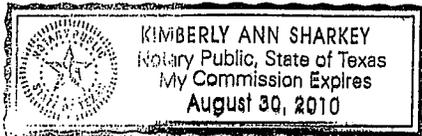
**APPROVED AS TO FORM:**

  
Diane C. Wetherbee  
CITY ATTORNEY

**ACKNOWLEDGMENTS**

STATE OF TEXAS       §  
                                  §  
COUNTY OF DALLAS   §

This instrument was acknowledged before me on the 12<sup>th</sup> day of May, 2008, by **LENA PETER, Vice President**, of **Civil Associates, Inc.**, a Texas corporation, on behalf of said corporation.



*Kimberly Ann Sharkey*  
\_\_\_\_\_  
Notary Public, State of Texas

STATE OF TEXAS       §  
                                  §  
COUNTY OF COLLIN   §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2008, by **THOMAS H. MUEHLENBECK, City Manager**, of the **City of Plano, Texas**, a Home-Rule Municipal Corporation, on behalf of said municipal corporation.

\_\_\_\_\_  
Notary Public, State of Texas

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**EXHIBIT A**  
**SCOPE OF SERVICES**  
**Citywide Bicycle Improvements**  
**Project 5858**

**PROJECT DESCRIPTION**

Project includes evaluation of the existing City of Plano Bicycle Transportation Plan and implementation of plan and any approved improvements. Improvements will include signage, pavement markings, safety improvements and improved crossings at various locations and intersections along these routes.

Design and construction of improvements must meet all TxDOT standards and requirements. Project may also include right-of-way acquisition and easements where the consulting engineer will provide field notes and a map for the City of Plano to acquire the right-of-way and easements.

**BASIC SERVICES**

**Pre-Design**

**TASK P-1      REVIEW CURRENT CITYWIDE BICYCLE PLAN**

- 1.1. Project initiation and data collection  
kick off meeting and data collection – Team will lead a kick off meeting with city staff to gather existing city planning documents and data outlined below together with staff insights. Timelines will be set. The Team will participate in a windshield site tour with city staff (**Meeting #1**).

**City to Furnish**

**Mapping**

- Geo-oriented aerial photos (1' or 6" resolution) of the city, including properties adjacent to the limit

**ArcView shape files**

- Thoroughfare Plan
- Current bike route plan
- drainage ways, FEMA flood elevations, topographic delineations
- Tax Appraisal District (TAD) lot lines
- major utility corridors/easements, rail corridors, parks and other public lands
- existing and planned school locations for all ISD's within the City
- As Built street plans on bike routes
- Other available city maps in GIS format to be used to evaluate current bicycle plan
  - Current Park and Trail Master Plan(s)
  - Land Use Plan
  - Locations of DART rail stations

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- Locations of major employers, employment centers Zoning map (ArcView shape file)
- Capital Improvement Program projects
- Future bond program map (or list(s))
- School attendance zone maps

#### Documents

- Thoroughfare Plan
- Street Design Standards manual
- Copies of City ordinances relating to bicycles, pedestrians, school speed zones, parking restrictions along proposed bicycle routes
- Current on-street bike plan document
- Current Park and Trail Master Plan(s)
- Any known subdivision plans showing any potential future developer-built trails
- Subdivision Sidewalk Ordinance and any known or planned amendments
- Parkland Dedication Ordinance and any known or planned amendments
- List of Capital Improvement Program projects
- Map showing limits of any major roadway projects - if available, otherwise a list of projects with limits
- Any future bond program list(s) (or map)
- Any bike and trail plans for the cities of Allen, Parker, Richardson, Frisco, Murphy, Dallas, Carrollton and The Colony to be considered in potential route revisions

#### Data

- Traffic count data
    - Turning movement counts at major intersections
    - 24-hour daily counts along routes
  - Transportation data including existing street widths, lane configuration, and average (or posted) speed
  - Traffic accident records along bicycle routes and at major intersections – if available
  - Bicycle/pedestrian accident records (citywide) – if available
- 1.2. Utilize GIS data provided by the City, (BMA will) develop initial working base map in ESRI ArcView with, reflecting city information provided.
  - 1.3. Prepare 2 analysis maps – 1) street classifications with traffic counts, bike plan, and trail plan; 2) highlight offset intersections along planned bike routes and trail/street crossings.
  - 1.4. Perform an existing conditions BLOS analysis for planned bike routes using city-provided data for (primary factors) roadway width, # of lanes, posted or average speeds, traffic counts);
  - 1.5. Conduct site reviews to determine pavement condition and parking along bike plan routes.

- 1.6. Conduct BLOS analysis for secondary factors (parking turnover, % trucks, # commercial driveways); and pavement condition on all bike plan routes.
- 1.7. Evaluate potential for existing or programmed off-road bike paths to serve existing bike routes in Plan.
- 1.8. Assess potential for alternative routes where needed (additional BLOS analysis) and map.
- 1.9. Site review-team evaluation of off-set intersections. Prepare Findings.
- 1.10. Evaluate mid-block crossings of Arterials. Prepare Findings.
- 1.11. Meet with Stakeholder User group at meeting organized by City (**Meeting #2**)
  - Plano Bicycle Association representatives
  - Large Employer Representatives
  - School Representatives
  - Interested citizens
- 1.11.1 Develop presentation materials and submit to City for review, revise based on City input. Submit map to city for printing (1 per 5 attendees-for mark-up).
- 1.11.2 Lead Stakeholder Meeting organized by City
- 1.12. Consider Stakeholder input and revise mapping as needed.

**TASK P-2 ON-STREET BICYCLE ROUTE SYSTEM IMPLEMENTATION PRELIMINARY ENGINEERING**

- 2.1. Develop recommended improvements to bicycle route plan (Primarily collector streets)
  - Route numbering
  - Warning sign placement
  - Wayfinding signs to major destinations including schools, transit stations, major employers, city facilities
  - Traffic control
- 2.2. Assist City in obtaining FHWA and TXDOT approval for experimental shared lane marking (Note: While early contact is appropriate for strategic purposes, actual application will need to be done following Council approval)
- 2.3. Prepare for and meet (**Meeting #3**) with City staff to discuss recommendations, prioritization criteria elements and weighting (proposed criteria: Ease of implementation (signage, restriping, spot improvement), Cost, Ability to incorporate with other CIP projects, System connectivity, Destinations served)
- 2.4. Revise preliminary implementation plan recommendations to incorporate staff input

- 2.5. Prioritize projects based on criteria and weighting determined at meeting #3; develop Preliminary Prioritized Map of Projects.
- 2.6. Meet with City to obtain consensus on project prioritization (**Meeting #4**)
- 2.7. Adjust prioritization based on staff input and prepare to meet with Stakeholder group
- 2.8. Prepare PowerPoint and meet with Stakeholder group in meeting organized by City to review implementation routes, treatments and priorities (**Meeting #5**).
- 2.9. Adjust recommendations based on City response to any Stakeholder concerns
- 2.10. Prepare for and meet with agencies to discuss recommendations at meeting organized by City (**Meeting #6**)
  - NCTCOG
  - Plano ISD
  - TxDOT

**TASK P-3 PREPARE RECOMMEND SIGNING AND PAVEMENT MARKING STANDARDS TO BE USED ON (COLLECTOR) BICYCLE ROUTES**

- 3.1 Develop recommended signing and pavement marking standards for bike routes; prepare schematic-level cost estimates.

**TASK P-4 RECOMMEND SOLUTIONS FOR MID BLOCK CROSSINGS OF ARTERIALS**

- 4.1 Develop design schematics for arterial/trail crossing improvements; prepare schematic level cost estimates.

**TASK P-5 PLAN CONSTRUCTION DOCUMENTS/BID PHASE**

- 5.1 Prepare Preliminary Plans per TxDOT standards and submit to City of review and comments
- 5.2 Revise construction documents as needed based on staff feedback and resubmit for final City approval.
- 5.3 Submit Construction documents to TxDOT for TxDOT approval; prepare and submit Experimental Shared Lane marking to FHWA then TxDOT.
- 5.4 Prepare Environmental Documents based on approved Design Schematics
- 5.5 Prepare PS&E for implementation of signing and pavement markings to implement Bicycle Plan per City of Plano, TxDOT, NCTCOG and FHWA standards.
- 5.6 Bid Phase Services including bid openings, responding to questions and evaluation of bids.

## **SPECIAL SERVICES:**

### **A. Right-of-Way and Easement Surveying**

1. Prepare a metes and bounds description and an 8-1/2" x 11" exhibit for right-of-way on a per tract basis. Deliver three (3) reviewed and approved originals to the City.
2. Prepare a metes and bounds description and an 8-1/2" x 11" exhibit for temporary construction easements on a per tract basis. Deliver three (3) reviewed and approved originals to the City.
3. Prepare a metes and bounds description and an 8-1/2" x 11" exhibit for \_\_\_\_\_ easements on a per tract basis. Deliver three (3) reviewed and approved originals to the City.
4. Prepare exhibits with the field notes first and drawings second.
5. Set new iron pins at all new corners, PC's and PT's of new right-of-way.

### **B. Additional meetings requiring extensive preparation such as meetings for the Parks Board, City Council or Stakeholders over the six (6) meetings identified in the scope of work to be paid for an hourly approved rate.**

### **C. Construction Administration**

- a. Site visits.
- b. Written responses for construction information.
- c. Inspections
- d. Processing change orders
- e. Recommend final acceptance of work when acceptable.
- f. Preparation of Construction "Record Drawings".

### **D. Additional Data Collection not previously specified in Scope of Work.**

### **E. Additional site visits or windshield survey's not previously specified in Scope of Work**

## **TASK C-1 COST ESTIMATES**

The CAI team will prepare cost estimates at the preliminary design phase, the design schematic phase and for the Preparation of Plans, Specifications and Estimates.



**EXHIBIT C  
PAYMENT SCHEDULE  
Citywide Bicycle Improvements  
Project 5858**

Civil Associates, Inc.'s fees for the scope of services outlined in Attachment A are defined herein.

**Fees**

Basic Services	\$	155,192.00
Special Services	\$	to be determined.

**Basis for Compensation**

Civil Associates, Inc. will perform the services outlined herein for a lump sum fee of \$ 155,192. Services will be billed monthly on the basis of 2.30 times the actual salary cost. Direct costs, including printing and reproduction, postage, messenger service, long distance telephone calls, and travel outside of the Dallas/Fort Worth metroplex, will be billed at 1.15 times the direct cost incurred.

Upon the execution of this agreement approval, we will begin work on the tasks outlined herein. If any payment due the Consulting Engineer for services and expenses invoiced in accordance with this agreement is not received within 30 days after receipt of the Consulting Engineer's statement of the amount due the Consulting Engineer will be increased at the rate of 1.5 percent per month for each month beyond the 30-day period. In addition, the Consulting Engineer may, after giving seven (7) days written notice, suspend services under this agreement until all amounts due have been paid in full. Furthermore, the Consulting Engineer may withhold design drawings, documents, specifications, reports, or any other tangible items produced under the terms of this agreement until outstanding invoices related to those items are paid.

**Reimbursable Expenses (Not to exceed \$ 1,300)**

Reimbursable expenses are those incurred by Civil Associates, Inc. which are not included in our Basic Services and Special Services fees. These costs will be invoiced separately under Task Code RE01 at a cost of 1.1 times the actual expense incurred unless otherwise specified. We propose a budget of \$ 1,300 for these expenses. This budget will not be exceeded by Civil Associates, Inc. without the formal approval of the City of Plano. These costs include:

Printing of plan and specification sets in addition to bid sets specified (e.g., interim review sets (quantity undetermined), etc.)  
Long-distance communication charges  
Courier or delivery service  
Postage  
Travel outside of the metroplex

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Civil Associates, Inc. City of Plano Pedestrian Bicycle System Implementation Planning

Task #	Classification	Hourly Rate				Principal Planner	133	132	80	Adm'n Support	Time Fee	Expense Amount	Expense Description	Expense Amount	Description	Expense Amount	CA/ Fee Subtotal	OAR/MA Total	OAR/MA Expense Total	CA/MA Total Fee and Expense																
		131	130	81	80																															
1.1	Evaluation of Citywide Bike Plan - Current Conditions	12	8	6	3,340	203	36,590	18	1,624	1,624	1,624	1,624	1,624	1,624	1,624	1,624	1,624	1,624	1,624	51,214																
1.2	Develop GIS data provided by the City (BMA will develop final working base map in ESRI ArcView, reflecting city information)	4	2	24	2,950															2,950																
1.3	Project 2, mapbook maps - 1) Street classifications with traffic volumes, bike lane, and trail plan; 2) Highlight critical intersections along planned bike routes and bus/rail transit crossings	2	1	4	755															755																
1.4	Conduct an existing conditions BLOS analysis for planned bike routes within city-wide data - include street width, average speed, traffic volume, # of lanes, pooled or average speeds, traffic counts.	12	2	20	3,790	102	4,500	200 miles @ \$5.00/mile												3,790																
1.5	Conduct site reviews to determine pavement condition and existing BLOS conditions	20	2	24	4,150															4,150																
1.6	Develop BLOS map showing existing BLOS conditions, # of lanes, pooled or average speeds, traffic counts, and pavement condition	12	2	24	4,150															4,150																
1.7	Evaluate potential for existing or programmed off-road bike paths to serve existing bike routes in Plano	2	6	2	1,200															1,200																
1.8	BLOS analysis and map	16	2	12	3,490															3,490																
1.9	Site reviews - learn evaluation of off-road intersections	24	4	4	4,150	51	4,150	100 miles @ \$5.00/mile												4,150																
1.10	Evaluate mid-block crossings at Armetas, Prepare findings.	4	16	4	2,950	51	2,950	100 miles @ \$5.00/mile												2,950																
1.11	Meet with Stakeholder User Groups - Meeting #2																																			
1.11.1	Develop presentation materials and submit to City for review, review based on City input. Submit map to city for printing (1 per \$100 for map)	5	12	4	2,655															2,655																
1.11.2	Develop presentation materials and submit to City for review, review based on City input. Submit map to city for printing (1 per \$100 for map)	2	2	2	1,900															1,900																
1.12	Conduct Stakeholder User Group Meeting #3	2	2	6	2															2																
1.13	Conduct Stakeholder User Group Meeting #4	2	2	6	2															2																
1.14	On-Street Bike Route System Implementation	120	78	55	3,260	95	31,355	100	54	24	23,001									31,355																
2.1	Develop preliminary implementation recommendations for bike routes (route numbering, wayfinding, signage, wayfinding to schools, DART, etc.)	40	40	20	12,320															12,320																
2.2	Develop preliminary implementation recommendations for bike routes (route numbering, wayfinding, signage, wayfinding to schools, DART, etc.)	8	4	1,930																1,930																
2.3	Prepare for and meet (planning) with City staff to discuss preliminary recommendations, prioritization (existing) criteria, signage and wayfinding (cost of implementation, cost, ability of City to fund project, project community, etc.)	8	4	2	1,620	35	1,620	100 miles @ \$5.00/mile												1,620																
2.4	Review preliminary implementation recommendations map to determine staff load	4	2	2	970															970																
2.5	Prepare project based on criteria and weighting determined at meeting #4 and develop preliminary prioritization map of projects	28	4	0	5,000															5,000																
2.6	Meet with City to obtain consensus on project prioritization	4	4	2	1,200															1,200																
2.7	Prepare PowerPoint and meet with Stakeholder Group to review implementation routes, treatments and priorities at meeting #5 (facilitated by City (facilitated))	12	4	6	2,690	30	2,690	100 miles @ \$5.00/mile												2,690																
2.8	Prepare PowerPoint and meet with Stakeholder Group to review implementation routes, treatments and priorities at meeting #5 (facilitated by City (facilitated))	4	8	2	1,790															1,790																
2.9	Adjust recommendations based on city staff response to any comments	4	2	2	970															970																
2.10	Prepare for and meet with agencies (TxDOT, NCTCOG, Plano City, SHoPS and staff	4	2	8	1,510															1,510																
2.10	Prepare for and meet with agencies (TxDOT, NCTCOG, Plano City, SHoPS and staff	4	4	3	1,370	30	1,370	100 miles @ \$5.00/mile												1,370																
Task P-3	Develop preliminary implementation recommendations map to determine staff load	8	12	2	2,760															2,760																
3.1	Develop design schematics for arterial trail crossing	8	12	2	2,760															2,760																
Task P-4	Develop design schematics for arterial trail crossing	4	8	2	1,720															1,720																
4.1	Develop design schematics for arterial trail crossing	4	8	2	1,720															1,720																
Task P-5	Prepare Preliminary Plans per TxDOT standards and submit to City for review and comment	15	34	8	6,935															6,935																
5.1	Prepare Preliminary Plans per TxDOT standards and submit to City for review and comment	4	12	2	2,220															2,220																
5.2	Prepare Preliminary Plans per TxDOT standards and submit to City for review and comment	4	8	4	1,900															1,900																
5.3	Prepare Preliminary Plans per TxDOT standards and submit to City for review and comment	1	2	2	365															365																
5.4	Prepare Preliminary Plans per TxDOT standards and submit to City for review and comment	2	2	2	520															520																
5.5	Prepare Preliminary Plans per TxDOT standards and submit to City for review and comment	2	2	2	520															520																
5.6	Prepare Preliminary Plans per TxDOT standards and submit to City for review and comment	2	2	2	520															520																
5.7	Prepare Preliminary Plans per TxDOT standards and submit to City for review and comment	2	2	2	520															520																
5.8	Prepare Preliminary Plans per TxDOT standards and submit to City for review and comment	2	2	2	520															520																
Total Project																				270	193	99	14	79,325	298	79,623	276	220	197	10	15,137	432	75,569	154,662	730	155,192

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**EXHIBIT "D"**

**ENGINEERING**

**INSURANCE**

**INSURANCE:** (Review this section carefully with your insurance agent prior to bid or proposal submission. See "Insurance Checklist" on the last page or specific coverages applicable to this contract).

**1. General Insurance Requirements:**

- 1.1 The Engineer (hereinafter called "Engineer") shall not start work under this contract until the Engineer has obtained at his own expense all of the insurance called for here under and such insurance has been approved by the City. Approval of insurance required of the Engineer will be granted only after submission to the Purchasing Agent of original, signed certificates of insurance or, alternately, at the City's request, certified copies of the required insurance policies.
- 1.2 All insurance policies required hereunder shall be endorsed to include the following provision: "It is agreed that this policy is not subject to cancellation, non-renewal, material change, or reduction in coverage without first providing the Risk Manager, City of Plano, at least ten (10) days prior written notice."

**NOTE: The words "endeavor to" and "but failure to mail such notice shall impose no obligation to liability of any kind upon the company, its agents or representatives" are to be eliminated from the cancellation provision of standard ACORD certificates of insurance.**

- 1.3 No acceptance and/or approval of any insurance by the City shall be construed as relieving or excusing the Engineer from any liability or obligation imposed upon the provisions of the Contract.
- 1.4 The City of Plano (including its elected and appointed officials, agents, volunteers, and employees) is to be named as an additional insured under Engineer's General Liability Policy, and the certificate of insurance, or the certified policy, if requested, must so state. Coverage afforded under this paragraph shall be primary as respects the City, its elected and appointed officials, agents and employees.
  - 1.4.1 The following definition of the term "City" applies to all policies issued under the contract:

The City Council of the City of Plano and any affiliated or subsidiary Board, Commission Authority, Committee, or Independent Agency (including those newly constituted), provided that such affiliated or subsidiary Board Commission, Authority, Committee, or Independent Agency is either a Body Politic created by the City Council of the City of Plano, or one in which controlling interest is vested in the City of Plano; and City of Plano Constitutional Officers.
- 1.5 The Engineer shall provide insurance as specified in the "Insurance Checklist" (Checklist) found on the last page of the bid or proposal form. Full limits of insurance required in the

checklist of this agreement shall be available for claims arising out of this agreement with the City of Plano.

- 1.6 Engineer agrees to defend and indemnify the City of Plano, its officers, agents and employees as provided in Paragraph VII. of this contract.
- 1.7 Insurance coverage required in these specifications shall be in force throughout the Contract Term. Should the Engineer fail to provide acceptable evidence of current insurance within seven (7) days of written notice at any time during the Contract Term, the City shall have the absolute right to terminate the Contract without any further obligation to the Engineer, and the Engineer shall be liable to the City for the entire additional cost of procuring performance and the cost of performing the incomplete portion of the Contract at time of termination.
- 1.8 Written requests for consideration of alternate coverages must be received by the City Purchasing Manager at least ten (10) working days prior to the date set for receipt of bids or proposals. If the City denies the request for alternative coverages, the specified coverages will be required to be submitted.
- 1.9 All required insurance coverages must be acquired from insurers authorized to do business in the State of Texas and acceptable to the City. The City prefers that all insurers also have a policyholder's rating of "A-" or better, and a financial size of "Class VI" or better in the latest edition of A.M. Best, or A or better by Standard and Poors, unless the City grants specific approval for an exception.
- 1.10 Any deductibles shall be disclosed in the Checklist and all deductibles will be assumed by the Engineer. Engineer may be required to provide proof of financial ability to cover deductibles, or may be required to post a bond to cover deductibles.

**2. Engineer's Insurance - "Occurrence" Basis:**

- 2.1 The Engineer shall purchase the following insurance coverages, including the terms, provisions and limits shown in the Checklist.
  - 2.1.1 Commercial General Liability - Such Commercial General Liability policy shall include any or all of the following as indicated on the Checklist:
    - i. General aggregate limit is to apply per project;
    - ii. Premises/Operations;
    - iii. Actions of Independent Contractors;
    - iv. Contractual Liability including protection for the Engineer from claims arising out of liability assumed under this contract;
    - v. Personal Injury Liability including coverage for offenses related to employment;
    - vi. Explosion, Collapse, or Underground (XCU) hazards; if applicable. This coverage required for any and all work involving drilling, excavation, etc.

2.1.2 Business Automobile Liability including coverage for any owned, hired, or non-owned motor vehicles and automobile contractual liability.

2.1.3 Workers' Compensation - statutory benefits as required by the State of Texas, or other laws as required by labor union agreements, including Employers' Liability coverage.

2.2 Professional Errors and Omissions

The Engineer shall carry Professional Liability insurance which will pay for injuries arising out of negligent errors or omissions in the rendering, or failure to render professional services under the contract, for the term of the Contract and up to three years after the contract is completed in the amount shown in the Checklist.

Professional Errors and Omissions, Limit \$1,000,000  
per claim and aggregate

## ENGINEERING

### City of Plano - Insurance Checklist

("X" means the coverage is required.)

<u>Coverages Required</u>	<u>Limits (Figures Denote Minimums)</u>
<input checked="" type="checkbox"/> 1. Workers' Compensation & Employers' Liability	Statutory limits of State of Texas \$100,000 accident \$100,000 disease \$500,000 policy limit disease
<input type="checkbox"/> 2. For Future Use	
<input type="checkbox"/> 3. City Approved Alternative Workers' Comp. Program	\$150,000 medical, safety program
<input checked="" type="checkbox"/> 4. General Liability	Complete entry No. 26 Minimum \$500,000 each occurrence \$1,000,000 general aggregate
<input checked="" type="checkbox"/> 5. General aggregate applies per project (CGL)	
<input checked="" type="checkbox"/> 6. Premises/Operations	(Items No. 3-10 & 12 require)
<input checked="" type="checkbox"/> 7. Independent Contractors	<del>\$500,000</del> combined single limit for bodily injury and property damage
<input type="checkbox"/> 8. Products	damage each occurrence with
<input type="checkbox"/> 9. Completed Operations	\$1,000,000 general aggregate that applies to project under contract
<input checked="" type="checkbox"/> 10. Contractual Liability	
<input checked="" type="checkbox"/> 11. Personal Injury Liability	\$500,000 each offense & aggregate
<input type="checkbox"/> 12. XCU Coverages	
<input checked="" type="checkbox"/> 13. Automobile Liability	\$500,000 Bodily Injury & Property
<input checked="" type="checkbox"/> 14. Owned, Hired & Non-owned	Damage each accident
<input type="checkbox"/> 15. Motor Carrier Act Endorsement	
<input checked="" type="checkbox"/> 16. Professional Liability	\$1,000,000 each claim and aggregate
<input type="checkbox"/> 17. Garage Liability	\$_____ BI & PD each occurrence



**ACORD** TM **CERTIFICATE OF LIABILITY INSURANCE** DATE (MM/DD/YYYY)  
3/20/2008

**PRODUCER**  
McLaughlin Brunson Insurance Agency, LLP  
9535 Forest Lane Suite 118  
Dallas TX 75243  
(214) 503-1212 (214) 503-8899

**INSURED**  
Civil Associates, Inc.  
  
1521 Northwest Highway  
Garland TX 75041

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Beazley Insurance Company, Inc <i>A+</i>	
INSURER B: Travelers Indemnity Co of Conn <i>A+</i>	
INSURER C: Travelers Lloyds Ins. Company <i>A+</i>	
INSURER D: Charter Oak Fire Insurance Co. <i>A+</i>	
INSURER E:	

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
C		<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO. <input type="checkbox"/> LOC	PACP6763L050	12/15/2007	12/15/2008	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/POP AGG \$ 2,000,000
D		<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	BA6778L561	12/27/2007	12/27/2008	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ GARAGE LIABILITY <input type="checkbox"/> ANY AUTO AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
B		<b>EXCESS/UMBRELLA LIABILITY</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  DEDUCTIBLE \$ RETENTION \$	CUP7892Y861	12/15/2007	12/15/2008	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000
E		<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER	UB7893Y49A	12/15/2007	12/15/2008	<input checked="" type="checkbox"/> MC STATL. <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
A		Professional Liab.	V15JM07PNPM	12/15/2007	12/15/2008	\$1,000,000 Per Claim/ Annual Aggregate Retro Date: 12/15/2003

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS**

The claims made professional liability coverage is the total aggregate limit for all claims presented within the annual policy period and is subject to a deductible. City of Plano Additional Insured on General Liability and Automobile Liability as required by written contract. A waiver of subrogation is in favor of the City of Plano on the Workers compensation.  
 RE: Project number 5858 - Citywide Bicycle Improvements:

**CERTIFICATE HOLDER**

City of Plano  
Purchasing Division  
1520 Avenue K, Suite 370  
  
Plano TX 75074

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL SEND BY REGISTERED MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BY FIRST CLASS MAIL TO THE ADDRESS SHOWN ON THIS CERTIFICATE.

\_\_\_\_\_  
 AUTHORIZED REPRESENTATIVE *John A. Brunson*

Engineering Services Agreement  
Citywide Bicycle Improvements  
Project No. 5858

Exhibit D - Page \_\_\_\_\_

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### IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

### DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

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EXHIBIT "E"

AFFIDAVIT OF NO PROHIBITED INTEREST

I, the undersigned declare and affirm that no person or officer of **CIVIL ASSOCIATES, INC.**, (herein "Contractor") is either employed by the City of Plano or is an elected official of the City of Plano and who has a financial interest, direct or indirect, in any contract with the City of Plano or has a financial interest, directly or indirectly, in the sale to the City of Plano of any land, or rights or interest in any land, materials, supplies or service. As per Section 11.02 of the Plano City Charter, interest represented by ownership of stock by a City of Plano employee or official is permitted if the ownership amounts to less than one (1) per cent of the corporation stock.

I further understand and acknowledge that the existence of a prohibited interest at any time during the term of this contract will render the contract voidable.

LENA PETER OF CIVIL ASSOCIATES, INC.

Name of Consultant

By:

Signature

LENA PETER

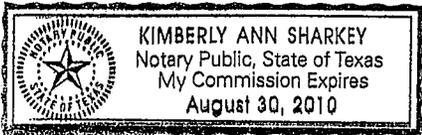
Print Name

VICE-PRESIDENT

Title

5/12/2008

Date



STATE OF TEXAS

§  
§  
§

COUNTY OF DALLAS

SUBSCRIBED AND SWORN TO before me this 12<sup>th</sup> day of May, 2008.

Kimberly Ann Sharkey  
Notary Public, State of Texas

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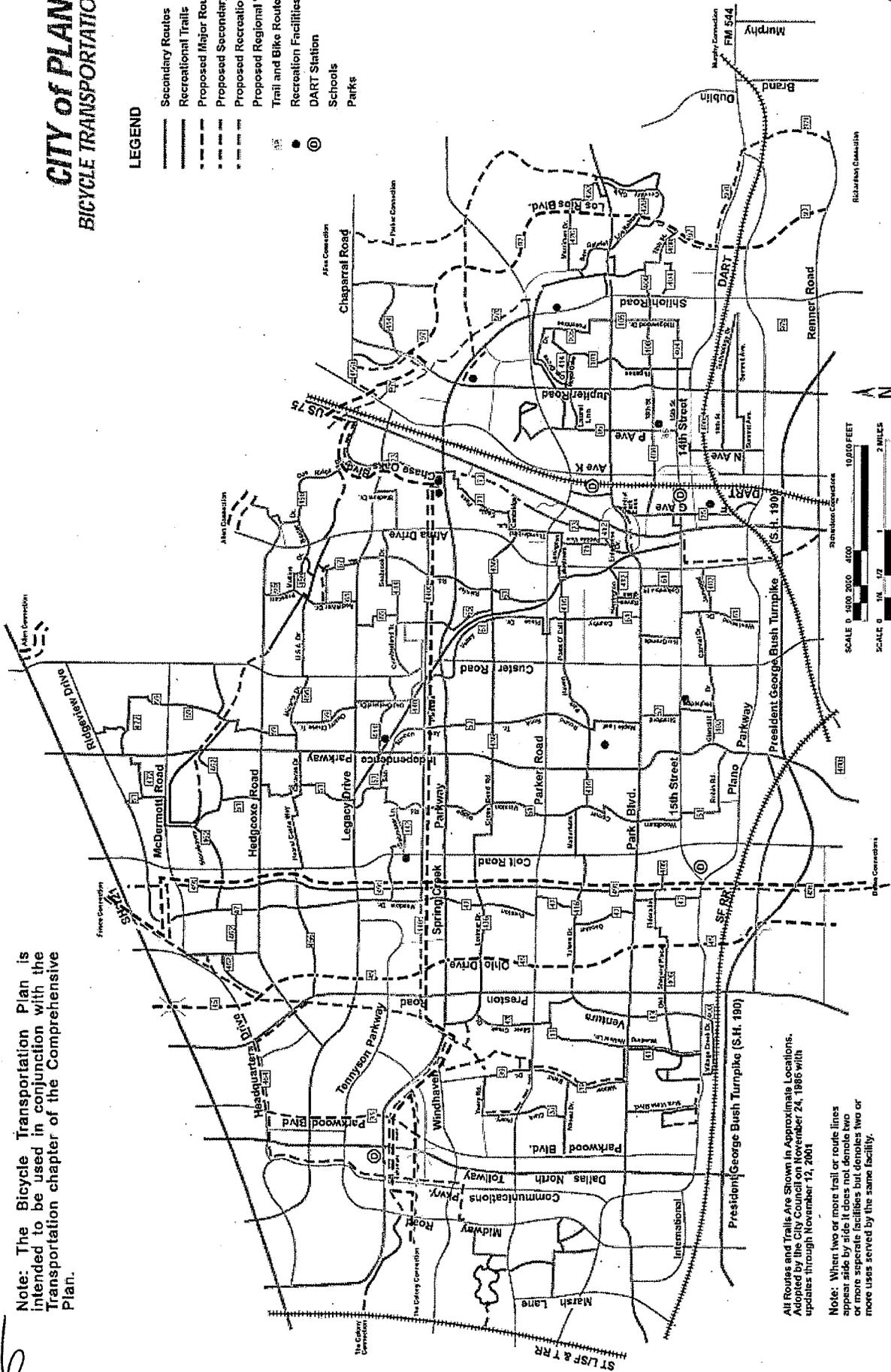
d-26

Note: The Bicycle Transportation Plan is intended to be used in conjunction with the Transportation chapter of the Comprehensive Plan.

# CITY OF PLANO BICYCLE TRANSPORTATION PLAN

## LEGEND

- Secondary Routes
- Recreational Trails
- Proposed Major Routes
- Proposed Secondary Routes
- Proposed Recreational Trails
- Proposed Regional Veloweb
- Trail and Bike Route Numbers
- Recreation Facilities
- DART Station
- Schools
- Parks



All Routes and Trails Are Shown in Approximate Locations. Adopted by the City Council on November 24, 1985 with updates through November 12, 2001

Note: When two or more trail or route lines appear side by side, it does not denote two or more separate facilities but denotes two or more uses served by the same facility.

**CITY OF PLANO  
COUNCIL AGENDA ITEM**



<b>CITY SECRETARY'S USE ONLY</b>			Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory			Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:		<b>05/27/08</b>	Reviewed by Legal <i>gms</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Engineering			Initials	Date
Department Head	Alan L. Upchurch		Executive Director	<i>[Signature]</i>	5/19/08
Dept Signature:	<i>[Signature]</i>		City Manager	<i>[Signature]</i>	5/19/08
Agenda Coordinator (include phone #):			<b>Irene Pegues (7198)</b>		<b>Project No. 5574</b>
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input checked="" type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER					
<b>CAPTION</b>					
To Birkhoff, Hendricks & Conway, L.L.P., increasing the professional services contract by \$10,000 for the Parker Road Elevated Storage Tank Repaint, Contract Modification No. 4.					
<b>FINANCIAL SUMMARY</b>					
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP					
FISCAL YEAR:	<b>2007-08</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget		9,342	859,658	0	<b>869,000</b>
Encumbered/Expended Amount		-9,342	-443,990	0	<b>-453,332</b>
This Item		0	-10,000	0	<b>-10,000</b>
BALANCE		0	405,668	0	<b>405,668</b>
FUND(S): <b>WATER CIP</b>					
<b>COMMENTS:</b> Funds are included in the 2007-08 Water CIP. This modification (increasing the contract to exceed \$50,000), in the amount of \$10,000, will leave a current year balance of \$405,668 for the Parker Road Elevated Tank Repaint project.					
<b>STRATEGIC PLAN GOAL:</b> Elevated storage tank repainting relates to the City's Goals of Livable and sustainable Community.					
<b>SUMMARY OF ITEM</b>					
Additional design and construction services are required for Parker Road Elevated Tank Repaint Project to complete the project.					
The original contract amount was \$27,800. The Engineering Department is seeking City Council approval of this fourth modification because we have exceeded 25% of the original contract amount with Birkhoff, Hendricks & Conway, L.L.P. The revised contract amount is \$55,725.					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
Contract Modification			N/A		

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**CONTRACT MODIFICATION  
PARKER ROAD ELEVATED TANK REPAINT - DESIGN  
PROJECT NO. 5574**

**PURCHASE ORDER NO. 102721  
CIP NO. 68915**

This shall serve as the Fourth Modification to the Contract between the **CITY OF PLANO, TEXAS**, (hereinafter "City") and **BIRKHOFF, HENDRICKS & CONWAY, L.L.P.**, (hereinafter "Consultant") dated January 24, 2005, for Professional Engineering Services for the referenced project (hereinafter "Project").

**Services:**

This Modification amends the scope of services as originally set forth in the contract as follows:

- For extended construction administration services required due to claims submitted by the Contractor.

**Compensation:**

For additional services provided pursuant to this Modification, City shall pay Consultant an amount not to exceed \$10,000.00. Such payment shall be made in accordance with the payment terms specified in the contract.

In the event of any conflict or inconsistency between the provisions set forth in this Modification and the Contract, this Modification shall govern and control. For and in consideration of the covenants, duties and obligations herein contained, the parties do mutually agree that except as provided above, all other terms and conditions of the Contract shall remain unchanged and in full force and effect.

**CONTINUED ON NEXT PAGE**

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**ACKNOWLEDGMENTS**

**STATE OF TEXAS**

**COUNTY OF DALLAS**

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2008, by **JOHN W. BIRKHOFF, P.E., Managing Partner of Birkhoff, Hendricks & Conway, L.L.P.**, a Texas Limited Liability Partnership, on behalf of said limited liability partnership.

\_\_\_\_\_  
Notary Public, State of Texas

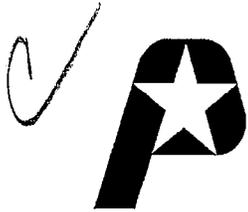
**STATE OF TEXAS**

**COUNTY OF COLLIN**

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2008, by **THOMAS H. MUEHLENBECK, City Manager** of the **City of Plano, Texas**, a Home-Rule Municipal Corporation, on behalf of said municipal corporation.

\_\_\_\_\_  
Notary Public, State of Texas

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**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date:	5/27/08		Reviewed by Legal <i>HL</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Customer & Utility Services		Initials	Date	
Department Head	Mark Israelson		Executive Director	<i>MS</i>	5-15-08
Dept Signature:	<i>Stephanie Logan</i>		City Manager	<i>SL</i>	5-16-08
Agenda Coordinator (include phone #):	Chanda Duckery		x7172		
ACTION REQUESTED:					
<input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input checked="" type="checkbox"/> OTHER					

**CAPTION**

APPROVAL OF FIRST MODIFICATION OF AGREEMENT BY CITY OF PLANO AND HD SUPPLY WATERWORKS, LTD.

**FINANCIAL SUMMARY**

NOT APPLICABLE     OPERATING EXPENSE     REVENUE     CIP

FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0

FUND(s):

COMMENTS:

**SUMMARY OF ITEM**

Modification of agreement on March 25, 2008, to provide for certain confidential or sensitive information in the City's system, including but not limited to, confidential utility account data of Customers.

List of Supporting Documents:  
First modification

Other Departments, Boards, Commissions or Agencies  
N/A

THE STATE OF TEXAS  
COUNTY OF COLLIN

§  
§  
§  
§

**First Modification of Agreement**  
**By and Between City of Plano and**  
**HD Supply Waterworks, Ltd.**

**THIS FIRST MODIFICATION OF** the Master Project Agreement (hereinafter "First Modification") is made and entered into on this the **1<sup>st</sup> day of May, 2008**, by and between **HD SUPPLY WATERWORKS, LTD.** (hereinafter "HD SUPPLY WATERWORKS"), a Florida limited partnership, and the **CITY OF PLANO, TEXAS**, a home rule municipal corporation (hereinafter "CITY"), acting by and through its City Manager or his designee.

**WITNESSETH:**

**WHEREAS**, City and HD Supply Waterworks entered into an Agreement on March 25, 2008 (hereinafter "Agreement") for the provision, installation, programming and maintenance of fixed network system (hereinafter "Services"); and

**WHEREAS**, City and HD Supply Waterworks desire to amend such Agreement in certain respects as set forth herein in this First Modification.

**NOW THEREFORE**, the Agreement is incorporated herein as if written word for word. Except as provided below, all other terms and conditions of the Agreement shall remain unchanged and shall remain in full force and effect. In the event of any conflict or inconsistency between the provisions set forth in this First Modification and the Agreement, priority of interpretation shall be in the following order: First Modification, Agreement. In consideration of the foregoing, and for other good and valuable consideration, the parties hereto agree as follows:

**I.**

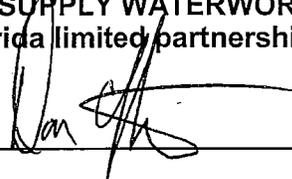
Beginning on the effective date of this Modification and continuing through the remaining term of the Agreement, the Master Project Agreement is hereby modified to include the following provision:

**"29. Customer Account Information.** In the course and scope of performing under this Agreement, HD Supply Waterworks will have access to certain confidential or sensitive information in the City's system, including but not limited to, confidential utility account data of Customers. HD Supply Waterworks understands and acknowledges that the account information of Customers, including any information relating to the volume or units of utility usage or the amounts billed to or collected from the individual customers for utility usage, is confidential by law pursuant to Section 182.052, Utilities Code. Therefore, HD Supply Waterworks agrees it will keep and protect such information to the fullest extent possible and will not disclose said information to any person except to the disclosing party's employees or representatives requiring access to

such information to provide services under this Agreement, or as otherwise permitted under this Agreement. HD Supply Waterworks also agrees to forward to the City of Plano Director of Customer and Utilities any requests for information contained in the City's system. This provision shall survive the termination of this Agreement."

**IN WITNESS WHEREOF**, this Modification is effective on the date first written above.

**HD SUPPLY WATERWORKS, LTD., a  
Florida limited partnership**

By: 

Printed Name: Don Clayton

Title: LFO

Address: 1805 BORMAN CIRCLE DR  
ST LOUIS MO 63146

**CITY OF PLANO, TEXAS**

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

Thomas H. Muehlenbeck  
CITY MANAGER  
1520 Avenue K  
P. O. Box 860358  
Plano, TX 75086-0358

APPROVED AS TO FORM:

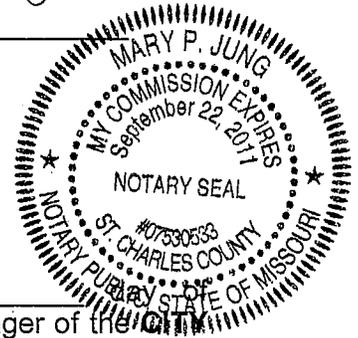
\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF MISSOURI §  
§  
COUNTY OF ST. CHARLES §

This instrument was acknowledged before me on the 1<sup>ST</sup> day of MAY, 2008 by DON CRAYTON, CFO of **HD SUPPLY WATERWORKS, LTD**, a Florida limited partnership, on behalf of said limited partnership.

Mary P. Jung  
Notary Public, State of \_\_\_\_\_



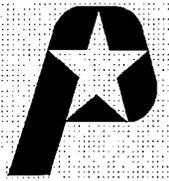
STATE OF TEXAS §  
§  
COUNTY OF COLLIN §

This instrument was acknowledged before me on the \_\_\_\_\_, 2008 by **THOMAS H. MUEHLENBECK**, City Manager of the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, on behalf of said corporation.

\_\_\_\_\_  
Notary Public, State of Texas

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**CITY OF PLANO  
COUNCIL AGENDA ITEM**



<b>CITY SECRETARY'S USE ONLY</b>		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget <i>C.S.</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date: <b>5/27/2008</b>		Reviewed by Legal <i>MS</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department:	Finance		Initials	Date	
Department Head	John McGrane		Executive Director		
Dept Signature:	<i>[Signature]</i>		City Manager	<i>[Signature]</i> <b>5/13/08</b>	
Agenda Coordinator (include phone #): <b>Brianna Alvarado X7479</b>					

**ACTION REQUESTED:**     ORDINANCE     RESOLUTION     CHANGE ORDER     AGREEMENT  
 APPROVAL OF BID     AWARD OF CONTRACT     OTHER

**CAPTION**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT BY AND BETWEEN THE CITY OF PLANO, TEXAS AND GLENCOE GROUP SERVICES INC.; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.**

**FINANCIAL SUMMARY**

NOT APPLICABLE     OPERATING EXPENSE     REVENUE     CIP

FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	9,043,750	0	<b>9,043,750</b>
Amount Approved by Council	0	-1,548,904	-856,250	<b>-2,405,154</b>
This Item	0	-96,000	0	<b>-96,000</b>
<b>BALANCE</b>	<b>0</b>	<b>7,398,846</b>	<b>0</b>	<b>6,542,596</b>

**FUND(s):**

**COMMENTS:** The company agrees to occupying 36,000 square feet of office space located at 5801 Tennyson Parkway, Suite 600, Plano, Texas 75024 and maintain all 60 job equivalents on the property.

**SUMMARY OF ITEM**

A request by Glencoe Group Services Inc., a Delaware Corporation, for an economic development incentive for relocation expenses and retention of 60 full time jobs.

List of Supporting Documents:  
Economic Development Incentive Agreement

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RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT BY AND BETWEEN THE CITY OF PLANO, TEXAS AND GLENCOE GROUP SERVICES INC.; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council has been presented a proposed Economic Development Incentive Agreement By and Between the City of Plano, Texas and Glencoe Group Services Inc., a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and,

**WHEREAS**, upon full review and consideration of the Agreement, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager or, in his absence, an Executive Director, shall be authorized to execute it on behalf of the City of Plano.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** The terms and conditions of the Agreement, having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interests of the City of Plano and its citizens, are hereby in all things approved.

**Section II.** The City Manager, or in his absence, an Executive Director, is hereby authorized to execute the Agreement and all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Agreement.

**Section III.** This Resolution shall become effective immediately upon its passage.

**DULY PASSED AND APPROVED** this 27th day of May, 2008.

\_\_\_\_\_  
Pat Evans, MAYOR

ATTEST:

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

APPROVED AS TO FORM:

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

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**ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT**

This Economic Development Incentive Agreement ("Agreement") is made by and between the City of Plano, Texas (the "City"), and Glencoe Group Services Inc., a Delaware Corporation, acting by and through its respective authorized officers and representatives.

**WITNESSETH:**

**WHEREAS**, Glencoe Group Services Inc. and its affiliates (hereinafter collectively referred to as the "Company") are engaged in the property and casualty insurance business; and

**WHEREAS**, the Company has advised the City that a contributing factor that would induce the Company to relocate its business and commercial activities to the City, thereby generating additional local sales tax revenues and increasing ad valorem tax values for the City, would be an agreement by the City to provide an economic development grant to the Company; and

**WHEREAS**, the Company agrees to occupy not less than 25,000 square feet of office space located at Three Legacy Town Center, 5801 Tennyson Parkway, Suite 600, Plano, Texas 75024, (the "Property"), for the full term of this Agreement; and to retain, transfer or create 60 Job Equivalents on the Property by August 1, 2008 and maintain those positions for the full term of this Agreement; and

**WHEREAS**, the retention, creation or transfer of 60 Job Equivalents at the Property within the City will promote economic development, stimulate commercial activity and enhance the tax base and economic vitality of the City; and

**WHEREAS**, the City has adopted programs for promoting economic development; and

**WHEREAS**, the City is authorized by TEX. LOC. GOV'T CODE §380.001 *et seq.* to provide economic development grants to promote local economic development and to stimulate business and commercial activity in the City; and

**WHEREAS**, the City has determined that making an economic development grant to the Company in accordance with the terms and conditions set forth in this Agreement will further the objectives of the City, will benefit the City and the City's inhabitants and will promote local economic development and stimulate business and commercial activity in the City;

**NOW THEREFORE**, in consideration of the foregoing and the premises, mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, hereby covenant and agree as follows:

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**Article I  
Definitions**

For purposes of this Agreement, each of the following terms shall have the meaning set forth herein unless the context clearly indicates otherwise:

"Commencement Date" shall mean the earlier of the date of occupancy of the Property by the Company or August 1, 2008, whichever occurs first.

"Effective Date" shall mean the last date on which all of the parties hereto have executed this Agreement.

"Event of Force Majeure" shall mean any contingency or cause beyond the reasonable control of a party including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, government or de facto governmental action (unless caused by the intentionally wrongful acts or omissions of the party), fires, explosions or floods, strikes, slowdowns or work stoppages any of which event(s) directly impact the Company's operations in the City.

"Job Equivalent" shall mean one or more Company job positions located at the Property which individually or when combined total 2080 hours (inclusive of holidays, vacation and sick leave) annually.

**Article II  
Term**

The term of this Agreement shall begin on the Commencement Date and continue until July 31, 2013, unless sooner terminated as provided herein.

**Article III  
Obligations of Company**

In consideration for the grant of public funds as set forth in Section 4.01 below, the Company agrees to the following:

- (a) Occupy not less than 25,000 square feet of office space on the Property on or before August 1, 2008;
- (b) Retain, create or transfer 60 Job Equivalents to the Property on or before August 1, 2008;
- (c) Maintain those Job Equivalents for the full term of this Agreement; and

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(d) Use reasonable efforts to place all Company-managed hotel room nights, related to the Company's business activities, at facilities located in the City of Plano.

#### **Article IV Economic Development Grant**

##### **4.01 Grant.**

(a) The City agrees to provide the Company a one-time cash grant of Ninety-Six Thousand Dollars (\$96,000.00) to assist in the transfer or addition of 60 new Job Equivalent positions to the Property. The Company agrees to maintain those Job Equivalents throughout the term of this Agreement as provided in Section 4.03 below.

(b) The City agrees to provide the Company a one-time cash grant of One Hundred - Fifty Thousand Dollars (\$150,000.00) for the occupancy of not less than 25,000 square feet of office space on the Property for the full term of this Agreement.

**4.02 Grant Payments.** Except as otherwise indicated, payment by the City under this Agreement shall be made within thirty (30) days after the Company verifies to the City on the Initial Certification attached hereto as Exhibit "A" that the Company has met its obligations as set forth in Article III (a) and (b) above.

##### **4.03 Refunds.**

(a) In the event the Company allows Job Equivalents at the Property to fall below 60 Job Equivalents for 180 consecutive days during the term of this Agreement, not the result of an Event of Force Majeure, the Company shall refund to the City an amount equal to Four Thousand One Hundred Dollars (\$4,100.00) for each Job Equivalent that falls below 60. For the purposes of determining whether the City is due a refund under this section, the Company's Chief Financial Officer shall certify to the City by January 31, 2009 and by January 31 of each year thereafter during the term of this agreement the actual number of Job Equivalents at the Property for the preceding calendar year using the Certificate Form attached as Exhibit "B". All refunds under this Agreement shall be due within 30 days of written demand for payment. Notwithstanding the foregoing, the Company shall never be required to refund to the City, in the aggregate, any amount in excess of the total grant amount set forth in Section 4.01.

(b) In the event the Company, at any time during the term of this Agreement, is convicted of a violation under 8 U.S.C. Section 1324a(f) regarding the unlawful employment of undocumented workers, it shall reimburse the City all grant funds paid pursuant to this Agreement together with interest charged from the date of payment of the funds at the statutory rate for delinquent taxes as determined by V.T.C.A., Tax Code § 33.01, but without the addition of penalty. Repayment of grant funds and interest shall be due not later than 120 days after the date the City notifies the Company of the violation.

**Article V  
Termination**

5.01 This Agreement terminates upon any one or more of the following:

- (a) By mutual written agreement of the parties;
- (b) Upon expiration of the term of this Agreement;

(c) By either party upon written notice to the other, if the other party defaults or breaches any of the terms or conditions of this Agreement and such default or breach is not cured within thirty (30) days after written notice thereof (provided that such 30 day period shall be extended if the default is of a nature that cannot reasonably be cured within such 30 day period and further provided that the remedy is being diligently pursued); and

(d) By either party upon written notice to the other if any subsequent federal or state legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal or unenforceable, provided, that such termination notice shall set forth an explanation of the terminating party's basis for termination under this subsection (d).

5.02 **Effect of Termination.** The rights, responsibilities and liabilities of the parties under this Agreement shall be extinguished upon the applicable effective date of termination of this Agreement, except for any obligations that accrue prior to such termination or as otherwise provided herein. All rights and obligations set forth above in this Section 5.02 shall survive the termination of this Agreement.

**Article VI  
Miscellaneous**

6.01 **Binding Agreement.** The terms and conditions of this Agreement are binding upon the successors and permitted assigns of the parties. This Agreement may not be assigned without the express written consent of the non-assigning party, except that the Company may assign this Agreement without obtaining the City's consent (a) to one of its affiliates, or (b) to any person or entity that directly or indirectly acquires, through merger, sale of stock, purchase or otherwise, all or substantially all of the assets of the Company.

6.02 **No Joint Venture.** It is acknowledged and agreed by the parties that the terms of this Agreement are not intended to and shall not be deemed to create a partnership or joint venture among the parties. Neither party shall have any authority to act on behalf of the other party under any circumstances by virtue of this Agreement.

6.03 **Authorization.** Each party represents that it has full capacity and authority to grant all rights and assume all obligations that are granted and assumed under this Agreement.

6.04 **Notice.** Any notice required or permitted to be delivered hereunder shall be deemed received three (3) days thereafter sent by United States Mail, postage prepaid, certified

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mail, return receipt requested, addressed to the party at the address set forth below (or such other address as such party may subsequently designate in writing) or on the day actually received if sent by courier or otherwise hand delivered.

If intended for the City:  
City of Plano, Texas  
Attention: Thomas H. Muehlenbeck  
City Manager  
1520 Avenue K  
P.O. Box 860358  
Plano, TX 75086-0358

With a copy to:  
City of Plano, Texas  
Attention: Diane Wetherbee  
City Attorney  
1520 Avenue K  
P. O. Box 860358  
Plano, TX 75086-0358

If intended for the Company before the Commencement Date:  
Glencoe Group Services Inc.  
Attention: President  
5080 Spectrum Drive, Suite 900 East,  
Addison, TX 75001  
With cc to: General Counsel

If intended for the Company after the Commencement Date:  
Glencoe Group Services Inc.  
Attention: President  
Three Legacy Town Center  
5801 Tennyson Parkway, Suite 600  
Plano, TX 75024  
With cc to: General Counsel

6.05 **Entire Agreement.** This Agreement is the entire Agreement between the parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written Agreement between the parties that in any manner relates to the subject matter of this Agreement.

6.06 **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of Texas, without giving effect to any conflicts of law rule or principle that might result in the application of the laws of another jurisdiction. Venue for any action concerning this Agreement, the transactions contemplated hereby or the liabilities or obligations imposed hereunder shall be in the State District Court of Collin County, Texas.

6.07 **Amendment.** This Agreement may only be amended by the mutual written agreement of the parties.

6.08 **Legal Construction.** In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

6.09 **Recitals.** The recitals to this Agreement are incorporated herein.

6.10 **Counterparts.** This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

6.11 **Survival of Covenants.** Any of the representations, warranties, covenants, and obligations of the parties, as well as any rights and benefits of the parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

6.12 **Dispute Resolution.** Any controversy or claim arising from or relating to this Agreement, or a breach thereof shall be subject to non-binding mediation, as a condition precedent to the institution of legal or equitable proceedings by any party. The parties shall endeavor to resolve their claims by mediation that, unless the parties mutually agree otherwise, shall be in accordance with the American Arbitration Association's Commercial Mediation Rules in effect at the time of mediation. Request for mediation shall be filed concurrently with the other party. Mediation shall proceed in advance of legal or equitable proceedings, which shall be stayed pending mediation for a period of sixty (60) days from the date of filing for mediation, unless stayed for a longer period of time by agreement of the parties. The party requesting the mediation shall bear all costs related to the mediation. The mediation shall be held in Collin County, Texas, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any Court having jurisdiction thereof.

EXECUTED on this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

ATTEST:

CITY OF PLANO, TEXAS, a home rule municipal corporation

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

By:

\_\_\_\_\_  
Thomas H. Muehlenbeck  
CITY MANAGER

APPROVED AS TO FORM:

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

ATTEST:

Glencoe Group Services Inc., a Delaware Corporation

\_\_\_\_\_

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

David A. Heatherly  
PRESIDENT

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**EXHIBIT "A"**

**CERTIFICATE OF COMPLIANCE**

I hereby certify that GLENCOE GROUP SERVICES INC. has occupied not less than 25,000 square feet of office space on the Property, has hired/transferred/retained 60 Job Equivalents to the Property, and is in compliance with each applicable term as set forth in Article III of the Agreement to Resolution No. \_\_\_\_\_ (R) as of \_\_\_\_\_, and is entitled to receive payment under the terms of that Agreement.

ATTEST:

Glencoe Group Services Inc., a Delaware Corporation

\_\_\_\_\_

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

Richard B. Primerano  
CHIEF FINANCIAL OFFICER

\_\_\_\_\_  
Date

NOTE:

This Certificate of Compliance should be mailed to:

City of Plano  
Finance Department  
P.O. Box 860358  
Plano, Texas 75086-0358

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**EXHIBIT "B"**

**CERTIFICATE OF COMPLIANCE**

I hereby certify that GLENCOE GROUP SERVICES INC., is in compliance with each applicable term as set forth in Article III of the Agreement to Resolution No. \_\_\_\_\_ (R) as of \_\_\_\_\_. The term of the Agreement is August 1, 2008 through July 31, 2013. "The number of new, transferred or retained Job Equivalents, calculated as set forth in the Agreement, and maintained pursuant to the Agreement since its inception has not fallen below 60 for more than 180 consecutive days and is \_\_\_\_\_ as of the date of this Certificate of Compliance." If the number herein reported is below the number required to be maintained pursuant the Agreement, I certify that the City of Plano has been refunded the appropriate amount as required by Section 4.03 of the Agreement. This form is due on January 31 of each year this Agreement is in force.

ATTEST:

GLENCOE GROUP SERVICES INC., a  
Delaware Corporation

\_\_\_\_\_

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

Richard B. Primerano  
CHIEF FINANCIAL OFFICER

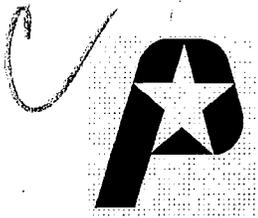
\_\_\_\_\_  
Date

NOTE:

This Certificate of Compliance should be mailed to:

City of Plano  
Finance Department  
P.O. Box 860358  
Plano, Texas 75086-0358

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**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget C.S.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:	<b>5/27/2008</b>		Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Finance		Initials	Date	
Department Head	John McGrane		Executive Director		
Dept Signature:	<i>[Signature]</i>		City Manager	<i>[Signature]</i>	<i>5/12/08</i>
Agenda Coordinator (include phone #): <b>Brianna Alvarado X7479</b>					

ACTION REQUESTED:     ORDINANCE     RESOLUTION     CHANGE ORDER     AGREEMENT  
 APPROVAL OF BID     AWARD OF CONTRACT     OTHER

**CAPTION**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT BY AND BETWEEN THE CITY OF PLANO, TEXAS AND ENSEMBLE STUDIOS/MICROSOFT; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.**

**FINANCIAL SUMMARY**

NOT APPLICABLE     OPERATING EXPENSE     REVENUE     CIP

FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	9,043,750	0	<b>9,043,750</b>
Amount Approved by Council	0	-1,548,904	-856,250	<b>-2,405,154</b>
This Item	0		-120,000	<b>-120,000</b>
<b>BALANCE</b>	<b>0</b>	<b>7,494,846</b>	<b>0</b>	<b>6,518,596</b>

FUND(S):

**COMMENTS:** The company agrees to occupying 51,776 of office space in a 103,476 square foot multi-tenant building located at the northeast corner of the Dallas North Tollway and Legacy. They are to maintain all 120 job equivalents on the property.

**SUMMARY OF ITEM**

A request by Ensemble Studios/Microsoft, a Washington Corporation, for an economic development incentive for the retention of 120 full time jobs.

List of Supporting Documents:  
Economic Development Incentive Agreement

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RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT BY AND BETWEEN THE CITY OF PLANO, TEXAS AND ENSEMBLE STUDIOS/MICROSOFT; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council has been presented a proposed Economic Development Incentive Agreement By and Between the City of Plano, Texas and Ensemble Studios/Microsoft, a Washington Corporation, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and,

**WHEREAS**, upon full review and consideration of the Agreement, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager or, in his absence, an Executive Director, shall be authorized to execute it on behalf of the City of Plano.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** The terms and conditions of the Agreement, having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interests of the City of Plano and its citizens, are hereby in all things approved.

**Section II.** The City Manager, or in his absence, an Executive Director, is hereby authorized to execute the Agreement and all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Agreement.

**Section III.** This Resolution shall become effective immediately upon its passage.

**DULY PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Pat Evans, MAYOR

ATTEST:

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

APPROVED AS TO FORM:

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

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**ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT**

This Economic Development Incentive Agreement ("Agreement") is made by and between the City of Plano, Texas (the "City"), and Ensemble Studios/Microsoft, a Washington Corporation, ("the Company"), acting by and through its respective authorized officers and representatives.

**WITNESSETH:**

**WHEREAS**, the Company is engaged in the business of video game development; and

**WHEREAS**, the Company has advised the City that a contributing factor that would induce the Company to relocate its business and commercial activities to the City, thereby generating additional local sales tax revenues and increasing ad valorem tax values for the City, would be an agreement by the City to provide an economic development grant to the Company; and

**WHEREAS**, Company agrees to occupy 51,776 square feet of office space located in a proposed 103,476 square foot multi-tenant, two-story mixed use building at the northeast corner of the Dallas North Tollway and Legacy Boulevard, Plano, Texas, (the "Property"); add business personal property improvements with a current taxable value of Four Million Four Hundred Thousand Dollars (\$4,400,000.00); and create or transfer 120 full time jobs from outside the City to the Property by October 1, 2008; and

**WHEREAS**, the investment in new personal property and the creation or transfer of 120 full time jobs by October 1, 2008 to the City of Plano will promote economic development, stimulate commercial activity and enhance the tax base and economic vitality of the City; and

**WHEREAS**, the City has adopted programs for promoting economic development; and

**WHEREAS**, the City is authorized by TEX. LOC. GOV'T CODE §380.001 *et seq.* to provide economic development grants to promote local economic development and to stimulate business and commercial activity in the City; and

**WHEREAS**, the City has determined that making an economic development grant to the Company in accordance with the terms and conditions set forth in this Agreement will further the objectives of the City, will benefit the City and the City's inhabitants and will promote local economic development and stimulate business and commercial activity in the City;

**NOW THEREFORE**, in consideration of the foregoing and the premises, mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, hereby covenant and agree as follows:

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**Article I  
Definitions**

For purposes of this Agreement, each of the following terms shall have the meaning set forth herein unless the context clearly indicates otherwise:

"Commencement Date" shall mean the earlier of the occupancy of the Property or October 1, 2008, whichever occurs first.

"Effective Date" shall mean the last date on which all of the parties hereto have executed this Agreement.

"Event of Force Majeure" shall mean any contingency or cause beyond the reasonable control of a party including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, government or de facto governmental action (unless caused by the intentionally wrongful acts or omissions of the party), fires, explosions or floods, strikes, slowdowns or work stoppages any of which event(s) directly impact the Company's operations in Plano.

"Job Equivalent" shall mean one or more Company job positions located at the Property which individually or when combined total 2080 hours annually.

**Article II  
Term**

The term of this Agreement shall begin on the Commencement Date and continue until December 31, 2014, unless sooner terminated as provided herein.

**Article III  
Obligations of Company**

In consideration for the grant of public funds as set forth in Section 4.01 below, the Company agrees to the following:

- (a) Occupy the "Property" on or before October 1, 2008
- (b) Add business personal property improvements on the Property with a current taxable value of Four Million Four Hundred Thousand Dollars (\$4,400,000.00) on or before October 1, 2008; and
- (c) Create or transfer 120 job equivalents from locations outside the City of Plano to the Property on or before October 1, 2008; and maintain these 120 job equivalents, respectively, during the term of this agreement.

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**Article IV  
Economic Development Grant**

4.01 **Grant.** The City agrees to provide the Company a one-time cash grant of One Hundred Twenty Thousand Dollars (\$120,000.00) to defray relocation expenses from Company's current offices to the Property and the creation or transfer of 120 full time positions from outside the City to the Property by October 1, 2008.

4.02 **Grant Payments.** Except as otherwise indicated, the cash grant shall be paid within thirty (30) days after the Company completes the real and personal property improvements to the Property and verifies to the City on the Initial Certification attached hereto as Exhibit "A" that it has met its obligations as set forth in Article III (a), (b) and (c) above.

4.03 **Refunds.** (a) In the event the Company allows created or transferred job equivalents at the Property to fall below 120 for 180 consecutive days during the term of this Agreement, not the result of an Event of Force Majeure, Company shall refund to City an amount equal to One Thousand Dollars (\$1,000.00) for each job equivalent that falls below 120. For the purposes of determining whether the City is due a refund under this section, the Company's Chief Financial Officer or other officer of equivalent authority shall certify to the City by January 31, 2009 and by January 31 of each year thereafter during the term of this agreement the actual number of full time job equivalents at the Property for the preceding calendar year using the Certificate Form attached as Exhibit "B". All refunds under this Agreement shall be due within 30 days of written demand for payment.

(b) In the event the Company, at any time during the term of this Agreement, is convicted of a violation under 8 U.S.C. Section 1324a(f) regarding the unlawful employment of undocumented workers, it shall reimburse the City all grant funds paid pursuant to this Agreement together with interest charged from the date of payment of the funds at the statutory rate for delinquent taxes as determined by V.T.C.A., Tax Code § 33.01, but without the addition of penalty. Repayment of grant funds and interest shall be due not later than 120 days after the date the City notifies the Company of the conviction.

**Article V  
Termination**

5.01 This Agreement terminates upon any one or more of the following:

- (a) By mutual written agreement of the parties;
- (b) Upon expiration of the Term;

(c) By either party, if the other party defaults or breaches any of the terms or conditions of this Agreement and such default or breach is not cured within sixty (60) days after written notice thereof (provided that such 60 day period shall be extended if the default is of a nature that cannot reasonably be cured within such 60 day period and further provided that the remedy is being diligently pursued); and

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(d) By either party if any subsequent federal or state legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal or unenforceable, provided, that such termination notice shall set forth an explanation of the terminating party's basis for termination under this subsection (d).

5.02 **Effect of Termination**. The rights, responsibilities and liabilities of the Parties under this Agreement shall be extinguished upon the applicable effective date of termination of this Agreement, except for any obligations that accrue prior to such termination or as otherwise provided herein. All rights and obligations set forth above shall survive the termination of this Agreement.

**Article VI  
Miscellaneous**

6.01 **Binding Agreement**. The terms and conditions of this Agreement are binding upon the successors and permitted assigns of the parties hereto. This Agreement may not be assigned without the express written consent of the non-assigning party, except that the Company may assign this Agreement without obtaining the City's consent (a) to one of its affiliates, or (b) to any person or entity that directly or indirectly acquires, through merger, sale of stock, purchase or otherwise, all or substantially all of the assets of the Company.

6.02 **No Joint Venture**. It is acknowledged and agreed by the parties that the terms hereof are not intended to and shall not be deemed to create a partnership or joint venture among the parties. Neither party shall have any authority to act on behalf of the other party under any circumstances by virtue of this Agreement.

6.03 **Authorization**. Each party represents that it has full capacity and authority to grant all rights and assume all obligations that are granted and assumed under this Agreement.

6.04 **Notice**. Any notice required or permitted to be delivered hereunder shall be deemed received three (3) days thereafter sent by United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the party at the address set forth below (or such other address as such party may subsequently designate in writing) or on the day actually received if sent by courier or otherwise hand delivered.

If intended for the City:  
City of Plano, Texas  
Attention: Thomas H. Muehlenbeck  
City Manager  
1520 Avenue K  
P.O. Box 860358  
Plano, TX 75086-0358

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With a copy to:  
City of Plano, Texas  
Attention: Diane Wetherbee  
City Attorney  
1520 Avenue K  
P. O. Box 860358  
Plano, TX 75086-0358

If intended for Company:  
Ensemble Studios/Microsoft  
Attention: Patrick Hudson  
10400 N. Central Expressway  
Dallas, Texas 75231

With a copy to:  
Ensemble Studios/Microsoft  
Attention: LCA  
Deputy General Counsel for Law and Corporate Affairs  
Entertainment and Devices Division  
One Microsoft Way  
Redmond, WA 98052

6.05 **Entire Agreement.** This Agreement is the entire Agreement between the parties with respect to the subject matter covered in this Agreement. There is no other oral or written Agreement between the parties that in any manner relates to the subject matter of this Agreement.

6.06 **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of Texas, without giving effect to any conflicts of law, rule, or principle that might result in the application of the laws of another jurisdiction. Venue for any action concerning this Agreement, the transactions contemplated hereby or the liabilities or obligations imposed hereunder shall be in the State District Court of Collin County, Texas.

6.07 **Amendment.** This Agreement may only be amended by the mutual written agreement of the parties.

6.08 **Legal Construction.** In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

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6.09 **Recitals.** The recitals to this Agreement are incorporated herein.

6.10 **Counterparts.** This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

6.11 **Survival of Covenants.** Any of the representations, warranties, covenants, and obligations of the parties, as well as any rights and benefits of the parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

6.12 **Dispute Resolution.** Any controversy or claim arising from or relating to this Agreement, or a breach thereof shall be subject to non-binding mediation, as a condition precedent to the institution of legal or equitable proceedings by any party. The parties shall endeavor to resolve their claims by mediation that, unless the parties mutually agree otherwise, shall be in accordance with the American Arbitration Association's Commercial Mediation Rules in effect at the time of mediation. Request for mediation shall be filed concurrently with the other party. Mediation shall proceed in advance of legal or equitable proceedings, which shall be stayed pending mediation for a period of sixty (60) days from the date of filing for mediation, unless stayed for a longer period of time by agreement of the parties. The party requesting the mediation shall bear all costs related to the mediation. The mediation shall be held in Collin County, Texas, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any Court having jurisdiction thereof.

**EXECUTED** on this \_\_\_\_\_ the day of \_\_\_\_\_, 2008.

ATTEST:

CITY OF PLANO, TEXAS, a home rule  
municipal corporation

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

By:

\_\_\_\_\_  
Thomas H. Muehlenbeck  
CITY MANAGER

APPROVED AS TO FORM:

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

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ATTEST:

ENSEMBLE STUDIOS/ MICROSOFT, a  
Washington Corporation

\_\_\_\_\_

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

**EXHIBIT "A"**

**INITIAL CERTIFICATE OF COMPLIANCE**

I hereby certify that Ensemble Studios/Microsoft has hired/retained \_\_\_\_\_ full time job equivalents and is in compliance with each applicable term as set forth in Article III of the Agreement to Resolution No. \_\_\_\_\_(R) as of \_\_\_\_\_, and is entitled to receive payment under the terms of that Agreement.

ATTEST:

ENSEMBLE STUDIOS/MICROSOFT,  
a Washington Corporation

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

Name:

Title:

\_\_\_\_\_  
Date

NOTE:

This Certificate of Compliance should be mailed to:

City of Plano  
Finance Department  
P.O. Box 860358  
Plano, Texas 75086-0358

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**EXHIBIT "B"**

**ANNUAL CERTIFICATE OF COMPLIANCE**

I hereby certify that Ensemble Studios/Microsoft is in compliance with each applicable term as set forth in the Agreement to Resolution No. \_\_\_\_\_(R) as of \_\_\_\_\_. Job Equivalentents on the Property have not fallen below \_\_\_\_\_ for any 180 consecutive day period since the commencement of this Agreement. If the number herein reported is below the number required to be maintained pursuant the Agreement I certify that the City of Plano has been refunded the appropriate amount as required by Section 4.03 of the Agreement. This form is due on January 31 of each year this Agreement is in force.

ATTEST:

ENSEMBLE STUDIOS/MICROSOFT,  
a Washington Corporation

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

Name:  
Title:

\_\_\_\_\_  
Date

NOTE:

This Certificate of Compliance should be mailed to:

City of Plano  
Finance Department  
P.O. Box 860358  
Plano, Texas 75086-0358

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**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget <i>C.S.</i>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> Not Applicable
Council Meeting Date:	<b>5/27/08</b>		Reviewed by Legal <i>MSJ</i>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Not Applicable
Department:	Finance		Initials	Date
Department Head	John McGrane		Executive Director	
Dept Signature:	<i>John McGrane</i>		City Manager	<i>John</i> 5/20/08
Agenda Coordinator (include phone #): <b>Brianna Alvarado 972-941-7479</b>				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input checked="" type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
<b>CAPTION</b>				
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF A BACK-UP DEPOSITORY CONTRACT BY AND BETWEEN WELLS FARGO BANK AND THE CITY OF PLANO; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.				
<b>FINANCIAL SUMMARY</b>				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(s): <b>N/A</b>				
COMMENTS: None				
<b>SUMMARY OF ITEM</b>				
As part of the Finance Department's Disaster Recovery and Business Continuity Plan, this Resolution will establish a means for a Back-up Depository Banking relationship in the unlikely event that the present Depository Bank is unable to continue offering depository services, as a result of a catastrophic event, e.g. Bird Flu.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF A BACK-UP DEPOSITORY CONTRACT BY AND BETWEEN WELLS FARGO BANK AND THE CITY OF PLANO; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has been presented a proposed Back-up Depository Contract for back-up depository services between Wells Fargo Bank and the City of Plano, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and,

WHEREAS, upon full review and consideration of the Agreement, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager or, in his absence, an Executive Director, shall be authorized to execute it on behalf of the City of Plano.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. The terms and conditions of the Agreement, having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interests of the City of Plano and its citizens, are hereby in all things approved.

Section II. The City Manager, or in his absence, an Executive Director, is hereby authorized to execute the Agreement and all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Agreement.

Section III. This Resolution shall become effective immediately upon its passage.

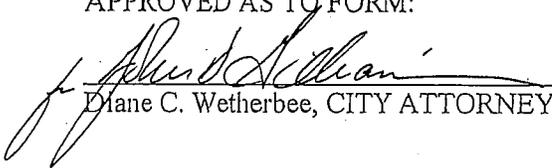
DULY PASSED AND APPROVED this the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Pat Evans, MAYOR

ATTEST:

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

APPROVED AS TO FORM:

  
Diane C. Wetherbee, CITY ATTORNEY

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Exhibit "A"

May Be Viewed in the Finance Department



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> Not Applicable
Council Meeting Date: <b>5/27/08</b>		Reviewed by Legal <i>WS</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Sustainability & Environmental Services		Initials	Date
Department Head	Nancy Nevil		Executive Director	<i>RJA</i> 5-19-08
Dept Signature:	<i>Nancy Nevil</i>		City Manager	<i>RJA</i> 5/19/08
Agenda Coordinator (include phone #): <i>Rita Keys 4393</i>				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input checked="" type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS APPROVING THE TERMS AND CONDITIONS OF AN INTERLOCAL COOPERATION AGREEMENT BY AND BETWEEN THE CITY OF PLANO, TEXAS AND THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS PROVIDING TERMS AND CONDITIONS FOR THE FUNDING OF A RECYCLEBANK PILOT PROGRAM; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR AND PROVIDING AN EFFECTIVE DATE.**

**FINANCIAL SUMMARY**

<input type="checkbox"/> NOT APPLICABLE	<input type="checkbox"/> OPERATING EXPENSE	<input checked="" type="checkbox"/> REVENUE	<input type="checkbox"/> CIP	
FISCAL YEAR: <b>08-09</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	58,995	<b>58,995</b>
BALANCE	0	0	58,995	<b>58,995</b>

**FUND(S): SUSTAINABILITY & ENVIRONMENTAL SERVICES DEPARTMENT**

**COMMENTS:** The North Central Texas Council of Governments (NCTCOG) grant contract will provide funding in the amount of \$58,995 to cover expenses related to the RecycleBank Pilot Program.

**STRATEGIC PLAN GOAL:** This items relates to the City's Goals of "Service Excellence" and the "Premier City for Families."

**SUMMARY OF ITEM**

Project funding will provide for the implementation of a RecycleBank Pilot Program for 10,000 homes representing culturally diverse and various socio-economic neighborhoods to gauge the effectiveness of this innovative and creative approach to increasing participation in residential recycling collection.

List of Supporting Documents:  
A copy of the NCTCOG application is attached as Exhibit "A".

Other Departments, Boards, Commissions or Agencies

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS APPROVING THE TERMS AND CONDITIONS OF AN INTERLOCAL COOPERATION AGREEMENT BY AND BETWEEN THE CITY OF PLANO, TEXAS AND THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS PROVIDING TERMS AND CONDITIONS FOR THE FUNDING OF A RECYCLEBANK PILOT PROGRAM; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, authorizes governmental entities to contract with each other to perform governmental functions and services under the terms thereof; and

**WHEREAS**, the City Council has been presented a proposed Interlocal Cooperation Agreement by and between the City of Plano, Texas and the North Central Texas Council of Governments (NCTCOG), providing terms and conditions for a RecycleBank Pilot Program to cover costs of implementing a program for 10,000 homes representing culturally diverse and various socio-economic neighborhoods to gauge the effectiveness of this innovative and creative approach to increasing participation in residential recycling collection; a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and

**WHEREAS**, the City has qualified to receive grant funding for this Program from NCTCOG and is of the opinion that utilizing such funding will provide support for the RecycleBank Pilot Program; and

**WHEREAS**, upon full review and consideration of the Agreement, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager, or in his absence, an Executive Director, should be authorized to execute it on behalf of the City of Plano.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS:**

**Section I.** The terms and conditions of the Agreement, having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interest of the City of Plano and its citizens are hereby in all things approved.

**Section II.** The City Manager or, in his absence, an Executive Director, is hereby authorized to execute the Agreement and all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Agreement.

**Section III.** This Resolution shall become effective immediately upon its passage.

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**DULY PASSED AND APPROVED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
**PAT EVANS, MAYOR**

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane Wetherbee, CITY ATTORNEY

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North Central Texas Council of Governments

**FY2009 SOLID WASTE IMPLEMENTATION PROJECT APPLICATION**

**FORM 1: APPLICANT AND GRANT PROJECT INFORMATION**

<b>1. Project Applicant Information</b>	
Local Government: City of Plano	Project Contact Name: Kim Soto
Complete Mailing Address with zip code: P.O. Box 860358, Plano, TX 75086-0358	Telephone Number: 972-769-4343
Fax Number: 972-769-4219	Email Address: kims@plano.gov

<b>2. Project Title with a single sentence description of what project funding will cover:</b>
<b>Project Title:</b> RecycleBank Pilot Program <b>Description:</b> This project will cover the costs of implementing a pilot RecycleBank Program for 10,000 homes representing culturally diverse and various socio-economic neighborhoods to gauge the effectiveness of this innovative and creative approach to increasing participation in residential recycling collection.

<b>3. General Project Information: (up to 10 points)</b>
<p>a. Please check only <u>one</u> goal of the three <i>Regional Solid Waste Management Plan</i> goals, and indicate the specific objective from the <i>Regional Plan</i> with its action recommendation to be addressed. This information must be taken from the <i>Regional Plan</i>.</p> <p><input checked="" type="checkbox"/> Time to Recycle Goal  <input type="checkbox"/> Stop Illegal Dumping Goal  <input type="checkbox"/> Assuring Capacity for Trash Goal</p> <p>Identify the Specific Objective (taken directly from the <i>Regional Plan</i>) to be undertaken:  <b>Objective: Increase citizen participation in reuse and recycling of residential waste through innovative programs.</b></p> <p>Action Recommendation (taken directly from the <i>Regional Plan</i>):                  Action Recommendation: Develop guidelines for municipalities to use in contracting recycling services that would provide greater incentive for citizen participation in and contractor promotion of the recycling program.</p>

<b>b. Amount of Grant Funding Requested (minimum \$5,000):</b> <u>\$58,995</u>
--

<b>4. Authorized signature</b> (signatory must have contract signing authority for the Applicant):	
<u>Nancy Nevil</u> Signature	<u>Director, Sustainability &amp; Environmental Services</u> Title
<u>Nancy Nevil</u> Print name	<u>May 15, 2008</u> Date

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**NOTE:** Letters stating another local government, private service provider or non-profit agency are partnering with the Applicant will be accepted.

**PLEASE DO NOT INCLUDE MAPS, PHOTOGRAPHS, PRODUCT SPECIFICATIONS, LETTERS OF SUPPORT OR ANY OTHER DOCUMENTATION NOT REQUESTED. INCLUSION OF SUCH MATERIAL or NOT INCLUDING ALL SECTIONS OF THIS APPLICATION MAY RESULT IN REMOVAL OF YOUR REQUEST FROM COMPETITION.**

## FORM 2: CERTIFICATIONS AND ASSURANCES

### I. Certifications

In order to receive grant funds under this program, the proposed project must conform to the *Regional Solid Waste Management Plan* to ensure that these provisions are met. By signing this Application, the person acting on behalf of the Applicant makes the certifications listed below.

#### 1. **Authority to Sign Application**

The person signing this Application hereby certifies that he/she is the official contact regarding this Application and has authority from the Applicant to sign the Application and that such authority will bind the Applicant in subsequent agreements.

#### 2. **Application Contains No False Statements**

The Applicant certifies that this Application has no false statements and that the Applicant understands that signing this Application with a false statement is a material breach of contract and shall void the submitted Application and any resulting contracts. The Applicant understands that NCTCOG will not accept any amendment, revision, addition or alteration to this Application after the final date and time for submission.

#### 4. **Governmental Status**

The Applicant certifies that it is located in the State of Texas and fits within one of the governmental classifications listed below, as determined under state law:

- a. City;
- b. County;
- c. Public school districts or independent school districts (not including Universities or post secondary educational institutions);
- d. Other general and special law district with the authority and responsibility for water quality protection or municipal solid waste management, including river authorities; and,
- e. Council of Governments.

#### 5. **Solid Waste Fee Payments**

The Applicant certifies that it is not delinquent in payment of solid waste disposal fees owed to the State.

#### 6. **Conformance to Standards**

The Applicant certifies to the best of their knowledge and ability that the proposed project, including all activities in the proposed Scope of Work and proposed expenditures, conforms to eligible category standards and allowable expense and funding standards as set forth in the Request for Applications.

#### 7. **Consideration of Private Industry**

The following certification applies **only** if the project is under one of the following funding categories:

- Source Reduction and Recycling
- Citizens' Collection Stations and "Small" Registered Transfer Stations
- A demonstration project under the Educational and Training Projects category

The Applicant certifies that it has notified private service providers in accordance with the requirements set forth in the Request for Applications and the instructions provided with this application form. The Applicant further certifies to the best of their knowledge and ability that the proposed project **will promote cooperation** between public and private entities, is **not** otherwise readily available, and will **not** create a competitive advantage over a private industry that provides recycling or solid waste services.

#### 8. **Consistency with the *Regional Solid Waste Management Plan***

The Applicant certifies to the best of their knowledge and ability that the proposed project is consistent with applicable goals, objectives, and action recommendations of the *Regional Solid Waste Management Plan*.

#### 10. **Technical Feasibility**

The Applicant certifies that he/she has carefully reviewed its Scope of Work and that to the best of their knowledge and ability all activities are technically feasible and can be satisfactorily completed within the grant period as set forth in the Request for Applications.

**11. Costs Reasonable and Necessary**

The Applicant certifies to the best of their knowledge and ability that the proposed project activities in the Scope of Work and the expenses outlined in the Budget are reasonable and necessary to accomplish the project objectives, and the proposed expenses are consistent with the costs of comparable goods and services.

**12. Certification by Law Enforcement Programs**

As provided by the General Appropriations Act (80<sup>th</sup> Leg. R.S.), funds may not be expended to any law enforcement agency regulated by Chapter 1701, Texas Occupations Code, unless: (a) the law enforcement agency is in compliance with all rules on Law Enforcement Standards and Education; or (b) the Commission on Law Enforcement Officer Standards and Education certifies that the requesting agency is in the process of achieving compliance with such rules.

**II. Assurances**

If the Application is approved for funding, the grant funds will be awarded through an Interlocal Agreement contract between the Applicant and NCTCOG. This Agreement will contain a number of standards, requirements, and processes that must be complied with as a condition of receiving the funding. In order to ensure an understanding by the Applicant of some of the main conditions that will be included in the Interlocal Agreement, the Applicant is asked to review the following assurances. By signing this Application, the person acting on behalf of the Applicant indicates their understanding of these conditions and provides assurances that these and other conditions set forth in the Interlocal Agreement will be adhered to if funding is awarded.

**1. Compliance with Standard Pertaining to Real Property and Equipment**

Applicant provides assurances that, if funded, the Applicant will comply with the contract provisions pertaining to title and to management of real property and equipment. The contract will contain obligations and conditions regarding the use of the equipment and/or facilities (the "property") acquired under the agreement. Included in the provisions are obligations to provide adequate maintenance and conduct physical property inventories; restrictions and conditions on the use, replacement, sale, or transfer of the property; and obligations to continue to adhere to the provisions that grant funds not be used to create a competitive advantage over private industry, in the use or transfer of the property.

**2. Participation in NCTCOG/TCEQ Recycling Surveys and Reporting**

Applicant provides assurances that, if funded, the Applicant will respond to annual recycling program surveys and/or other requests from NCTCOG or the Texas Commission on Environmental Quality for information on municipal solid waste management activities.

**3. Compliance with Progress and Results Reporting Requirements**

Applicant provides assurances that, if funded, the Applicant will comply with requirements for: reporting on the progress of the project tasks and deliverables; documenting the results of the project and providing those results to the NCTCOG on a schedule established by the NCTCOG, and additionally, to continue to document the results of the project activities for the life of the project; and to provide the NCTCOG with a follow-up results report approximately one year after the end of the grant term.

**4. Financial Management**

Applicant provides assurances that, if funded, the Applicant will comply with contract provisions and requirements necessary to ensure that expenses are reasonable and necessary, and to adhere to financial administration and reimbursement procedures and provide financial reports on a schedule established by NCTCOG.

**5. Compliance with Americans with Disabilities Act**

Applicant provides assurances that, if funded, the Applicant will comply with all the applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§12101-12213 (Pamph.1995).

**6. Compliance with the Single Audit Act**

Applicant provides assurances that, if funded, the Applicant will comply with the Single Audit Act as defined by the Uniform Grant Management Standards (UGMS), January 1998.

**7. Compliance with Program and Fiscal Monitoring**

Applicant provides assurances that, if funded, the Applicant will comply with program and fiscal monitoring provisions of the contract, including: providing additional reports or information as may be requested to adequately track the progress of the project; and allowing site visits to evaluate the progress of the project and to view any grant-funded equipment or facility.

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Please sign the following if your local government agrees to comply with these Certifications and Assurances.

Signature: <u>Nancy Nevil</u>
Typed/Printed name: <u>Nancy Nevil</u>
Title: <u>Director, Sustainability &amp; Environmental Services</u>
Local Government: <u>City of Plano</u>

**FORM 3: AUTHORIZED REPRESENTATIVES**

The Applicant hereby designates the individual(s) named below as the person/persons authorized to receive direction from NCTCOG, to manage the work being performed, and to act on behalf of the Applicant for the purposes shown:

- 1. Authorized Project Representative.** The following person is authorized to receive direction, manage work performed, sign required reports, and otherwise act on behalf of the Applicant.

Signature: <u>Kim Soto</u>
Printed Name: <u>Kim Soto</u>
Title: <u>Environmental Education Coordinator</u>

- 2. Authorized Financial Representative.** In addition to the authorized project representative, the following person is authorized to act on behalf of the Applicant in all financial and fiscal matters, including signing financial reports and requests for reimbursement.

Signature: <u>Nancy Nevil</u>
Printed Name: <u>Nancy Nevil</u>
Title: <u>Director, Sustainability &amp; Environmental Services</u>

**FORM 4: RESOLUTIONS OR COURT ORDERS**

The governing body of the Project Applicant must approve a resolution or court order authorizing the Project Application submittal as well as receipt of funding if the project is approved. A copy of this resolution or court order must be submitted to NCTCOG by **Friday, May 30, 2008**.

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**FORM 5. PROJECT DESCRIPTION**(Up to 30 points)**GOAL 1: Time to Recycle**

**Objective:** Increase citizen participation in reuse and recycling of residential waste through innovative programs.

**Action Recommendations:** Develop guidelines for municipalities to use in contracting recycling services that would provide greater incentive for citizen participation in and contractor promotion of the recycling program.

The City of Plano Sustainability & Environmental Services Department (SES) requests \$58,995 in grant funds to contract with RecycleBank for a pilot program for 10,000 homes representing culturally diverse and various socio-economic populations. The intent of the pilot is to determine the effectiveness of an awards program in each of the selected neighborhoods, particularly in under-performing neighborhoods. Funds are also included to develop education and outreach campaign including door-to-door surveying and promotion.

RecycleBank is a rewards and loyalty program that inspires people to 'live green' and become smarter consumers by financially rewarding them for recycling at home. The program consists of the following services:

- 1. RecycleBank Points and Account:** Each household will be able to earn RecycleBank points that can be redeemed for hundreds of dollars worth of products and rewards. RecycleBank will provide every household with a personalized RecycleBank account where they can track their weekly, monthly and yearly participation, environmental footprint, access community and educational information and redeem their points. RecycleBank will provide the City of Plano residents with reward fulfillment services and management through mail, email and phone
- 2. Environmental Footprint:** Each household will be able to track the community environmental footprint in their RecycleBank account. They will be able to view the amount of trees and oil their neighborhood has saved by recycling as well as other environmental metrics.
- 3. Reward Partners:** Households will be awarded points based upon the total weight of recyclables collected in their neighborhood, divided by number of participating households. Every household will have access to local, regional and national partners where they can spend their RecycleBank Points. (visit [www.RecycleBank.com](http://www.RecycleBank.com)). Plano will identify local businesses that would be frequented by participants in the pilot program.
- 4. Logistics/Rfid tags:** RecycleBank will retrofit the RFID technology onto the carts in the pilot program. RecycleBank will maintain the technology on the carts as needed.
- 5. Truck Equipment:** RecycleBank will provide, retrofit and maintain a system comprised of RFID reader and on-board computer.
- 6. Reporting:** RecycleBank shall provide the City of Plano with:
  - a. Weekly reports on recycling participation by street, neighborhood, route and zip code
  - b. Weekly reports on collection route efficiency
- 7. Customer Service:** RecycleBank will field all RecycleBank-related toll-free calls and email inquiries from City residents.

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**8. Community Outreach:** Education, outreach and promotion for the RecycleBank Pilot program will include four basic components.

- **Direct mailings and roll-cart stickers.** Mailings will include postcards to introduce and promote the program and informational materials created by and provided by RecycleBank. At mid-point of the pilot program, there will also be an informational sticker placed on the roll-carts. Efforts will be made to provide informational materials in the residents' first language
- **Outreach through elementary schools in participating route areas.** The ten routes targeted for this pilot are serviced by 7 different PISD elementary schools. The SES Environmental Education & Community Outreach division has an existing relationship with PISD schools and currently offers educational programs related to the curriculum and to after-school environmental groups. With the pilot program, special visits will be made to the schools to re-enforce the recycling messages. Targeting the elementary schools for this program is an efficient way to reach large numbers of the population in a specific neighborhood. Visits will be made to the schools at the beginning, middle and end of the pilot program. Presentations will focus on changing waste diversion behaviors in general and provide specific information and incentives to participate in the RecycleBank program.
- **Door-to-door survey.** We will use canvassers to reach out to the residents in five of the targeted route areas. The canvassers will perform an initial survey at the beginning of the pilot to help determine the barriers to recycling behaviors. Because we are targeting 5 culturally diverse areas, we are anticipating that the results of the surveys will vary from one area of town to another. By using the door-to-door approach, we hope to add a human element to the program, overcome cultural and language barriers and learn specifically from the identified groups what sort of message and approach will have the biggest impact on their behaviors. Historically, Plano has had a homogeneous population, but this has changed quickly in recent years. Our data indicates that the Hispanic and Asian populations have lower recycling rates and we would like to learn more about the reasons and to address them directly. We hope that by employing short-term contract workers, with appropriate language skills, we can reach out to these populations more effectively. Nearly 4,000 of the residents participating in the pilot program will be Hispanic or Asian.
- **Door-to-door canvassing.** After the completion of the survey and analyzing the data, the appropriate message will be created and the door-to-door canvassers will hand deliver educational information regarding the RecycleBank program to these neighborhoods. The canvassers will deliver written information, explain how single-stream recycling works and explain the RecycleBank incentives. Often one of the biggest barriers to recycling is not knowing what to put in the recycle bin. By face-to-face contact and a conversation with a real person, we will be able to ensure that these residents will have a more clear understanding of what can be recycled and how they do it. When the canvassers visit these homes they will be able to promote other waste diversion programs, including yard trimmings and HHW.

**9. Economics:** The cost of the pilot program is \$.60 per home/month for a total of \$36,000. The duration of the pilot is six months. In addition, funds totaling \$22,995 will be used to mail RecycleBank communication materials and to develop and implement promotional and educational activities targeted at the Hispanic and Asian neighborhoods.

Effectiveness of the public education campaign will be measured by increased recycling rates and participation.

**FORM 5a. PROJECT SUSTAINABILITY**(Up to **10** points)

The SESD is including a supplement in the 2009-10 budget to implement the program city-wide if the RecycleBank program is successful in increasing recycling rates by 200 lbs. per home.

SESD has successfully managed numerous grants in previous years, always maximizing the value of grant monies awarded. Furthermore, EWSD has continued to expand both residential and commercial waste diversion and recycling programs through cost-effective and cutting edge technology approaches, while sustaining all grant funded programs as shown by some of the following examples:

- 2006 Green Living in Plano Residential Education Campaign Grant – funds used to cover creative and production costs for the Live Green in Plano education campaign and development and implementation of the Live Green in Plano Expo. The SESD 2007-08 budget allocated additional funds totaling \$160,466 to support Live Green in Plano.
- 2006 Green Living Volunteer Corps Development Program Grant – funds used to hire Volunteer Coordinator to develop a resident's Live Green in Plano Volunteer Corp. This position was approved as a full-time position in the SESD 2007-08 budget.
- 2005 Greening Plano's Outdoor Venues – funds used to implement recycling programs through our Web site and funded a coordinator for nine months. This position was approved as a full-time position in July 2005. The SESD 2007-08 budget includes an expansion of this program to include the purchase and installation of 126 additional recycling containers at five park locations.
- Household Hazardous Waste Program – start-up cost for HHW Reuse Center. Program served as a model for regional and has been expanded to accept HHW from City of Allen.
- Commercial Waste Reduction Program – grant funded part-time coordinator who was hired full-time and the City has since added a supervisor and two full-time coordinators to promote this program.

We are providing \$16,111 of in-kind services towards this project.

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## FORM 6. PROJECT WORK PROGRAM AND TIMELINE

(Up to **25** points)

- |  |                             |
|--|-----------------------------|
| 1. <u>Interlocal agreement approved</u>  | September 2008              |
| 2. <u>Contractual Agreement with RecycleBank (Director)</u>  | September 2008              |
| 3. <u>Identify Pilot Routes</u>  | September 2008              |
| 4. <u>Identify local reward partners</u>   | October 2008                |
| 5. <u>Retrofit the RFID technology onto existing carts in designated routes</u>                            | November 2008               |
| 6. <u>Retrofit trucks with RFID reader and on-board computer</u>   | November 2008               |
| 7. <u>Research and Focus Groups</u>  | October-November 2008       |
| a. Develop instrument to survey identified population/ neighborhoods                                       | September 2008              |
| b. Identify and hire contract employees for initial survey of participating neighborhoods                  | October 2008                |
| c. Analyze and interpret survey  | October 2008                |
| 8. <u>Community partners</u>   | October 2008-June 2009      |
| a. Identify community partners (businesses, schools, civic groups, sports teams, HOAs, police departments) | October 2008                |
| b. Promote program to community partners   | October 2008                |
| c. Confirm agreement with community partners to promote and support  | November 2008               |
| d. Promote campaign at local businesses and civic and social events  | November 2008 - March 2009  |
| 9. <u>Develop Public Awareness Campaign Material</u>   | November 2008 - June 2009   |
| a. Develop message   | November 2008               |
| b. Develop postcards for initial mailing   | December 2008               |
| c. Design and produce signs, banners, and informational tents  | December 2008               |
| d. Develop stickers to be placed on recycling roll carts   | February 2009               |
| e. Develop postcards for final mailing   | March 2009                  |
| 10. <u>Implement Public Awareness Campaign</u>   | January 2009-March 2009     |
| a. Mail postcards to identified residents  | January 2009                |
| b. Display banners and signs in identified areas   | January 2009                |
| c. Place stickers on recycling carts in pilot program  | March 2009                  |
| d. Mail postcards to residents in pilot program  | April 2009                  |
| 11. <u>Door-to-Door Education Campaign</u>   | November 2008-February 2009 |
| a. Identify content for door-to-door campaign  | November 2008               |
| b. Identify and hire contract employees for the door-to-door campaign                                      | December 2008               |
| c. Implement the program   | January 2008                |
| d. Track results, comparing residents contacted in door-to-door campaign vs. residents receiving postcard  | January 2009-March 2009     |
| 12. <u>Outreach Program Through Elementary Schools</u>   | October 2008-May 2009       |
| a. Schedule 3 educational visits at 7 schools in target neighborhoods                                      | October 2008                |

- b. Initial visits completed November-December 2008
  - c. Second visit completed February 2009
  - d. Third and final visit completed May 2009
13. Collect, track and record participation and volumes January 2009-June 2009
14. Prepare final report and prepare cost/benefit analysis July 2009

**TOTAL CRITERIA SCORE = 100 POINTS MAXIMUM**

**POSSIBLE EXTRA POINTS**

1. Local government applying first time: 5 extra points  
*If your local government has not applied for solid waste implementation funds since this program began in 1996, please indicate this below.*  
  
Not applicable
2. Local government applying to start a recycling program not currently in place: up to 10 extra points  
*Acknowledge that your local government seeks funding to begin some type of recycling program (residential, industrial/commercial/institutional, etc) that is not provided within your jurisdiction at this time.*  
  
Not applicable

**POSSIBLE TOTAL OVERALL SCORE = 115 points maximum**

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**7. PROJECT BUDGET SUMMARY**

(up to **25** points)

Provide a detailed explanation of the costs associated with the proposed project. Offer a breakdown of the total amount of funding being requested for the proposed project. The expenses must be consistent with the category expense standards provided in the Request for Applications. Complete any of the detailed budget forms which are applicable to your proposed budget.

Budget Category	Grant Funding Amount Sought <i>Please round costs to the nearest dollar.</i>
1. Personnel/Salaries	\$
2. Fringe Benefits	\$
3. Travel	\$ 385
4. Supplies (general office supplies)	\$
5. Equipment (unit cost of \$5,000 or more)	\$
6. Construction	\$
7. Contractual (other than construction costs)	\$43,500
8. Other	\$15,110
<b>9. Total Direct Charges (sum of 1-8)</b>	<b>\$58,995</b>
10. Indirect Charges*	\$
<b>11. Total (sum of 9 - 10)</b>	<b>\$58,995</b>

12. Fringe Benefit Rate:	_____ %	
13. Indirect Cost Rate:	_____ %	

Identify, in detail, each budget category to which your indirect cost rate applies and explain any special conditions under which the rate will be applied:

- 
- 

\*In accordance with the UGMS, indirect charges may be authorized if the Applicant has a negotiated indirect cost rate agreement signed within the past 24 months by a federal cognizant agency or state single audit coordinating agency. Alternatively, the Applicant may be authorized to recover up to 10% of direct salary and wage costs (excluding overtime, shift premiums, and fringe benefits) as indirect costs, subject to adequate documentation. If your local government has an approved cost allocation plan, please enclose documentation of your approved indirect rate.

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**Matching Funds Contributions: \$ 16,111**

Local match through cash or in-kind services is encouraged.

Please explain in separate line items the detail of any matching funds or contributions to be provided by the applicant. In-kind services should relate only to staff or services directly involved with your proposed project. Describe the relative importance or effort the local contribution will have in relationship to the entire project. **This information will be used in contracting with successful projects and will be tracked for proper payment.**

- Environmental Education Coordinator 213 hours @ \$20/ hour= \$4260
- Environmental Waste Services Supervisors 100 hours @ \$25/ hour= \$2500
- Environmental Waste Services Manager 20 hours @ \$36= \$720
- Sustainability Volunteer Coordinator 46 hours @ \$21/ hour= \$966
- Office Supplies (paper, printer ink, pens) - \$510
- Mileage for EEC - \$231
- 5000 ReUsers Coloring Book (111/elem school in PISD) @\$.50 each - \$2500
- 100 copies Recycle by Gail Gibbons (giveaway for schools) @ \$7.99 each - \$799
- 122 Notebooks - \$375
- Promotional Items (\$.30/ household) - \$3000
- Shipping- \$250

**Please complete any of the following detailed budget forms that are applicable to your budget.**

**Form 7a - Detailed Personnel/Fringe/In-direct Charges Budget: Total \$ \_\_\_\_\_**

This budget information should be completed if any expenses are entered for Personnel (Line 1), Fringe Benefits (Line 2) and/or In-direct Charges (Line 10) of your Project Budget Summary. In the space below, list the names and titles of individuals whose salaries will be paid for in all or in part from project funds. Also, indicate if funds are for a new or existing employee (attach additional sheets if necessary).

Employee name \_\_\_\_\_  
 Title \_\_\_\_\_  
 Salary \$ \_\_\_\_\_

Employee name \_\_\_\_\_  
 Title \_\_\_\_\_  
 Salary \$ \_\_\_\_\_

Employee name \_\_\_\_\_  
 Title \_\_\_\_\_  
 Salary \$ \_\_\_\_\_

**TOTAL PERSONNEL/FRINGE/IN-DIRECT CHARGES: \$ \_\_\_\_\_**

If your budget lists fringe benefits (Line 2) and/or in-direct costs (Line 10), please provide the following:

- Fringe benefit rate: \_\_\_\_\_%
- In-direct charge rate\*: \_\_\_\_\_%

\*In accordance with the UGMS, indirect charges may be authorized if the applicant has a negotiated indirect cost rate agreement signed within the past 24 months by a federal cognizant agency or state single audit coordinating agency. The applicant may be authorized to recover up to 10% of direct salary and wage costs (excluding overtime, shift premiums, and fringe benefits) as indirect costs, subject to adequate documentation. If you have an approved cost allocation plan, please enclose documentation of your approved indirect rate.

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<b>Form 7b - Detailed Travel Budget:</b>	<b>Total \$ 385</b>
<p>This budget section should be completed if any expenses are entered for Travel (Line 3) of your Project Budget Summary. In-state travel expenses directly related to the conduct of the funded project may be authorized. Please describe below the types of travel expenses (state rate mileage, meals, airfare, hotel, etc.) expected, conference/workshop names if known, and purpose for travel. For Registration Fees, see "Other" Detailed Budget page.</p>	
<p>Purpose of travel: Mileage reimbursement for canvassing target neighborhoods to educate residents door-to-door (770 miles x \$.50/mile) - \$385</p>	
<p><b>TOTAL TRAVEL COSTS: \$ 385</b></p>	

<b>Form 7c - Detailed Supply Budget:</b>	<b>Total \$</b>
<p>This budget section should be completed if any expenses are entered for General Office Supplies (Line 4) of your Project Budget Summary. Supplies are consumable office items that generally have a useful life of less than one year and have a unit cost of less than \$1,000. Expenses for food and beverages are not allowable. Please describe below the general office supplies expenses you intend to purchase with project funding; attach additional sheets if necessary.</p>	
<u>General supplies</u>	<u>Costs</u>
<p><b>TOTAL SUPPLIES: \$</b></p>	

<b>Form 7d - Detailed Equipment Budget:</b>	<b>Total \$ _____</b>
<p>This budget section should be completed if any expenses are entered for Equipment (Line 5) of your Project Budget Summary. Equipment expenses include non-construction related, tangible, personal property having a unit acquisition cost of \$5,000 or more (including freight and set-up costs) with an estimated useful life over one year. Please describe below the equipment expenses you intend to purchase with project funding, providing as many details as possible at this time.</p>	
<u>Equipment (description, type, model, etc.)</u>	<u># of units</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
<p><b>TOTAL EQUIPMENT: \$ _____</b></p>	

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<b>Form 7e - Detailed Construction Budget:</b>	<b>Total \$ _____</b>
<b>(All construction expenses must be pre-approved by NCTCOG.)</b>	
<small>This budget section should be completed if any expenses are entered for Construction (Line 6) of your Project Budget Summary. Construction expenses include the cost of planning the project, materials and labor, cost of equipment attached to the permanent structure and any sub-contracts performed as part of the construction. All local government municipal laws and regulations including USMS for bidding and contracting for services must be followed. Please itemize below the construction expenses associated with the proposed project, providing as many details as possible at this time.</small>	
<b><u>Construction (and related expenses)</u></b>	<b><u>Costs</u></b>
	\$ _____
	\$ _____
	\$ _____
	\$ _____
	\$ _____
	\$ _____
<b>TOTAL CONSTRUCTION: \$ _____</b>	

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<b>Form 7f - Detailed Contractual Budget:</b>		<b>Total \$ 43,500</b>
<b>(All contractual expenses must be pre-approved by NCTCOG.)</b>		
<p>This budget section should be completed if any expenses are entered for Contractual (Line 7) of your Project Budget Summary. Expenses include the cost of professional services or tasks provided by firm or individual whom is not employed by the project funds recipient, other than those related to construction. All local government municipal laws and regulations including USMS for bidding and contracting for services must be followed. Please itemize below the contractual expenses associated with the proposed project, providing as many details as possible at this time.</p>		
<u><b>Contractual</b></u>		<u><b>Costs</b></u>
RecycleBank		\$ 36,000
Survey: 15 students @ \$10/hour x 10 hours		\$ 1,500
Canvas: 15 students @ \$10/hour x 40 hours		\$ 6,000
_____		\$ _____
_____		\$ _____
<b>TOTAL CONTRACTUAL:</b>		<b>\$ 43,500</b>

<b>Form 7g - Detailed Other Expenses Budget:</b>		<b>Total \$15,110</b>
<p>This budget sheet should be completed if any expenses are entered under the Other (Line 8) of your Project Budget. "Other" expenses are those for items or services that do not readily fit into any of the previous budget categories in this application. If any of the expenses listed below are included in the calculation of your rate for indirect charges, do <u>not</u> list them on this sheet.</p>		
<u><b>Other expenses</b></u>		<u><b>Costs</b></u>
<input checked="" type="checkbox"/> Postage/delivery		\$9,870
<input type="checkbox"/> Telephone/FAX		
<input type="checkbox"/> Utilities		
<input checked="" type="checkbox"/> Printing/reproduction		\$2225
<input type="checkbox"/> Advertising, public notices		
<input checked="" type="checkbox"/> Signage		\$3015
<input type="checkbox"/> Training (Registration Fees)		
<input type="checkbox"/> Office space, equipment rentals		
<input type="checkbox"/> Basic office furnishings		
<input type="checkbox"/> Books and reference materials		
<input type="checkbox"/> Computer Hardware		
<input type="checkbox"/> Computer Software		
<u>Miscellaneous other expenses</u>		
(Separately itemize these expenses below:)		
_____		
_____		
_____		
_____		
<b>TOTAL OTHER:</b>		<b>\$15,110</b>

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**FORM 8: EXPLANATION REGARDING PRIVATE INDUSTRY NOTIFICATION**

**All applicants must read and complete this certification.** According to state law (Section 361.014 (b) TX Health & Safety Code), a project or service funded under this program must promote cooperation between public and private entities, and the grant-funded project or service may not be otherwise readily available or create a competitive advantage over a private industry that provides recycling or solid waste services.

**A. Categories NOT Requiring Private Sector Notification:**

*If you are applying for project funding under the following categories, you are exempt from notifying the private sector. Please **check** the category below that applies to your project and continue to the last page of this application.*

- Local Enforcement  
 Litter and Illegal Dumping Cleanup Projects (includes Community Collection Events)  
 Household Hazardous Waste  
 Technical Studies  
 Educational and Training Projects (Excluding demonstration projects)

**B. Categories Requiring Private Sector Notification:**

*If you are applying for a grant for a project that falls under the categories listed below, you must notify the private sector and adhere to the requirements listed below.*

- Source Reduction and Recycling  
 Citizens' Collection Stations and Small Registered Transfer Stations  
 Educational and Training Demonstration Projects (Any program or project funded with the intent of demonstrating the use of products made from recycled and/or reused materials shall have as its primary purpose the education and training of residents, governmental officials, private entities, and others to encourage a market for using these materials.)

In accordance with grant requirements established by the TCEQ, an Applicant for funding related to one of the above listed project categories must adhere to the requirements listed below.

- Contact in person or in writing the known private service providers of similar services which, at the time of the application development, are providing services within the geographic service area that the project intends to serve, prior to making the application. A list of private service providers within the region is available from NCTCOG.
- Inform the private service providers of the basic details of the proposed project and consider any input and concerns from the private service providers about the project when completing the project proposal.
- Consider, where appropriate, meeting directly with private service providers that may have a concern about the proposed project to attempt to resolve any concerns before an application is submitted.
- Complete applicable information on Forms 8a and 8b to provide documentation that private service providers were notified of the project prior to submission of the application.

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**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:	<b>5/27/08</b>	Reviewed by Legal <i>✓</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Sustainability & Environmental Services	Initials	Date	
Department Head	Nancy Nevil	Executive Director	<i>EA</i>	<i>5-19-08</i>
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	<i>5/19/08</i>
Agenda Coordinator (include phone #): <b>Patty Stewart – x4130</b>				

**ACTION REQUESTED:**     ORDINANCE     RESOLUTION     CHANGE ORDER     AGREEMENT  
 APPROVAL OF BID     AWARD OF CONTRACT     OTHER

**CAPTION**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN INTERLOCAL COOPERATION AGREEMENT BY AND BETWEEN THE CITY OF PLANO, TEXAS, AND THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS PROVIDING TERMS AND CONDITIONS FOR THE FUNDING TO FACILITATE (COMPOST FAIR GRANT) LONG-TERM CHANGES IN ATTITUDES ABOUT SOURCE REDUCTION, REUSE AND RECYCLING. AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.

**FINANCIAL SUMMARY**

NOT APPLICABLE     OPERATING EXPENSE     REVENUE     CIP

FISCAL YEAR: <b>2007-09</b>	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	25,065	0	<b>25,065</b>
<b>BALANCE</b>	0	25,065	0	<b>25,065</b>

**FUND(s):    SUSTAINABILITY & ENVIRONMENTAL SERVICES**

**COMMENTS:** The grant contract provides funding in the amount of \$25,065 to Sustainability and Environmental Services to facilitate long-term changes in attitudes about source reduction, reuse and recycling.

**STRATEGIC PLAN GOAL:** This item relates to the City's Goal of "Service Excellence" and "Premier City for Families".

**SUMMARY OF ITEM**

To obtain grant funding from North Central Texas Council of Governments to evaluate and determine the long-term changes in attitudes about source reduction, reuse and recycling.

List of Supporting Documents:  
NCTCOG Interlocal Agreement

Other Departments, Boards, Commissions or Agencies

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RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN INTERLOCAL COOPERATION AGREEMENT BY AND BETWEEN THE CITY OF PLANO, TEXAS, AND THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS PROVIDING TERMS AND CONDITIONS FOR THE FUNDING TO FACILITATE LONG-TERM CHANGES IN ATTITUDES ABOUT SOURCE REDUCTION, REUSE AND RECYCLING; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, authorizes governmental entities to contract with each other to perform governmental functions and services under the terms thereof; and

WHEREAS, the City Council has been presented a proposed Interlocal Cooperation Agreement by and between the City of Plano, Texas and the North Central Council of Governments, providing terms and conditions for Stopping Illegal Dumping; a substantial copy of which is attached hereto as **Exhibit "A"** and incorporated herein by reference (hereinafter called "Agreement"); and

WHEREAS, the City has qualified to receive grant funding for this Program from NCTCOG and is of the opinion that utilizing such funding to develop a technical study to evaluate and determine the positive impacts and negative challenges of Stopping Illegal Dumping toward increasing the collection and recycling of organic materials; and

WHEREAS, upon full review and consideration of the Agreement, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager or, in his absence, an Executive Director, should be authorized to execute it on behalf of the City of Plano.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** The terms and conditions of the Agreement, having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interest of the City of Plano and its citizens are hereby in all things approved.

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**Section II.** The City Manager or, in his absence, an Executive Director, is hereby authorized to execute the Agreement and all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Agreement.

**Section III.** This Resolution shall become effective immediately upon its passage.

**DULY PASSED AND APPROVED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Pat Evans, MAYOR

ATTEST:

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

APPROVED AS TO FORM:

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

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**North Central Texas Council of Governments  
FY2009 SOLID WASTE IMPLEMENTATION PROJECT APPLICATION**

**FORM 1: APPLICANT AND GRANT PROJECT INFORMATION**

<b>1. Project Applicant Information</b>	
Local Government: City of Plano	Project Contact Name: Heather Merchant
Complete Mailing Address with zip code: P.O. Box 860358 Plano, TX 75086-0358	Telephone Number: 972-769-4111
Fax Number: 972-769-4219	Email Address: heatherm@plano.gov

<b>2. Project Title with a single sentence description of what project funding will cover:</b>
Compost Fair Enhancements Marketing, implementation and enhancements to the Compost Fair held at the Live Green Expo, including hands-on workshops and stations focused on worm composting, bio-digesters and the production and application of compost tea.

<b>3. General Project Information: (up to 10 points)</b>
<p>a. Please check only <u>one</u> goal of the three <i>Regional Solid Waste Management Plan</i> goals, and indicate the specific objective from the <i>Regional Plan</i> with its action recommendation to be addressed. This information must be taken from the <i>Regional Plan</i>.</p> <p><input checked="" type="checkbox"/> Time to Recycle Goal  <input type="checkbox"/> Stop Illegal Dumping Goal  <input type="checkbox"/> Assuring Capacity for Trash Goal</p> <p>Identify the Specific Objective (taken directly from the <i>Regional Plan</i>) to be undertaken:  <b>Objective:</b> Use outreach and education programs to facilitate long-term changes in attitudes about source reduction, reuse and recycling.  <b>Action Recommendation (taken directly from the <i>Regional Plan</i>):</b>          Develop new or expand existing programs that promote public awareness of the benefits of recycling.</p>
b. Amount of Grant Funding Requested (minimum \$5,000): \$25,065

<b>4. Authorized signature</b> (signatory must have contract signing authority for the Applicant):	
Signature 	Environmental Education & Community Outreach Manager Title
Heather Merchant Print name	5-15-08 Date

**NOTE:** Letters stating another local government, private service provider or non-profit agency are partnering with the Applicant will be accepted.  
**PLEASE DO NOT INCLUDE MAPS, PHOTOGRAPHS, PRODUCT SPECIFICATIONS, LETTERS OF SUPPORT OR ANY OTHER DOCUMENTATION NOT REQUESTED. INCLUSION OF SUCH MATERIAL or NOT INCLUDING ALL SECTIONS OF THIS APPLICATION MAY RESULT IN REMOVAL OF YOUR REQUEST FROM COMPETITION.**

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**FORM 2: CERTIFICATIONS AND ASSURANCES****I. Certifications**

In order to receive grant funds under this program, the proposed project must conform to the *Regional Solid Waste Management Plan* to ensure that these provisions are met. By signing this Application, the person acting on behalf of the Applicant makes the certifications listed below.

**1. Authority to Sign Application**

The person signing this Application hereby certifies that he/she is the official contact regarding this Application and has authority from the Applicant to sign the Application and that such authority will bind the Applicant in subsequent agreements.

**2. Application Contains No False Statements**

The Applicant certifies that this Application has no false statements and that the Applicant understands that signing this Application with a false statement is a material breach of contract and shall void the submitted Application and any resulting contracts. The Applicant understands that NCTCOG will not accept any amendment, revision, addition or alteration to this Application after the final date and time for submission.

**4. Governmental Status**

The Applicant certifies that it is located in the State of Texas and fits within one of the governmental classifications listed below, as determined under state law:

- a. City;
- b. County;
- c. Public school districts or independent school districts (not including Universities or post secondary educational institutions);
- d. Other general and special law district with the authority and responsibility for water quality protection or municipal solid waste management, including river authorities; and,
- e. Council of Governments.

**5. Solid Waste Fee Payments**

The Applicant certifies that it is not delinquent in payment of solid waste disposal fees owed to the State.

**6. Conformance to Standards**

The Applicant certifies to the best of their knowledge and ability that the proposed project, including all activities in the proposed Scope of Work and proposed expenditures, conforms to eligible category standards and allowable expense and funding standards as set forth in the Request for Applications.

**7. Consideration of Private Industry**

The following certification applies **only** if the project is under one of the following funding categories:

- Source Reduction and Recycling
- Citizens' Collection Stations and "Small" Registered Transfer Stations
- A demonstration project under the Educational and Training Projects category

The Applicant certifies that it has notified private service providers in accordance with the requirements set forth in the Request for Applications and the instructions provided with this application form. The Applicant further certifies to the best of their knowledge and ability that the proposed project **will promote cooperation** between public and private entities, is **not** otherwise readily available, and will **not** create a competitive advantage over a private industry that provides recycling or solid waste services.

**8. Consistency with the *Regional Solid Waste Management Plan***

The Applicant certifies to the best of their knowledge and ability that the proposed project is consistent with applicable goals, objectives, and action recommendations of the *Regional Solid Waste Management Plan*.

**10. Technical Feasibility**

The Applicant certifies that he/she has carefully reviewed its Scope of Work and that to the best of their knowledge and ability all activities are technically feasible and can be satisfactorily completed within the grant period as set forth in the Request for Applications.

**11. Costs Reasonable and Necessary**

The Applicant certifies to the best of their knowledge and ability that the proposed project activities in the Scope of Work and the expenses outlined in the Budget are reasonable and necessary to accomplish the project objectives, and the proposed expenses are consistent with the costs of comparable goods and services.

**12. Certification by Law Enforcement Programs**

As provided by the General Appropriations Act (80<sup>th</sup> Leg. R.S.), funds may not be expended to any law enforcement agency regulated by Chapter 1701, Texas Occupations Code, unless: (a) the law enforcement agency is in compliance with all rules on Law Enforcement Standards and Education; or (b) the Commission on Law Enforcement Officer Standards and Education certifies that the requesting agency is in the process of achieving compliance with such rules.

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**II. Assurances**

If the Application is approved for funding, the grant funds will be awarded through an Interlocal Agreement contract between the Applicant and NCTCOG. This Agreement will contain a number of standards, requirements, and processes that must be complied with as a condition of receiving the funding. In order to ensure an understanding by the Applicant of some of the main conditions that will be included in the Interlocal Agreement, the Applicant is asked to review the following assurances. By signing this Application, the person acting on behalf of the Applicant indicates their understanding of these conditions and provides assurances that these and other conditions set forth in the Interlocal Agreement will be adhered to if funding is awarded.

**1. Compliance with Standard Pertaining to Real Property and Equipment**

Applicant provides assurances that, if funded, the Applicant will comply with the contract provisions pertaining to title and to management of real property and equipment. The contract will contain obligations and conditions regarding the use of the equipment and/or facilities (the "property") acquired under the agreement. Included in the provisions are obligations to provide adequate maintenance and conduct physical property inventories; restrictions and conditions on the use, replacement, sale, or transfer of the property; and obligations to continue to adhere to the provisions that grant funds not be used to create a competitive advantage over private industry, in the use or transfer of the property.

**2. Participation in NCTCOG/TCEQ Recycling Surveys and Reporting**

Applicant provides assurances that, if funded, the Applicant will respond to annual recycling program surveys and/or other requests from NCTCOG or the Texas Commission on Environmental Quality for information on municipal solid waste management activities.

**3. Compliance with Progress and Results Reporting Requirements**

Applicant provides assurances that, if funded, the Applicant will comply with requirements for: reporting on the progress of the project tasks and deliverables; documenting the results of the project and providing those results to the NCTCOG on a schedule established by the NCTCOG, and additionally, to continue to document the results of the project activities for the life of the project; and to provide the NCTCOG with a follow-up results report approximately one year after the end of the grant term.

**4. Financial Management**

Applicant provides assurances that, if funded, the Applicant will comply with contract provisions and requirements necessary to ensure that expenses are reasonable and necessary, and to adhere to financial administration and reimbursement procedures and provide financial reports on a schedule established by NCTCOG.

**5. Compliance with Americans with Disabilities Act**

Applicant provides assurances that, if funded, the Applicant will comply with all the applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§12101-12213 (Pamph.1995).

**6. Compliance with the Single Audit Act**

Applicant provides assurances that, if funded, the Applicant will comply with the Single Audit Act as defined by the Uniform Grant Management Standards (UGMS), January 1998.

**7. Compliance with Program and Fiscal Monitoring**

Applicant provides assurances that, if funded, the Applicant will comply with program and fiscal monitoring provisions of the contract, including: providing additional reports or information as may be requested to adequately track the progress of the project; and allowing site visits to evaluate the progress of the project and to view any grant-funded equipment or facility.

Please sign the following if your local government agrees to comply with these Certifications and Assurances.

Signature: <u>Nancy Nevil</u>
Typed/Printed name: Nancy Nevil
Title: Sustainability & Environmental Services Director
Local Government: City of Plano

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**FORM 3: AUTHORIZED REPRESENTATIVES**

The Applicant hereby designates the individual(s) named below as the person/persons authorized to receive direction from NCTCOG, to manage the work being performed, and to act on behalf of the Applicant for the purposes shown:

- 1. **Authorized Project Representative.** The following person is authorized to receive direction, manage work performed, sign required reports, and otherwise act on behalf of the Applicant.

Signature: <i>Heather Merchant</i>
Printed Name: Heather Merchant
Title: Environmental Education & Community Outreach Manager

- 2. **Authorized Financial Representative.** In addition to the authorized project representative, the following person is authorized to act on behalf of the Applicant in all financial and fiscal matters, including signing financial reports and requests for reimbursement.

Signature: <i>Nancy Nevil</i>
Printed Name: Nancy Nevil
Title: Sustainability & Environmental Services Director

**FORM 4: RESOLUTIONS OR COURT ORDERS**

The governing body of the Project Applicant must approve a resolution or court order authorizing the Project Application submittal as well as receipt of funding if the project is approved. A copy of this resolution or court order must be submitted to NCTCOG by **Friday, May 30, 2008.**

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**FORM 5. PROJECT DESCRIPTION**  
(Up to 30 points)**Goal:** Time to Recycle**Specific Objective:** Use outreach and education programs to facilitate long-term changes in attitudes about source reduction, reuse and recycling.**Action Recommendation:**

Develop new or expand existing programs that promote public awareness of the benefits of recycling.

For over fourteen years, Plano has promoted waste reduction and organic recycling through backyard composting programs. The City implemented and developed a Master Composter training program in 1994 and built a Backyard Compost Demonstration Site. Since then over 600 residents have been trained as Master Composters and have been actively involved in compost education and outreach to the Plano community. Compost 101 and Vermi-composting 101 classes are taught several times per year. In addition, a *Compost Fair* special event has been developed and implemented on five occasions over the last 10 years. **This grant requests funds of \$25,065 for enhancements and expansion to the *Compost Fair* to be offered in conjunction with the *Live Green Expo* in April of 2009.** This project will use education, demonstration and interaction to introduce participants to composting methods and techniques, equipping them with both knowledge and the materials needed to begin composting at home. The result of participating in the *Compost Fair* activities should be evident through changes in attitudes and perceptions about composting and in an increase of area residents practicing at least one form of organic recycling at their home.

The *Compost Fair* is a self-contained event in which participants rotate through five different stations, learning how to build a compost pile and how to use finished compost. Upon completion of the stations they are given a compost bin to take home and use to recycle their own yard and household organics. The *Compost Fair* has been popular with residents and very well attended each time it's been offered. During the 2007 *Live Green Expo*, 100 bins were given away at the *Compost Fair* during the first hour of the 8-hour event. A steady stream of participants continued to visit the *Fair* all day, despite the depletion of take away compost bins. During the 2008 *Live Green Expo*, 200 bins (partially COG grant funded in 2007) were distributed during the first 2 hours of the 8-hour *Compost Fair*. Again, participants continued to visit the *Fair* steadily throughout the day, appreciative of the opportunity to learn more about composting and to get their questions answered and problems addressed. Compost bins (funded by the city) will again be given away to participants who complete all stations in the "Build a Compost Pile" segment of the *Compost Fair*.

This grant proposal enhances the scope of the *Compost Fair* by offering hands-on workshops and stations focused on additional at-home means and methods of recycling food wastes (worm composting and bio-digester) and offering another way to use finished compost (compost tea). The *Live Green Expo* presents a strategic venue for hosting the *Compost Fair* because of the visitor profile, regional focus and attendance figures. In 2007, the inaugural year of the Expo, 7,500 people attended. The attendance grew to 12,000 for the 2008 *Live Green Expo*, with an audience profile reflecting strong environmental interest and values. This setting presents the perfect opportunity to educate and introduce people to waste reduction techniques and methods that go beyond the basic compost pile they may already be familiar with. At the same time it allows the opportunity to reinforce the foundational principals of the composting process to those who have never been exposed to it before. The size of the audience guarantees the exposure of hundreds to thousands of people to new waste reduction practices and ideas. The *Live Green Expo* is a regional event. The cities of Allen and Richardson have both committed \$10,000 in their FY08-09 budgets to next year's April event. As a result, residents from across the region will benefit from exposure to and interaction with *The Compost Fair*, including those who may know nothing about composting or *The Compost Fair* when they arrive at the larger Expo event.

**Enhancements to and Expansion of Compost Fair**

- **Worm composting:** Workshops will be offered in which participants will learn about vermi-composting and then "make and take" a worm bin for home use. Participants will receive a worm bin and worms and prepare it by adding grit, newspaper bedding and drilling air holes.
- **Bio-digester:** A station will be set-up highlighting the use of backyard bio-digesters for composting food and animal waste. After an educational presentation and demonstration, participants will have the opportunity to convert a small trashcan into a bio-digester for use in their yard. Participants will receive a small garbage can with locking lid and either cut the out the bottom, or drill very large holes throughout the bottom.
- **Compost Tea:** A presentation and demonstration on compost tea production and application will be offered, followed by the opportunity to "make and take" a spray bottle of compost tea for home use.
- **Brochures, Exhibit and Educational materials:** A tabletop exhibit will be designed for the *Compost Fair* to illustrate the backyard composting process. Accompanying take home brochures on backyard composting and worm composting will be produced to reinforce concepts.

The *Compost Fair* will be specifically promoted through a utility bill insert to 67,000 Plano households, newspaper ad in the Dallas Morning News and posting on the *Live Green Expo* web site which will be linked to other participating cities throughout the region. It will also be promoted through all other *Live Green Expo* marketing to the DFW metroplex and north Texas region.

Benefits of participating in the Compost Fair include:

- More positive attitudes towards composting and increased willingness to try using personal compost piles
- More productive and efficient compost piles, yielding more finished compost for use in landscapes and gardening
- Reduction of organic materials set out for trash collection diverting them from the landfill
- Access to hard to find compost and worm bins and other composting tools
- Better understanding of the processes involved with decomposition
- Better understanding of the uses and benefits of finished compost
- Increased use of compost in home landscapes and gardens, leading to increased soil fertility

Costs for the project are based on estimates received from service or materials providers. **The total cost of the project is \$25,065.**

- Workshops \$11,650  
Costs associated with the workshops including materials and instruction. This is approximately \$.97 per participant based on 2008 attendance figures of 12,000 at the *Live Green Expo*.
- Marketing \$3,800  
Costs for marketing and promotion are approximately \$.32 per participant.
- Miscellaneous \$9,615  
Various associated costs - tents, give-aways, travel, tools, exhibit, brochures.

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FORM 5a. PROJECT SUSTAINABILITY  
(Up to 10 points)

Enhancements to the *Compost Fair* will continue to be sustained in future years as the *Fair* becomes an integral part of the *Live Green Expo*. Depending upon the popularity and success of these individual additions, funding to underwrite their costs will be written into future *Live Green Expo* budgets. In the future, one or more of the regional city partners of the North Texas Municipal Water District (NTMWD) may be interested in sponsoring or underwriting the cost of the *Compost Fair* at the *Live Green Expo*. The *Expo* provides an ideal venue for exposing large numbers of residents from throughout the region to organic recycling, source reduction and composting concepts and methods. Because compost bins and materials are very difficult to obtain in local retail markets, residents are somewhat dependent upon their communities to offer these types of learning and interactive opportunities. One of the difficulties for municipalities is getting the word out to a sufficient number of residents in order to have classes fill. This special event venue with a large built-in audience reflecting environmental interests and concerns is a win-win situation for all involved. Plano's Sustainability & Environmental Services Department (SESD) will continue to include funding in their annual budget to match the number of compost bins given away through grant funding purchases. In addition, the SESD is planning to purchase compost bins to be available for resale to residents throughout the year since they are so difficult to find in the retail market.

In future years the worm composting workshops can be sustained by asking participants to pre-register and bring their own plastic Rubbermaid bin. The cost of worms would be underwritten by the City, and drills, grit and newspaper provided. The same could be done for the bio-digester. The SESD will write the cost of the compost tea spray bottles and tea bags into their annual department budget.

Marketing and promotion of the *Compost Fair* would be rolled into other *Live Green Expo* marketing costs in future years, and shared by participating cities and regional partners. The cost of tents to house the *Compost Fair* would likewise be rolled into general *Live Green Expo* costs.

SESD has successfully managed numerous grants in previous years, always maximizing the value of grant monies awarded as shown by some of the following examples:

- 2006 Green Living in Plano Residential Education Campaign Grant – funds used to cover creative and production costs for the Live Green in Plano education campaign and development and implementation of the Live Green in Plano Expo. The SESD 2007-08 budget allocated additional funds totaling \$160,466 to support Live Green in Plano.
- 2006 Green Living Volunteer Corps Development Program Grant – funds used to hire Volunteer Coordinator to develop a resident's Live Green in Plano Volunteer Corp. This position was approved as a full-time position in the SESD 2007-08 budget.

We are providing \$8,672 of in-kind services towards this project.

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FORM 6. PROJECT WORK PROGRAM AND TIMELINE  
(Up to 25 points)

SCOPE OF WORK

Activity/Task	Deliverable	Date	Responsible Staff
<b>1. Execute Interlocal Agreement</b>	Interlocal agreement signed	September 2008	Manager/Administrative Assistant
<b>2. Research and order materials and supplies</b> a. Meet with Purchasing department.  b. Research and write specifications for Purchasing dept.(worm bins, compost bins, bio-digesters, thermometers, compost turners, food buckets, moisture meters, spray bottles, tea bags, books).  c. Create OR for all spec'd materials.  d. Place order for all spec'd materials	Specifications for all items	October/November 2008	Environmental Education Coordinator, Administrative Assistant
	Entry in purchasing system	October/November 2008	Administrative Assistant
	Items ordered, delivered, received	November 2008	Purchasing Dept.
	Items received	October/November 2008	Environmental Educ. Coordinator, Administrative Assistant
<b>3. Research and order promotional items</b>	Items received	October/November 2008	Environmental Educ. Coordinator, Administrative Assistant
<b>4. Develop tabletop composting exhibit</b> a. Meet with Purchasing to identify design company  b. Prepare OR in purchasing system  c. Meet with design company to discuss needs  d. Exhibit design company begins work  e. Proofing and editing of exhibit  f. Accept final design concept and approve for production	Exhibit purchase is entered into system	November/December 2008 November 2008	Manager, Environmental Education Coordinator, Administrative Assist.  Admin. Assistant
	Design concept agreed upon		Manager, Env. Educ. Coordinator
	Final design produced and delivered	December 2008	Env. Educ. Coord. and Manager

<p><b>5. Develop composting brochures</b></p> <p>a. Outline concepts for backyard composting brochure and write text</p> <p>b. Submit to Desktop Publishing dept</p> <p>c. Proof and edit copy and design</p> <p>d. Approve final copy and design</p> <p>e. Print</p> <p>f. Outline concepts for vermi-composting brochure and write text</p> <p>g. Submit to Desktop Publishing dept.</p> <p>h. Proof and edit copy and design work</p> <p>i. Approve final copy and design work</p> <p>j. Print</p>	<p>Draft</p> <p>Final brochure delivered</p> <p>Draft</p> <p>Final brochure delivered</p>	<p>December 2008/Jan.2009</p> <p>December 2008</p> <p>January 2009</p>	<p>Env. Educ. Coordinator</p> <p>Env. Educ. Coordinator, Sustainability Comm. Coord, Manager</p> <p>Environmental Educ. Coordinator</p> <p>Env. Educ. Coordinator, Sustainability Comm. Coord, Manager</p>
<p><b>6. Develop Utility Bill insert</b></p> <p>a. Write copy</p> <p>b. Edit and approve</p> <p>c. Produce ubill insert and send out with bills</p>	<p>Utility bill insert mailed to 67,000 households</p>	<p>January/February 2009</p>	<p>Environmental Educ. Coordinator, Communications Coordinator, Manager</p>
<p><b>7. Research and schedule Compost Tea Speaker</b></p> <p>a. Make travel and room arrangements</p> <p><i>K-12</i></p>	<p>Speaker for workshop scheduled</p>	<p>February 2009</p>	<p>Environmental Educ. Coordinator, Administrative Assistant</p>

<p><b>8. Advertise and promote Compost Fair and workshops</b></p> <p>a. Develop and produce banners and signs</p> <p>b. Select sign company</p> <p>c. Provide copy</p> <p>d. Edit and approve</p> <p>e. Develop copy for ad in newspaper</p> <p>f. Edit and approve</p> <p>g. Run newspaper ad</p>	<p>Banners and signs for tents provided</p> <p>Newspaper ad for DMNews</p>	<p>February/March 2009</p>	<p>Environmental Educ. Coordinator, Communications Coord, Manager</p>
<p><b>9. Order tents</b></p>	<p>Tents provided for Compost Fair</p>	<p>March 2009</p>	<p>Administrative Assistant</p>
<p><b>10. Conduct Compost Fair and distribute materials and tools</b></p> <p>a. Recruit and train volunteers</p> <p>b. Staff stations of compost fair and additional workshops</p>	<p>Volunteers provided to staff stations and workshops</p>	<p>April 2009</p>	<p>Environmental Education Coordinator, volunteers</p>

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**7. PROJECT BUDGET SUMMARY**  
(up to 25 points)

Provide a detailed explanation of the costs associated with the proposed project. Offer a breakdown of the total amount of funding being requested for the proposed project. The expenses must be consistent with the category expense standards provided in the Request for Applications. Complete any of the detailed budget forms which are applicable to your proposed budget.

Budget Category	Grant Funding Amount Sought <i>Please round costs to the nearest dollar.</i>
1. Personnel/Salaries	\$0
2. Fringe Benefits	\$0
3. Travel	\$1,000
4. Supplies (general office supplies)	\$0
5. Equipment (unit cost of \$5,000 or more)	\$0
6. Construction	\$0
7. Contractual (other than construction costs)	\$2,600
8. Other	\$21,465
9. <b>Total Direct Charges</b> (sum of 1-8)	\$25,065
10. Indirect Charges*	\$
11. <b>Total</b> (sum of 9 - 10)	\$25,065

12. Fringe Benefit Rate:	_____ %	
13. Indirect Cost Rate:	_____ %	

Identify, in detail, each budget category to which your indirect cost rate applies and explain any special conditions under which the rate will be applied:

- 
- 

\*In accordance with the UGMS, indirect charges may be authorized if the Applicant has a negotiated indirect cost rate agreement signed within the past 24 months by a federal cognizant agency or state single audit coordinating agency. Alternatively, the Applicant may be authorized to recover up to 10% of direct salary and wage costs (excluding overtime, shift premiums, and fringe benefits) as indirect costs, subject to adequate documentation. If your local government has an approved cost allocation plan, please enclose documentation of your approved indirect rate.

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**Matching Funds Contributions:** \$8,672.00  
 Local match through cash or in-kind services is encouraged.

Please explain in separate line items the detail of any matching funds or contributions to be provided by the applicant.

100 Compost Bins (\$3,000 + 800 Shipping)	\$3,800
Env. Education Coordinator (40 hrs x \$20)	\$2,200
Communications Coordinator (20 hrs x \$23)	\$460
EECO Manager (20 hrs x \$31)	\$620
Volunteer Coordinator (40 hrs x \$22)	\$880
Administrative Assistant (40 hrs x \$14)	\$560
Table/Chair Rental	\$56
Tablecloths (elasticized)	\$96

*Please complete any of the following detailed budget forms that are applicable to your budget.*

**Form 7a - Detailed Personnel/Fringe/In-direct Charges Budget: Total \$ \_\_\_\_\_**

This budget information should be completed if any expenses are entered for Personnel (Line 1), Fringe Benefits (Line 2) and/or In-direct Charges (Line 10) of your Project Budget Summary. In the space below, list the names and titles of individuals whose salaries will be paid for in all or in part from project funds. Also, indicate if funds are for a new or existing employee (attach additional sheets if necessary).

Employee name \_\_\_\_\_  
 Title \_\_\_\_\_  
 Salary \$ \_\_\_\_\_

Employee name \_\_\_\_\_  
 Title \_\_\_\_\_  
 Salary \$ \_\_\_\_\_

Employee name \_\_\_\_\_  
 Title \_\_\_\_\_  
 Salary \$ \_\_\_\_\_

**TOTAL PERSONNEL/FRINGE/IN-DIRECT CHARGES: \$ \_\_\_\_\_**

If your budget lists fringe benefits (Line 2) and/or in-direct costs (Line 10), please provide the following:

Fringe benefit rate: \_\_\_\_\_%

In-direct charge rate\*: \_\_\_\_\_%

\*In accordance with the UGMS, indirect charges may be authorized if the applicant has a negotiated indirect cost rate agreement signed within the past 24 months by a federal cognizant agency or state single audit coordinating agency. The applicant may be authorized to recover up to 10% of direct salary and wage costs (excluding overtime, shift premiums, and fringe benefits) as indirect costs, subject to adequate documentation. If you have an approved cost allocation plan, please enclose documentation of your approved indirect rate.

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<b>Form 7b - Detailed Travel Budget:</b>	<b>Total \$1,000</b>
<p>This budget section should be completed if any expenses are entered for Travel (Line 3) of your Project Budget Summary. In-state travel expenses directly related to the conduct of the funded project may be authorized. Please describe below the types of travel expenses (state rate mileage, meals, airfare, hotel, etc.) expected, conference/workshop names if known, and purpose for travel. For Registration Fees, see "Other" Detailed Budget page.</p>	
<p>Purpose of travel: <u>Outside presenter coming to conduct Compost Tea Workshop</u></p> <p>Cost: <u>Airfare - \$250.00; hotel/meals - \$250.00; Speaking fee - \$500;</u></p>	
<p>Purpose of travel: _____</p> <p>Cost: \$ _____</p>	
<p><b>TOTAL TRAVEL COSTS: \$1,000</b></p>	

<b>Form 7c - Detailed Supply Budget:</b>	<b>Total \$ _____</b>
<p>This budget section should be completed if any expenses are entered for General Office Supplies (Line 4) of your Project Budget Summary. Supplies are consumable office items that generally have a useful life of less than one year and have a unit cost of less than \$1,000. Expenses for food and beverages are not allowable. Please describe below the general office supplies expenses you intend to purchase with project funding; attach additional sheets if necessary.</p>	
<u>General supplies</u>	<u>Costs</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
<b>TOTAL SUPPLIES:</b>	<b>\$ _____</b>

<b>Form 7d - Detailed Equipment Budget:</b>	<b>Total \$ _____</b>	
<p>This budget section should be completed if any expenses are entered for Equipment (Line 5) of your Project Budget Summary. Equipment expenses include non-construction related, tangible, personal property having a unit acquisition cost of \$5,000 or more (including freight and set-up costs) with an estimated useful life over one year. Please describe below the equipment expenses you intend to purchase with project funding, providing as many details as possible at this time.</p>		
<u>Equipment (description, type, model, etc.)</u>	<u># of units</u>	<u>Costs</u>
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
<b>TOTAL EQUIPMENT:</b>		<b>\$ _____</b>

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<b>Form 7e - Detailed Construction Budget:</b>	<b>Total \$</b> _____		
<b>(All construction expenses must be pre-approved by NCTCOG.)</b>			
<p>This budget section should be completed if any expenses are entered for Construction (Line 6) of your Project Budget Summary. Construction expenses include the cost of planning the project, materials and labor, cost of equipment attached to the permanent structure and any sub-contracts performed as part of the construction. All local government municipal laws and regulations including USMS for bidding and contracting for services must be followed. Please itemize below the construction expenses associated with the proposed project, providing as many details as possible at this time.</p>			
<u>Construction (and related expenses)</u>		<u>Costs</u>	
_____		\$	_____
_____		\$	_____
_____		\$	_____
_____		\$	_____
_____		\$	_____
<b>TOTAL CONSTRUCTION:</b>		<b>\$</b>	_____

<b>Form 7f - Detailed Contractual Budget:</b>	<b>Total \$2,600</b>		
<b>(All contractual expenses must be pre-approved by NCTCOG.)</b>			
<p>This budget section should be completed if any expenses are entered for Contractual (Line 7) of your Project Budget Summary. Expenses include the cost of professional services or tasks provided by firm or individual whom is not employed by the project funds recipient, other than those related to construction. All local government municipal laws and regulations including USMS for bidding and contracting for services must be followed. Please itemize below the contractual expenses associated with the proposed project, providing as many details as possible at this time.</p>			
<u>Contractual</u>		<u>Costs</u>	
Exhibit Design Company: design and produce tabletop compost exhibit		\$2,600	_____
(creative fees, exhibit, lights, tablecovering)		\$	_____
_____		\$	_____
_____		\$	_____
_____		\$	_____
<b>TOTAL CONTRACTUAL:</b>		<b>\$</b>	<u>2,600</u> _____

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**Form 7g - Detailed Other Expenses Budget:**

**Total \$21,465**

This budget sheet should be completed if any expenses are entered under the Other (Line 8) of your Project Budget. "Other" expenses are those for items or services that do not readily fit into any of the previous budget categories in this application. If any of the expenses listed below are included in the calculation of your rate for indirect charges, do not list them on this sheet.

Other expenses

Costs

<input type="checkbox"/> Postage/delivery	\$ _____
<input type="checkbox"/> Telephone/FAX	\$ _____
<input type="checkbox"/> Utilities	\$ _____
<input checked="" type="checkbox"/> Printing/reproduction (2 brochures/ubill)	\$ <u>4,900</u>
<input checked="" type="checkbox"/> Advertising, public notices (DMN ad)	\$ <u>1,300</u>
<input checked="" type="checkbox"/> Signage (3 banners and signs)	\$ <u>600</u>
<input type="checkbox"/> Training (Registration Fees)	\$ _____
<input type="checkbox"/> Office space, equipment rentals	\$ _____
<input type="checkbox"/> Basic office furnishings	\$ _____
<input checked="" type="checkbox"/> Books and reference materials (worm, compost, compost wheels - 600+600+1650)	\$ <u>2,850</u>
<input type="checkbox"/> Computer Hardware	\$ _____
<input type="checkbox"/> Computer Software	\$ _____

Miscellaneous other expenses

(Separately itemize these expenses below:)

Tent rental (4) 20x20 + barrels, sides	\$1,350
Spray Bottles	\$1,050
Tea Bags	\$25
Moisture Meters (50x10)	\$500
Thermometers (50x15)	\$750
Compost Turners (50x20)	\$1,000
Compost Bins (100x30) +freight(800)	\$3,800
Trash pails w/lids (50x5)	\$250
Food buckets (50x18)	\$900
Worms (13#x25)	\$325
Rubbermaid bins (50x5)	\$250
Drills & bits (2x47.50)	\$95
Extension cords (2x10)	\$20
Promotional Give-a-ways	\$1500

**TOTAL OTHER: \$ \$11,815.00**

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**FORM 8: EXPLANATION REGARDING PRIVATE INDUSTRY NOTIFICATION**

**All applicants must read and complete this certification.** According to state law (Section 361.014 (b) TX Health & Safety Code), a project or service funded under this program must promote cooperation between public and private entities, and the grant-funded project or service may not be otherwise readily available or create a competitive advantage over a private industry that provides recycling or solid waste services.

**A. Categories NOT Requiring Private Sector Notification:**

*If you are applying for project funding under the following categories, you are exempt from notifying the private sector. Please **check** the category below that applies to your project and continue to the last page of this application.*

- Local Enforcement  
 Litter and Illegal Dumping Cleanup Projects (includes Community Collection Events)  
 Household Hazardous Waste  
 Technical Studies  
 Educational and Training Projects (Excluding demonstration projects)

**B. Categories Requiring Private Sector Notification:**

*If you are applying for a grant for a project that falls under the categories listed below, you must notify the private sector and adhere to the requirements listed below.*

- Source Reduction and Recycling  
 Citizens' Collection Stations and Small Registered Transfer Stations  
 Educational and Training Demonstration Projects (Any program or project funded with the intent of demonstrating the use of products made from recycled and/or reused materials shall have as its primary purpose the education and training of residents, governmental officials, private entities, and others to encourage a market for using these materials.)

In accordance with grant requirements established by the TCEQ, an Applicant for funding related to one of the above listed project categories must adhere to the requirements listed below.

- Contact in person or in writing the known private service providers of similar services which, at the time of the application development, are providing services within the geographic service area that the project intends to serve, prior to making the application. A list of private service providers within the region is available from NCTCOG.
- Inform the private service providers of the basic details of the proposed project and consider any input and concerns from the private service providers about the project when completing the project proposal.
- Consider, where appropriate, meeting directly with private service providers that may have a concern about the proposed project to attempt to resolve any concerns before an application is submitted.
- Complete applicable information on Forms 8a and 8b to provide documentation that private service providers were notified of the project prior to submission of the application.

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**Statement of Private Sector Notification:**

I certify, as an authorized representative of the local government that with regard to the public/private sector cooperation requirements as outlined in the Request for Applications, this application:

- \_\_\_\_\_ Falls under one of the categories listed above requiring private sector notification, however I am unaware of any public or private entity which provides similar or related services within the proposed project area. *(The applicant must attach a description of efforts to research and ascertain other existing services and demonstrate the reason why this option is selected. For example, a description of inquiries that were unsuccessful could be attached.)*
- \_\_\_\_\_ Falls under one of the categories listed above requiring private sector notification, however no competitive advantage exists, therefore no private sector notification was necessary. *(The applicant must explain.)*
- \_\_\_\_\_ Falls under one of the categories listed above requiring private sector notification, and have notified the private sector industry. *(The applicant must complete Forms 8a and 8b below.)*

**Form 8a. List of Private Service Providers Notified**

Private Service Providers Contacted	Name & Position	Response When Notified	Phone Number	Date Notified

**Form 8b. Summaries of Discussions with Private Industry**

Provide a brief summary below of any responses to your inquiries that expressed concerns regarding your project. Furnish information on any concerns voiced by the private service providers, including:

- (1) provide brief summaries of any meetings or discussions held between the Applicant and the private service providers;
- (2) offer an explanation of any changes made to the proposed project to address private service provider concerns; and,
- (3) an explanation of any remaining concerns that were not addressed and why the Applicant determined that the concerns are not valid under the statutory requirements.

Private Service Providers Contacted	Name & Position	Please Explain Any Concerns?

REQUIRED  
ATTACHMENTS TO THE APPLICATION

1. The governing body of the applicant **must** approve a resolution or court order authorizing the grant Application as well as the acceptance of grant moneys if the Application ranks high enough to be considered for funding.

This resolution or court order **must** be specifically signed by the appropriate official and be notarized and signed (or stamped with the local government's seal) in addition to those signatures required in the Project Application. Please furnish information on when your government's document will be officially executed for the benefit of the individual scoring your project.

**This resolution or court order will be due to NCTCOG no later than Friday, May 30, 2008.**

2. If indirect costs are included in the project budget, attach the applicant's latest **indirect cost allocation plan**, including documentation of approval of the plan and the indirect cost rate by the applicant's Federal Cognizant Agency or State Coordinating Agency.

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**CITY OF PLANO  
COUNCIL AGENDA ITEM**



<b>CITY SECRETARY'S USE ONLY</b>		Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:	<b>05/27/08</b>	Reviewed by Legal <i>PU</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Purchasing	Initials	Date	
Department Head	Mike Ryan	Executive Director		
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	<i>5/19/08</i>
Agenda Coordinator (include phone #): <b>Glenna Hayes x 7376</b>				

**ACTION REQUESTED:**     ORDINANCE     RESOLUTION     CHANGE ORDER     AGREEMENT  
 APPROVAL OF BID     AWARD OF CONTRACT     OTHER

**CAPTION**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE PURCHASE OF RISKMASTER MESA IN THE AMOUNT OF NINETY-SEVEN THOUSAND NINE HUNDRED SEVENTY-SIX DOLLARS AND FOURTEEN CENTS (\$97,976.14) FROM COMPUTER SCIENCES CORPORATION, THE SOLE SOURCE VENDOR OF SUCH SERVICES; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO TAKE SUCH ACTION AND EXECUTE SUCH DOCUMENTS AS NECESSARY TO EFFECTUATE THE PURCHASE; AND PROVIDING AN EFFECTIVE DATE; AND THE APPROVAL OF ADDITIONAL EXPENDITURES BASED ON CURRENT AND FUTURE NECESSITY IN THE AMOUNT OF \$96,800.  
 (2006-214-D)

**FINANCIAL SUMMARY**

NOT APPLICABLE     OPERATING EXPENSE     REVENUE     CIP

FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
<b>2007/08 through 2013</b>				
Budget	0	1,201,375	0	<b>1,201,375</b>
Encumbered/Expended Amount	0	-535,882	0	<b>-535,882</b>
This Item	0	-144,776	-50,000	<b>-194,776</b>
<b>BALANCE</b>	<b>0</b>	<b>520,717</b>	<b>-50,000</b>	<b>470,717</b>

**FUND(S): PROPERTY/LIABILITY LOSS FUND (065)**

Comments: This item approves a 5 year contract term for the RISKMASTER MESA system and is included in the approved FY 2007-08 Operating Budget. The remaining funds will be used for other property, liability and worker's compensation claims. Future expenditures for Riskmaster system are subject to annual budget appropriations.

STRAGIC PLAN GOAL: The purchase and maintenance of Risk and Liability software relates to the City's goal of "Service Excellence".

**SUMMARY OF ITEM**

Approval of five (5) year contract with Computer Sciences Corporation for the purchase of Riskmaster MESA (maintenance, enhancements and services available) in the total amount of \$97,976.14; payable in annual amounts subject to approval of funds. (2006-214-D)

Approval of additional expenditures for work-orders and addendums for FY07-08 in the amount of \$46,800; and approval of future years estimated at \$50,000/year based upon necessity and budget appropriations.

List of Supporting Documents: MESA Contract	Other Departments, Boards, Commissions or Agencies
Resolution, contract	

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RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE PURCHASE OF RISKMASTER MESA IN THE AMOUNT OF NINETY-SEVEN THOUSAND NINE HUNDRED SEVENTY-SIX DOLLARS AND FOURTEEN CENTS (\$97,976.14) FROM COMPUTER SCIENCES CORPORATION, THE SOLE SOURCE VENDOR OF SUCH SERVICES; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO TAKE SUCH ACTION AND EXECUTE SUCH DOCUMENTS AS NECESSARY TO EFFECTUATE THE PURCHASE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has been presented with a contract from Computer Sciences Corporation., for the purchase of Riskmaster MESA (maintenance, enhancements and services available); and

WHEREAS, the City relies on Computer Sciences Corporation to provide software and services to process property, liability and workers compensation claims; and

WHEREAS, the City relies on Computer Sciences Corporation to provide services which are compatible with the existing systems; and

WHEREAS, the City Council thus finds that the software and services needed are available from only one source, Computer Sciences Corporation, and therefore the purchase is exempt from competitive bid as provided for in *V.T.C.A., Local Governmental Code, Section 252.022(a)(7)*.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS THAT:

**Section I.** The City Council hereby finds and determines that Computer Sciences Corporation is the sole source provider for the Riskmaster MESA, and said purchase is exempt from competitive bid as provided for in *V.T.C.A., Local Government Code, Section 252.022(a)(7)*.

**Section II.** The City Manager or his designee is hereby authorized to take such action and execute such documents with Computer Sciences Corporation, the sole source provider, as necessary to effectuate the purchase of additional such software and services in an amount not to exceed the sum of **NINETY-SEVEN THOUSAND NINE HUNDRED SEVENTY-SIX DOLLARS AND FOURTEEN CENTS (\$97,976.14)**.

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**Section III.** This Resolution shall become effective immediately upon its passage.

**DULY PASSED AND APPROVED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2008

\_\_\_\_\_  
Pat Evans, MAYOR

ATTEST:

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

APPROVED AS TO FORM:

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

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**Computer Sciences Corporation**  
**Addendum -MESA**  
**March 25, 2008 - Prices Valid Until 5/31/08**

**Agreement No. 07-BAM-0005**

**Addendum No. 12**

This Addendum is effective June 1, 2008 ("Anniversary Date"), and is hereby made a part of and incorporated into the Master Services Agreement No. 07-BAM-0005 dated April 2, 2002 and any Addendums to Agreement No. 07-BAM-0005 ("Agreement") by and between **Computer Sciences Corporation** ("CSC") and **City of Plano** ("CUSTOMER") located at 1520 Avenue K, Plano, TX 75074. In the event that any provision of this Addendum and any provision of the Agreement are inconsistent or conflicting, the inconsistent or conflicting provision of this Addendum shall be and constitute an amendment of the Agreement and shall control, but only to the extent that such provision is inconsistent or conflicting with the Agreement.

CSC and CUSTOMER hereby agree as follows:

1. CUSTOMER is hereby engaging CSC to provide RISKMASTER MESA under the terms of the "Agreement" in accordance with the following (the "Term"):
  - o 5 Year MESA Term
  
2. The annual fee per year is as follows:

Year 1 -	\$18,454.26
Year 2 -	\$19,007.88
Year 3 -	\$19,578.12
Year 4 -	\$20,165.46
Year 5 -	\$20,770.42
  
3. CSC will invoice CUSTOMER annually prior to the Anniversary Date. Upon conclusion of the current Term, the Customer MESA fee can be increased to the then current rate at the time of renewal. For Year 1, CSC shall invoice CUSTOMER upon execution of this Addendum. Customer acknowledges that at the end of the MESA Term, MESA can be renewed at the rate in effect for the immediately preceding MESA year subject to a maximum annual increase of 5 %.
  
4. CSC shall provide telephone and internet support and/or technical assistance as defined in the "Agreement" ("Scope of Services") as set forth in the Agreement or Schedule of Charges, or as outlined below. Such support and assistance will be provided by telephone or internet at or from CSC's product center offices during the following hours: Monday through Friday 8:00 a.m. to 8:30 p.m., EST (or EDT as applicable excluding CSC holidays).
  - i. The "Scope of Services" under this addendum shall be for telephone and internet support.
  - ii. The following activities are not included in the scope of Maintenance services: (i) hardware support, (ii) operating system support, (iii) custom programming or custom report creation, (iv) BIS or SORTMASTER report creation; (v) general systems management, (vi) data validation or clean up; (vii) moving Customer data, (viii) moving, relocating or reinstalling software programs or printers, (ix) verification or correction of errors that result from data entry or procedural errors, (x) unauthorized third party report writers, (xi) on or off site training or (xii) other services more properly covered under a separate agreement or work order at the applicable hourly rate.
  
5. CSC reserves the right to immediately increase the MESA annual fee if Customer increases the number of workstations and/or purchases additional software.
  
6. Availability of Funds: Any and all payments to CSC pursuant to this Addendum are expressly contingent upon and subject to the appropriation, allocation and availability of funds to the Customer for the purposes set forth in this Addendum. If this Addendum or any Purchase Order issued hereunder is funded in whole or in part by government funds, Customer's performance and payment shall be subject to and contingent upon the continuing availability of said funds for the purposes of the Addendum or Purchase Order. If the term of this Addendum extends into fiscal years subsequent to that in which it is approved, such continuation of the Addendum is expressly contingent upon the appropriation, allocation and availability of funds for the purposes set forth in the Addendum. If funds to effect payment are not available, Customer will provide written notification to CSC. If the Addendum is terminated under this paragraph, CSC agrees to terminate any services supplied to Customer under this Addendum at the conclusion of the MESA term

Computer Sciences Corporation  
Addendum -MESA  
March 25, 2008 - Prices Valid Until 5/31/08

Agreement No. 07-BAM-0005

Addendum No. 12

year, and relieve the Customer of any further obligations under this Addendum for future MESA years. The Customer shall remit payment for services accepted prior to the date of the aforesaid notice in conformance with the payment terms.

7. All other terms and conditions of the "Agreement" as previously amended by the parties, remain unchanged and shall be in full force and effect.

**Total Addendum Amount: \$97,976.14**

Note 1: Authorized Location: 1520 Avenue K, Plano, TX 75074.

Note 2: CUSTOMER acknowledges that the above MESA fee reflects only software licensed through March 25, 2008. Software licensed after March 25, 2008 will be subject to additional MESA and invoiced separately until the completion of the current renewal term.

CSC and CUSTOMER certify by their undersigned authorized agents that they have read this Addendum and the Agreement and agree to be bound by their terms and conditions.

CSC  
Computer Sciences Corporation

Customer  
City of Plano

By: \_\_\_\_\_  
(Authorized Signature)  
(in non-black ink, please)

\_\_\_\_\_  
Raymond A. August  
(Name)

\_\_\_\_\_  
President, P & C Insurance, FSS  
(Title)

\_\_\_\_\_  
(Execution Date)

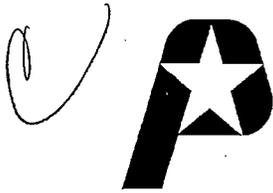
By: \_\_\_\_\_  
(Authorized Signature)  
(in non-black ink, please)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Execution Date)

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**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:	<b>5/27/08</b>		Reviewed by Legal <i>PM</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Planning		Initials	Date	
Department Head	Phyllis M. Jarrell		Executive Director <i>[Signature]</i>	<i>5/19/08</i>	
Dept Signature:	<i>P. Jarrell</i>		City Manager <i>[Signature]</i>	<i>5/19/08</i>	
Agenda Coordinator (include phone #): <b>D. Carter ext. 5350</b>					

**ACTION REQUESTED:**     ORDINANCE     RESOLUTION     CHANGE ORDER     AGREEMENT  
 APPROVAL OF BID     AWARD OF CONTRACT     OTHER

**CAPTION**

AN ORDINANCE OF THE CITY OF PLANO AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, ORDINANCE NO. 2006-4-24, AS HERETOFORE AMENDED, SO AS TO REZONE 40.2± ACRES OUT OF THE JAMES F. CHENOWETH SURVEY, ABSTRACT NO. 222 AND THE WILLIAM MILLER SURVEY, ABSTRACT NO. 568, LOCATED AT THE NORTHEAST CORNER OF THE DALLAS NORTH TOLLWAY AND PLANO PARKWAY, IN THE CITY OF PLANO, COLLIN COUNTY, TEXAS, FROM REGIONAL EMPLOYMENT TO PLANNED DEVELOPMENT-REGIONAL EMPLOYMENT; DIRECTING A CHANGE ACCORDINGLY IN THE OFFICIAL ZONING MAP OF THE CITY; AND PROVIDING A PENALTY CLAUSE, A REPEALER CLAUSE, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

**FINANCIAL SUMMARY**

NOT APPLICABLE     OPERATING EXPENSE     REVENUE     CIP

FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
<b>BALANCE</b>	0	0	0	0

**FUND(S):**

**COMMENTS:**

**SUMMARY OF ITEM**

A public hearing was held and the zoning request was approved by City Council on May 12, 2008, by a vote of 6-2.

List of Supporting Documents:  
Ordinance

Other Departments, Boards, Commissions or Agencies

**DATE:** May 13, 2008  
**TO:** Applicants with Items before City Council  
**FROM:** Tom Elgin, Development Review Manager  
**SUBJECT:** Results of City Council Meeting of May 12, 2008

**PUBLIC HEARING**  
**ZONING CASE 2008-27**  
**APPLICANT: SCARBOROUGH PARKWAY II, L.P.**

Request to rezone 40.2± acres located at the northeast corner of the Dallas North Tollway and Plano Parkway **from** Regional Employment **to** Planned Development-Regional Employment. Zoned Regional Employment.

**APPROVED:** 6-2 **DENIED:** \_\_\_\_\_ **TABLED:** \_\_\_\_\_

**STIPULATIONS:**

Approved subject to:

1. Retail and service uses shall not be limited in area and may be constructed as freestanding buildings. Retail and service uses are not subject to the maximum ten percent floor area and site plan requirements of the RE district.
2. Freestanding restaurants may be any size and are not subject to the minimum 5,000 square feet of gross floor area requirement of the RE district. Restaurants shall not have drive-through lanes.
3. Freestanding parking structures accessory to hotel use shall conform to the general RE height and setback standards of the RE district and shall not be subject to the RE hotel setback standards.
4. A 30-foot wide landscape edge shall be provided along Parkwood Boulevard. The landscape edge standards and improvements shall be those specified for the Dallas North Tollway Overlay District.
5. The maximum floor area for retail uses is 90,000 square feet. The maximum floor area for all other uses is 850,000 square feet.

EH/dc

xc: James Feagin, Scarborough Parkway II, L.P.  
Kirk Williams, Winstead PC

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CITY OF PLANO  
PLANNING & ZONING COMMISSION

April 21, 2008

**Agenda Item No. 6A**

**Public Hearing:** Zoning Case 2008-27

**Applicant:** Scarborough Parkway II, L.P.

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**DESCRIPTION:**

Request to rezone 40.2± acres located at the northeast corner of the Dallas North Tollway and Plano Parkway **from** Regional Employment **to** Planned Development-Regional Employment. Zoned Regional Employment.

**REMARKS:**

This item was tabled at the April 7, 2008, Planning & Zoning Commission meeting. It must be removed from the table.

The applicant is requesting to rezone 40.2± acres located at the northeast corner of the Dallas North Tollway and Plano Parkway from Regional Employment (RE) to Planned Development-Regional Employment (PD-RE). The RE district is intended to provide for office and limited manufacturing uses that are consistent with the regional status of certain tollways and expressways serving Plano and surrounding communities. Some retail uses are also appropriate when developed in conjunction with the primary uses. The district's standards are designed to ensure compatibility between the various uses within a corridor and surrounding residential neighborhoods. A PD district provides the ability to amend use, height, setback, and other development standards at the time of zoning to promote innovative design and better development controls appropriate to both off and onsite conditions.

This request proposes an office, hotel, and retail planned development district. The original petition for rezoning included a request to add multifamily use as an additional allowed use. Since the April 7, 2008, Planning & Zoning Commission meeting, the applicant has amended the petition to remove the request for multifamily use and add further stipulations. The zoning request is for 40.2± acres as zoning boundaries extend into the city right-of-way. A concept plan, Cigna Point Addition, Block A, Lot 2, accompanies this request as agenda item 6B. The concept plan is only for 28.7± acres

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which is the total land area available for development. Attached under separate cover is a Traffic Impact Analysis submitted as a part of the rezoning petition.

### **Surrounding Land Use and Zoning**

The area of the request is currently undeveloped. The property to the north is a proposed office development, and is zoned RE. To the east, across Parkwood Boulevard are residences zoned Single-Family Residence-9 and Single-Family Residence-7. To the south, across Plano Parkway, are two new car dealers zoned Planned Development-211-Light Commercial with Specific Use Permit #561 for New Car Dealer. To the west of the property, across the Dallas North Tollway, the zoning is Regional Commercial (RC). The property is partially developed as New Car Dealer and Mini-Warehouse/Public Storage.

### **Proposed Planned Development Stipulations**

The requested zoning is PD-RE. There are two primary parts of this request: land use and design standards.

**Land Use** - The applicant proposes to change the zoning **from RE to PD-RE** to remove the restrictions on retail and restaurant development. The RE district allows certain restaurant, retail and service uses, but limits them to ten percent of the gross floor area of a building. If a development has multiple buildings, the amount of space for these uses cannot exceed ten percent of the combined floor area of all constructed buildings. Examples of retail uses allowed in the RE district include Antique Shop, Convenience Store, Florist Shop, Grocery/Food Store, and Pet Shop.

**Design Standards** - The request proposes a mixed-use development oriented along a north-south central roadway.

The request is for PD-RE zoning with the following stipulations:

1. Retail and service uses may be constructed as freestanding buildings. Retail and service uses are not subject to the maximum 10 percent floor area for constructed buildings and site plan requirements of the RE district.
2. Freestanding restaurants may be any size and are not subject to the minimum 5,000 square feet of gross floor area requirement of the RE district. Restaurants shall not have drive-through lanes.
3. Freestanding parking structures accessory to hotel use shall conform to the general RE height and setback standards of the RE district and shall not be subject to the RE hotel setback standards.

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4. A 30-foot wide landscape edge shall be provided along Parkwood Boulevard. The landscape edge standards and improvements shall be those specified for the Dallas North Tollway Overlay District.
5. Except as otherwise provided herein, retail and services uses allowed by right and by SUP in the Retail (R) district shall be allowed by right and by SUP on the property.
6. Notwithstanding anything herein to the contrary, the maximum floor area for office and professional uses on the property is 850,000 square feet.
7. Other than office and professional uses, the maximum floor area for those uses allowed in the Retail district is 90,000 square feet.

### **Conformance to the Comprehensive Plan**

**Future Land Use Plan** - The Future Land Use Plan designates this property as Major Corridor Development (MCD). Development in these corridors is expected to include a mix of commercial, office, and technical production uses.

**Adequacy of Public Facilities** - Water and sanitary sewer services are available via extensions of existing on site services and via extensions from Parkwood Boulevard, Plano Parkway, and the Dallas North Tollway frontage road.

**Traffic Impact Analysis (TIA)** - A TIA has been reviewed by the city's Traffic Engineering Division. The change in trip generation potential of the proposed development is negligible compared to the trip generation potential of build out at the existing zoning. The TIA includes calculations for multifamily residential use that was a part of the original proposal; however, the Traffic Engineering Division has stated the substitution of office use for the residential component would have a negligible affect on potential traffic generation and levels of service. Following this staff report is a letter from Jeff Green, Senior Transportation Engineer, which summarizes his assessment of the TIA.

### **ISSUES:**

#### **Creation of RE and RC**

The RE and RC zoning classifications were created in 2000. Previously, the land along the Dallas North Tollway was zoned Tollway Employment (TE) and Tollway Commercial (TC). The areas zoned TE and TC were intended to reflect the original zoning of the properties. In 1996, the time the zoning in the Tollway corridor was revised and standardized, TC zoning was placed on properties with zoning that at the time included substantial retail rights. All other areas were zoned TE, and only allowed retail uses if they were developed as part of another building and not exceeding 10% of the building's total floor area. The intent was to prevent the construction of freestanding retail buildings in TE districts and to limit the amount of retail development in the

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corridor. This proposal is contrary to the intent of the original TE and subsequent RE zoning districts.

### **Rezoning Land for Retail Use**

In 2003, City Council adopted the *Retail Study of Underperforming and Vacant Retail Areas* initiated by the cities of Carrollton, Richardson, and Plano. This study examined the retail market conditions in the three cities and offered alternatives to address underperforming and vacant retail properties. The study identified Plano as having an overabundance of retail zoning.

The requested change in zoning could add a significant amount of retail development in the Plano Parkway/Dallas North Tollway area. To the north of this proposal on the north and south sides of Park Boulevard are existing superstores and retail shopping centers. The additional retail use proposed with this zoning request would further increase the overabundance of retail zoning in Plano.

### **SUMMARY:**

The applicant is requesting to rezone 40.2± acres located at the northeast corner of the Dallas North Tollway and Plano Parkway **from** Regional Employment **to** Planned Development-Regional Employment. The proposal is contrary to the intent of the RE zoning. The Retail Study advises against rezoning additional land for retail use. Therefore, staff recommends denial of the proposed zoning request.

### **RECOMMENDATIONS:**

Recommended for denial.

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ADDED 5/27/08

ORDINANCE NO. \_\_\_\_\_  
(Zoning Case 2008- 27)

AN ORDINANCE OF THE CITY OF PLANO AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, ORDINANCE NO. 2006-4-24, AS HERETOFORE AMENDED, SO AS TO REZONE 40.2± ACRES OUT OF THE JAMES F. CHENOWETH SURVEY, ABSTRACT NO. 222 AND THE WILLIAM MILLER SURVEY, ABSTRACT NO. 568, LOCATED AT THE NORTHEAST CORNER OF THE DALLAS NORTH TOLLWAY AND PLANO PARKWAY, IN THE CITY OF PLANO, COLLIN COUNTY, TEXAS, FROM REGIONAL EMPLOYMENT TO PLANNED DEVELOPMENT-REGIONAL EMPLOYMENT; DIRECTING A CHANGE ACCORDINGLY IN THE OFFICIAL ZONING MAP OF THE CITY; AND PROVIDING A PENALTY CLAUSE, A REPEALER CLAUSE, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

**WHEREAS**, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 27th day of May, 2008, for the purpose of considering rezoning 40.2± acres out of the James F. Chenoweth Survey, Abstract No. 222 and the William Miller Survey, Abstract No. 568, located at the northeast corner of the Dallas North Tollway and Plano Parkway, in the City of Plano, Collin County, Texas, from Regional Employment to Planned Development-Regional Employment; and

**WHEREAS**, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

**WHEREAS**, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 27th day of May, 2008; and

**WHEREAS**, the City Council is of the opinion and finds that such rezoning would not be detrimental to the public health, safety, or general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

**IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** The Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended so as to rezone 40.2± acres out of the James F. Chenoweth Survey, Abstract No. 222 and the William Miller Survey, Abstract No. 568, located at the northeast corner of the Dallas North Tollway and Plano Parkway, in the City of Plano, Collin County, Texas, from Regional Employment to Planned Development-Regional Employment, said property being described in the legal description on Exhibit "A" attached hereto.

**Section II.** The change granted in Section I is granted subject to:

1. Retail and service uses shall not be limited in area and may be constructed as freestanding buildings. Retail and service uses are not subject to the maximum ten percent floor area and site plan requirements of the RE district.
2. Freestanding restaurants may be any size and are not subject to the minimum 5,000 square feet of gross floor area requirement of the RE district. Restaurants shall not have drive-through lanes.
3. Freestanding parking structures accessory to hotel use shall conform to the general RE height and setback standards of the RE district and shall not be subject to the RE hotel setback standards.
4. A 30-foot wide landscape edge shall be provided along Parkwood Boulevard. The landscape edge standards and improvements shall be those specified for the Dallas North Tollway Overlay District.
5. The maximum floor area for retail uses is 90,000 square feet. The maximum floor area for all other uses is 850,000 square feet.

**Section III.** It is directed that the official zoning map of the City of Plano (which is retained in electronic record format) be changed to reflect the zoning classification established by this Ordinance.

**Section IV.** All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**Section V.** The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

**Section VI.** Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

**Section VII.** It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable, and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

**Section VIII.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED AND APPROVED THIS THE 27TH DAY OF MAY, 2008.**

\_\_\_\_\_  
Pat Evans, MAYOR

ATTEST:

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

APPROVED AS TO FORM:

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

EXHIBIT "A"  
LEGAL DESCRIPTION

BEING a tract of land situated in the James F. Chenoweth Survey, Abstract No. 222 and the William Miller Survey, Abstract No. 568 and being a portion of a called 41.671 acre tract of land conveyed to 831 Trophy, L.P., as evidenced in a Special Warranty Deed recorded under Instrument No. 20070712000957810, Land Records of Collin County, Texas, and being the western half of Parkwood Boulevard, the northerly half of Plano Parkway and a portion of the Dallas North Tollway, said tract being more particularly described by metes and bounds as follows:

BEGINNING at the intersection of the centerline of Parkwood Boulevard (originally dedicated as an 85 foot wide right-of-way) with the centerline of Plano Parkway (originally dedicated as a 120 foot wide right-of-way), same being the point of curvature of a non-tangent curve to the right;

THENCE in a westerly direction, along the centerline of said Plano Parkway and along the arc of said curve to the right, through a central angle of  $05^{\circ} 06' 12''$ , having a radius of 3,274.00 feet, a chord bearing of South  $86^{\circ} 11' 27''$  East, a chord distance of 291.51 feet and an arc length of 291.61 feet to the end of said curve;

THENCE South  $88^{\circ} 18' 26''$  West, continuing along the centerline of said Plano Parkway, a distance of 496.43 feet to the intersection of the centerline of said Plano Parkway with the centerline of the Dallas North Tollway (a variable width right-of-way);

THENCE North  $00^{\circ} 50' 44''$  West, along the centerline of said Dallas North Tollway, a distance of 527.66 feet to the point of curvature of a non-tangent curve to the left;

THENCE in a northerly direction, continuing along the centerline of said Dallas North Tollway and along the arc of said curve to the left, through a central angle of  $09^{\circ} 13' 45''$ , having a radius of 5,729.58 feet, a chord bearing of North  $05^{\circ} 27' 36''$  West, a chord distance of 921.92 feet, and an arc length of 922.92 feet to the end of said curve;

THENCE North  $10^{\circ} 04' 29''$  West, continuing along the centerline of said Dallas North Tollway, a distance of 357.90 feet to the point of curvature of a non-tangent curve to the right;

THENCE in a northerly direction, continuing along the centerline of said Dallas North Tollway and along the arc of said curve to the right, through a central angle of  $01^{\circ} 07' 31''$ , having a radius of 5,729.58 feet, a chord bearing of North  $10^{\circ} 02' 26''$  West, a chord distance of 112.52 feet, and an arc length of 112.52 feet to the end of said curve;

THENCE North  $89^{\circ} 20' 29''$  East, departing the centerline of said Dallas North Tollway, passing the east right-of-way line of said Dallas North Tollway and the west line of said 41.671 acre tract, crossing said 41.671 acre tract, passing the east line of said 41.671 acre tract and the west right-of-way line of aforesaid Parkwood Boulevard, and continuing for a total distance of 1,071.52 feet to the aforesaid centerline of Parkwood Boulevard;

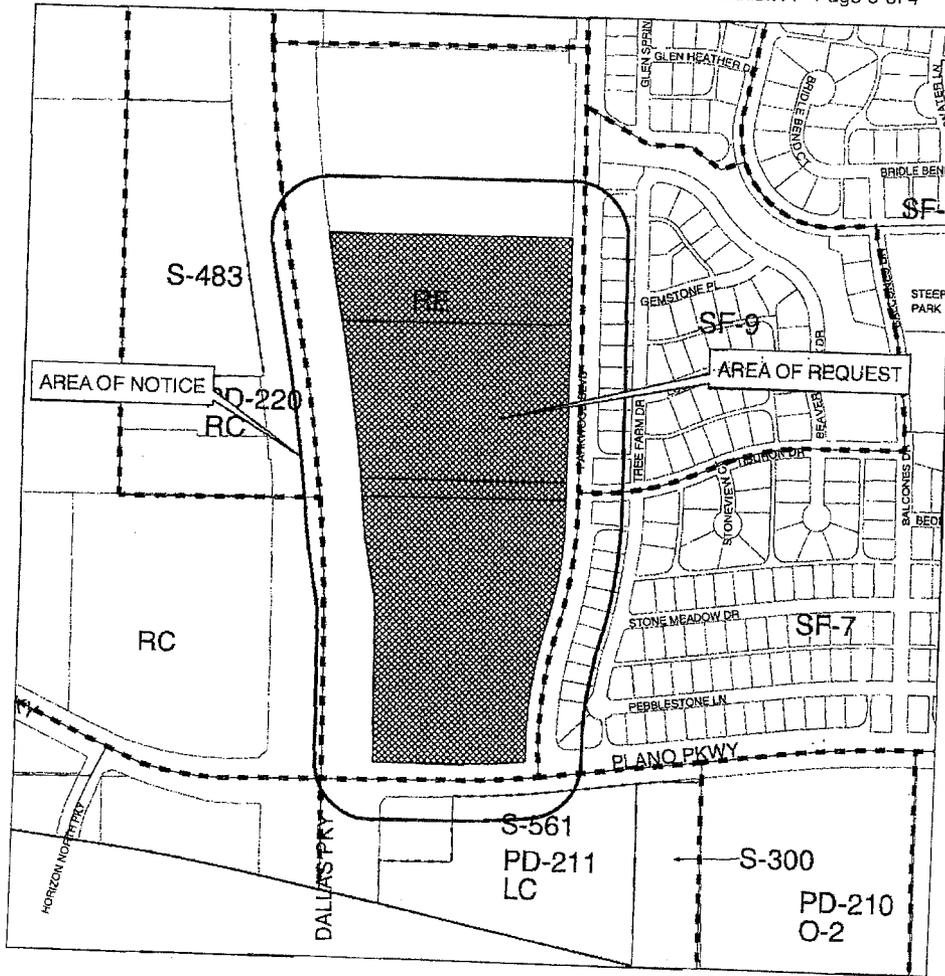
THENCE in a southerly direction, along the centerline of said Parkwood Boulevard, the following:

South  $00^{\circ} 39' 55''$  East, a distance of 865.49 feet to the point of curvature of a non-tangent curve to the right;

Along the arc of said curve to the right, through a central angle of  $17^{\circ} 41' 06''$ , having a radius of 1,600.00 feet, a chord bearing of South  $07^{\circ} 07' 42''$  West, a chord distance of 491.90 feet, and an arc length of 493.86 feet to the point of reverse curvature of a curve to the left;

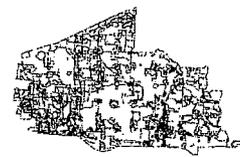
Along the arc of said curve to the left, through a central angle of  $17^{\circ} 20' 26''$ , having a radius of 1,500.00 feet, a chord bearing of South  $07^{\circ} 18' 54''$  West, a chord distance of 452.24 feet, and an arc length of 453.97 feet to the end of said curve;

South  $01^{\circ} 18' 45''$  East, a distance of 84.74 feet to the POINT OF BEGINNING and CONTAINING 40.18 acres of land, more or less.



Zoning Case #: 2008-27

Existing Zoning: REGIONAL EMPLOYMENT/  
DALLAS NORTH TOLLWAY OVERLAY DISTRICT



○ 200' Notification Buffer

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**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date:	<b>5/27/08</b>	Reviewed by Legal <i>js</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Fire	Initialed	<i>JS</i>	Date
Department Head	Hugo Esparza, Fire Chief	Executive Director		<b>05.15.08</b>
Dept Signature:	<i>[Signature]</i>	City Manager		
Agenda Coordinator (include phone #): <b>Frank Snidow, x7318</b>				
ACTION REQUESTED: <input checked="" type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
<b>CAPTION</b>				
An Ordinance of the City of Plano, Texas, repealing Ordinance 2004-8-16 and Ordinance 2006-2-7 codified as Article II, Fire Code, of Chapter 8 of the Code of Ordinances of of the City; Adopting the 2006 Edition of the International Fire Code, with certain additions, deletions, and amendments, as the Fire Code of the City of Plano; and providing a repealer clause, a severability clause, a savings clause, a penalty clause, and an effective date.				
<b>FINANCIAL SUMMARY</b>				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS:				
<b>SUMMARY OF ITEM</b>				
This Ordinance repeals the existing Fire Code and adopts the 2006 Fire Code.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		

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## Memorandum

**Date:** May 15, 2008  
**To:** Hugo Esparza, Fire Chief  
**From:** David Kerr, Fire Marshal *DKL*  
**Subject:** 2006 International Fire Code

The 2006 International Fire Code with local amendments has been reviewed by the staff and is recommended to the City Council for approval by the Building Standards Commission.

With the exception of the following, the remaining proposed amendments are either recommendations from COG or local amendments carried forward from the previous code.

Section 903.2.10.7 has been added as a clarification and re-codification of the current sprinkler requirements for properties in excess of 6,000 square feet. Fires involving fuel loads in open expanses spread quickly. This code section requires commercial occupancies that remove fire walls and/or expand to a size greater than 6,000 square feet to fire sprinkle the affected area/tenant space. (This section also exists in the International Building Code as approved in a prior council meeting).

Section 903.6.3 requires the addition of fire sprinklers in an existing apartment building where a fire has displaced the occupant(s) prior to re-occupancy. The City of Plano has a rich history and great success rate for fire sprinklers in multifamily dwellings. A study conducted by the fire department, indicates over 13,600 (56%) apartment units in the city are fire sprinkled. The study also showed that over a 24 month period 22 fires were controlled by fire sprinklers with 16 occurring in multifamily dwellings. Half of the fires occurred in kitchens with 97% controlled by a single fire sprinkler. Two arson fires were controlled by the sprinklers and four (4) documented lives were saved.

*DKL*  
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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, REPEALING ORDINANCE 2004-8-16, AND 2006-2-7 CODIFIED AS ARTICLE II, FIRE CODE, OF CHAPTER 8 OF THE CODE OF ORDINANCES OF THE CITY; ADOPTING THE 2006 EDITION OF THE INTERNATIONAL FIRE CODE, WITH CERTAIN ADDITIONS, DELETIONS, AND AMENDMENTS, AS THE FIRE CODE OF THE CITY OF PLANO; AND PROVIDING A REPEALER CLAUSE, A SEVERABILITY CLAUSE, A SAVINGS CLAUSE, A PENALTY CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, on November 1, 2007, the Building Standards Commission held a public hearing to discuss adoption of the 2006 Edition of the International Fire Code and the establishment of regulations there under and to receive input from the general public and all persons who may be affected by the proposed ordinance; and

WHEREAS, upon recommendation of the Building Standards Commission and full review and consideration of all matters related and attendant thereto, the City Council is of the opinion that the 2006 Edition of the International Fire Code, along with the local amendments thereto, should be adopted as the Fire Code for the City of Plano and that regulations and fees should be established there under.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. Ordinances No. 2004-8-16, and 2006-2-7 duly passed and approved by the City Council of the City of Plano on, and codified as Article II, Fire Code, of Chapter 8 of the Code of Ordinances, are hereby repealed in its entirety.

Section II. A new Article II, Fire Code of Chapter 8 of the Code of Ordinances of the City of Plano is hereby adopted and shall read in its entirety as follows:

**“ARTICLE II. FIRE CODE**

**Penalty.**

Any person, firm, or corporation violating any of the provisions or terms of this Article or the Code adopted herein shall be guilty of a misdemeanor and, upon conviction in the Municipal Court, shall be subject to a fine not to exceed TWO THOUSAND AND NO/100 (\$2000.00) DOLLARS for each offense, and each and every day any such violation shall continue shall be deemed to constitute a separate offense.

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**Adoption of International Fire Code.**

There is hereby adopted by the City Council of the City of Plano, Texas, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain Code known as the 2006 Edition of the International Fire Code including Appendix B, E, and F of the 2006 Edition of the International Fire Code published by the International Fire Code Institute and the International Conference of Building Officials, being particularly the 2006 Edition thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified, or amended by this Ordinance, of which code and standards copies have been and are now filed in the office of the City Secretary and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this Ordinance shall take effect, the provisions thereof shall be controlling within the limits of the City of Plano.

**Sec. 101.1 Administration.**

**Title.** These regulations shall be known as the Fire Code of the City of Plano, hereinafter referred to as "this code."

***Sec. 102.1 is amended by the addition of the following:***

**Sec. 102.1 Construction and design provisions.** The construction and design provisions of this code shall apply to:

1. Structures, facilities and conditions arising after the adoption of this code.
2. Existing structures, facilities and conditions not legally in existence at the time of adoption of this code.
3. Existing structures, facilities and conditions when identified in specific sections of this code.
4. Existing structures, facilities and conditions which, in the opinion of the fire code official, constitute a distinct hazard to life or property.
5. The provisions of this code apply to buildings built under the IRC and IBC.

***Sec. 102.4 is changed to read as follows:***

**Sec. 102.4 Application of other building codes.** The design and construction of new structures shall comply with this code, and other codes as applicable, and any alterations, additions, changes in use or changes in structures required by this code, which are within the scope of the International Building Code, shall be made in accordance herewith.

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*Sec. 102.6 is amended by the addition of the following:*

**Sec. 102.6 Referenced codes and standards.** Whenever amendments have been adopted to the referenced codes and standards, each reference to said code and standard shall be considered to reference the amendments as well. Any reference to NFPA 70 or the *ICC Electrical Code* shall mean the Electrical Code as adopted.

*Sec. 103.1, 103.2, and 103.3 are amended to read as follows:*

**Sec. 103 Department of Fire Prevention**

**Sec. 103.1 General.** The Fire Code shall be enforced by the Division of Fire Prevention. The Division of Fire Prevention is hereby established as a division of the Fire Department of the City of Plano and shall be operated under the supervision of the Chief of the Fire Department.

**Sec. 103.2 Appointment.** The Fire Marshal in charge of the Division of Fire Prevention shall be appointed by the Fire Chief on the basis of proper qualification.

**Sec. 103.3 Deputies.** The Chief of the Fire Department may detail such members of the Fire Department as inspectors as shall from time to time be necessary and each member so assigned shall be authorized to enforce the provisions of the International Fire Code.

**Sec. 104 General Authority and Responsibilities.**

*Sec. 104.12 is amended by the addition of the following:*

**Sec. 104.12 Fire prevention bureau personnel and police.** The chief and members of the fire prevention bureau shall have the power to issue citations for violations of this code. When requested to do so by the fire chief, the chief of police is authorized to assign such available police officers as necessary to assist the fire department in enforcing the provisions of this code.

**Sec. 105. Permits.**

*Sec. 105.6.26 is amended to read as follows:*

**Sec. 105.6.26. LP-gas. An operational permit is required for:**

1. Storage and use of LP-gas.

**Exception:** A permit is not required for individual containers with a 20 pound (9.0 Kg) water capacity or less serving occupancies in Group R-3.

2. Operation of cargo tankers that transport LP-gas.

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*Sec. 106.2.1 is amended by the addition of the following:*

**Sec. 106.2.1** The Fire Chief or his designated representative shall inspect all buildings, premises, or portions thereof as often as may be necessary. An initial inspection and one (1) re-inspection shall be made free of charge. If the Fire Chief or his designee is required to make follow-up inspections after the initial inspection and reinspection to determine whether a violation or violations observed during the previous inspection have been corrected, a fee shall be charged. The occupant, lessee, or person making use of the building or premises shall pay said fee or fees within thirty (30) days of being billed as a condition to continued lawful occupancy of the building or premises.

*Sec. 109.3 is amended to read as follows:*

**Sec. 109.3** Any person, firm, or corporation violating any of the provisions or terms of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed TWO THOUSAND AND NO/100 (\$2,000.00) DOLLARS for each offense, and each and every day any such violation shall continue shall be deemed to constitute a separate offense.

*Sec. 111.4 is amended to read as follows:*

**Sec. 111.4 Failure to comply.** Any person who shall continue any work after having been served with a stop work order except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine not to exceed TWO THOUSAND AND NO/100 (\$2,000.00) DOLLARS for each offense, and each and every day such violation shall continue shall be deemed to constitute a separate offense.

*Sec. 202 is amended by the addition of the following:*

**Sec. 202 General Definitions**

**HIGH-RISE BUILDING.** A building having floors used for human occupancy located more than 55 feet (16,764 mm) above the lowest level of fire department vehicle access.

**SELF-SERVICE STORAGE FACILITY.** Real property designed and used for the purpose of renting or leasing individual storage spaces to customers for the purpose of storing and removing personal property on a self-service basis.

**STANDBY PERSONNEL.** Qualified fire service personnel, approved by the Fire Chief. When utilized, the number required shall be as directed by the Fire Chief. Charges for the utilization of fire service personnel shall be as normally calculated by the jurisdiction.

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*Sec. 202 the Definition of Firewatch is amended to read as follows:*

**FIREWATCH.** A temporary measure intended to ensure continuous and systematic surveillance of a building or portion thereof by one or more qualified individuals or standby personnel when required by the fire code official for the purpose of identifying and controlling fire hazards, detecting early signs of unwanted fire, raising an alarm of fire and notifying the fire department.

**Open Burning.**

*Sec. 307.1.1 is amended to read as follows:*

**Sec. 307.1.1 Prohibited Open Burning.** Open burning shall be prohibited within the City of Plano.

**Exception:**

1. Permits may be issued for ceremonial campfires not to exceed 3 feet in diameter and 2 feet in height, and located a minimum of 25 feet from any structure or property line.
2. Permits may be issued for warming fires when the following are met:
  - a. The fire is placed in a barrel not to exceed 55 gallons in size.
  - b. The barrel must have a screen secured to the top of the barrel.
  - c. The barrel must be located a minimum of 25 feet from any structure or property line.

*Sec. 308.3.1.1 is amended by the addition of the following:*

**Exception:**

1. One- and two-family dwellings.
2. Where buildings, balconies, and decks are protected by an automatic sprinkler system, maximum 20 pound water capacity.

**Standby Personnel.**

*Sec. 316; is amended by the addition of the following:*

**Sec. 316 Standby Personnel**

**Sec. 316.1 Standby personnel/Crowd managers.** When, in the opinion of the code official, it is essential for public safety in a place of assembly or any other place where people congregate, because of the number of persons, or the nature of the performance, exhibition, display, contest or activity, the owner, agent or lessee shall

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employ standby personnel, to remain on duty during the times such places are open to the public, or when such activity is being conducted.

Before each performance or the start of such activity, standby personnel shall keep diligent watch for fires during the time such place is open to the public or such activity is being conducted to take prompt measures as directed by the Fire Chief. Such duties may include, but not be limited to, extinguishment of fires that occur and assist in the evacuation of the public from the structure.

There shall be trained crowd managers or crowd manager supervisors at a ratio determined by the Fire Marshal.

*Sec. 401.3 is amended by the addition of the following:*

**Sec. 401.3.4 Fire Alarms and Nuisance Alarms.** False alarms and nuisance alarms shall not be given, signaled or transmitted or caused or permitted to be given, signaled or transmitted in any manner.

*Sec. 405.1; change to read as follows:*

**Sec. 405.1 General.** Emergency evacuation drills complying with the provisions of this section shall be conducted in the occupancies listed in Table 405.2 or when required by the fire code official. Drills shall be designed in cooperation with the local authorities.

*Sec. 408.5.4; change to read as follows:*

**Sec. 408.5.4 Drill frequency.** Emergency evacuation drills shall be conducted at least twelve times per year, four times per year on each shift. Drills are not required to comply with the time requirements of Section 405.4.

**Fire Lanes.**

*Sec. 503.1.1, Required Access, is amended by the addition of the following to the first paragraph:*

**Sec. 503.1.1, Required Access.** The 150 feet (150') shall be measured along a ten foot (10') wide unobstructed pathway around the external walls of the structure. The grade shall not exceed six (6) percent. The provision of this section notwithstanding, fire lanes may be required to be located within thirty feet (30') of a building if deemed to be reasonably necessary by the Fire Chief to enable proper protection of the building. A five (5) foot wide level pathway shall be provided unobstructed through all barriers. A continuous row of parking between the fire lane and the structure shall be considered a barrier.

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Fire lane and access easements shall be provided to serve all buildings through parking areas, to service entrances of buildings, loading areas and trash collection areas, and other areas deemed necessary to be available to fire and emergency vehicles. The Fire Chief is authorized to designate additional requirements for fire lanes where the same is reasonably necessary so as to provide access for fire and rescue personnel.

Fire lanes provided during the platting process shall be so indicated on the plat as an easement. Where fire lanes are provided and a plat is not required, the limits of the fire lane shall be shown on a site plan and placed on permanent file with the Fire Marshal and City Planning Department.

No owner or person in charge of any premises served by a fire lane or access easement shall abandon, restrict or close any fire lane or easement without first securing from the City of Plano approval of an amended plat or other acceptable legal instrument showing the removal of the fire lane.

*Sec. 503.1.2 Additional Access is amended by the addition of the following to the first paragraph:*

**Sec. 503.1.2 Additional Access.** All structures and subdivisions shall provide two points of access. The two points of access shall be a minimum of 140 feet apart. The maximum block length shall be 1200' and the maximum cul-de-sac length shall not exceed 600' in length as measured from the centerline of the intersection, street to the center point of the radius.

**Sec. 503.2 Specifications**

*Sec. 503.2.1 Dimensions is amended to read as follows:*

**503.2.1 Dimensions.** Fire apparatus access roads shall have an unobstructed width of not less than 24 feet (7,315 mm), except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than 14 feet (4,267 mm).

Any such fire lane easement shall either connect both ends to a dedicated street or be provided with a turnaround having a minimum outer radius of 50 feet. If two or more interconnecting lanes are provided, interior radius for that connection shall be required in accordance with the following:

**For 90 degree or greater turns only**

- 24' fire lane – minimum radius 20'
- 30' fire lane – minimum radius 10'

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For turns tighter than 90 degrees, American Association of State and Highway Transportation Officials (AASHTO) Geometric Design of Highways and Streets shall be utilized.

*Sec. 503.2.3 Surface is amended to read as follows:*

**Sec. 503.2.3 Surface.** Fire lanes shall be constructed of an asphalt or concrete surface capable of supporting the imposed loads of fire apparatus and meeting the requirements of the City of Plano parking lot standards. Those portions of the fire lane within sixty feet (60') of the structure to be protected shall be constructed with 6-inch thick, 3000 psi concrete or 5-inch thick, 3600 psi concrete reinforced with No. 3 bars spaced 24 inches on centers both ways and with sub-grade to a density not less than 95 percent as determined by TSDHPT Test Method Tex-113. Portions of the fire lane constructed of asphalt shall be ninety-five (95) percent compaction with a 6-inch asphalt stabilized base and 2-inch type D hot mix asphalt concrete. State Highway specification number 292. Whenever forty percent (40%) of existing, non-conforming fire lanes are replaced within a twelve month period, the entire fire lane shall be replaced according to current standards.

All fire lanes shall be maintained and kept in a good state of repair at all times by the owner and the City of Plano shall not be responsible for the maintenance thereof. It shall further be the responsibility of the owner to insure that all fire lane markings required by Sec. 503.3 be kept so that they are easily distinguishable by the public.

*Sec. 503.2.6 is amended by the addition of the following:*

**Sec. 503.2.6 Bridges and elevated surfaces.** All bridges and fire lane grades shall meet the City of Plano Engineering specifications.

*Sec. 503.3 is amended to read as follows:*

**Sec. 503.3 Marking.** Approved striping or, when allowed by the code official, signs, or both shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. Signs and striping shall be maintained in a clean and legible condition at all times and shall be replaced or repaired when necessary to provide adequate visibility.

- (1) STRIPING – Fire apparatus access roads shall be marked by painted lines of red traffic paint six inches (6”) in width to show the boundaries of the lane. The words “NO PARKING FIRE LANE” or “fire lane no parking” shall appear in four inch (4”) white letters at 25 foot intervals on the red border markings along both sides of the fire lanes. Where a curb is available, the striping shall be on the vertical face of the curb.
- (2) SIGNS – shall read “NO PARKING FIRE LANE” or “FIRE LANE NO PARKING” and shall be 12” wide and 18” high. Signs shall be painted on a

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white background with letters and borders in red, using not less than 2" lettering. Signs shall be permanently affixed to a stationary post and the bottom of the sign shall be six feet, six inches (6'6") above finished grade. Signs shall be spaced not more than fifty feet (50') apart. Signs may be installed on permanent buildings or walls or as approved by the Fire Chief.

*Sec. 503.4 is changed to read as follows:*

**Sec. 503.4 Obstruction of fire apparatus access roads.** Fire apparatus access roads shall not be obstructed in any manner, including the parking of vehicles. The minimum widths and clearances established in Section 503.2.1 and any area marked as a fire lane as described in Section 503.3 shall be maintained at all times.

*Sec. 503.6 is amended to read as follows:*

**Sec. 503.6 Security gates.** Where security fencing is necessary, the owner shall provide gates or openings which may be secured. Gates when provided must open fully in either direction or be of a sliding or raised arm type. The main entry gates serving Group R & I occupancies shall be equipped with an approved automated entry system. All other entry points along the fire lane must be automated or Knox compatible as approved by the Fire Chief, to permit immediate access by fire personnel and equipment in the event of fire or emergency.

**Premises Identification.**

*Sec. 505.1 is amended to read as follows:*

**Sec. 505.1 Premises Identification.** Approved numerals of a minimum 6" height and of a color contrasting with the background designating the address shall be placed on all new and existing buildings or structures in such a position as to be plainly visible and legible from the street or road fronting the property and from all rear alleyways where said alleyways exist. Where buildings do not immediately front a street, approved 6 inch height building numerals or address and 3-inch height suite/apartment numerals of a color contrasting with the background of the building shall be placed on all new and existing buildings or structures. Numerals or addresses shall be posted on a minimum 20 inch by 30 inch background or border. Address numbers shall be Arabic numerals or alphabet letters. The minimum stroke width shall be 0.5 inches.

**Exception 1.** R-3 Single Family occupancies shall have approved numerals of a minimum 3 inches in height and a color contrasting with the background clearly visible and legible from the street fronting the property and rear alleyway where such alleyway exists.

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**Fire Protection Water Supplies.**

*Sec. 508.5.1 is amended to read as follows:*

**Sec. 508.5.1 Where Required.** And as properties develop, fire hydrants shall be located at all intersecting streets and at the maximum spacing indicated in Table 903.4.2. Distances between hydrants shall be measured along the route that fire hose is laid by a fire vehicle from hydrant to hydrant.

Maximum Distance Between Hydrants

OCCUPANCY	SPRINKLERED	NOT SPRINKLERED
Residential (1 & 2 Family)	600 feet	500 feet
Residential (Multi Family)	400 feet	300 feet
All Other	500 feet	300 feet

Table 903.4.2

1. *PROTECTED PROPERTIES.* Fire hydrants required to provide a supplemental water supply for automatic fire protection system shall be within 100 feet of the fire department connection for such system.

2. *FIRE HYDRANT LOCATIONS.* Fire hydrants shall be located 2 feet to 6 feet back of curb or fire lane and shall not be located in the bulb of a cul-de-sac.

3. *MINIMUM NUMBER OF FIRE HYDRANTS.* There shall be a minimum of two (2) fire hydrants serving each property within the prescribed distances listed above.

**Sec. 704.1 Enclosure.**

**Sec. 704.1 Enclosure.** Interior vertical shafts, including but not limited to stairways, elevator hoist ways, service and utility shafts, that connect two or more stories of a building shall be enclosed or protected in accordance with the codes in effect at the time of construction but, regardless of when constructed, not less than as specified in Table 704.1. When openings are required to be protected, openings into such shafts shall be maintained self-closing or automatic-closing by smoke detection. Existing fusible-link-type automatic door-closing devices are permitted if the fusible link rating does not exceed 135°F (57°C).

*Sec. 807.4.3.2 and 807.4.4.2 is amended by the addition of the following:*

**Exception:** Corridors protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 shall be limited to 50 percent of the wall area.

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*Sec. 901.5 amended by the addition of the following:*

**Sec. 901.5 Installation acceptance testing.** All required tests shall be conducted by and at the expense of the owner or his representative. The Fire Department shall not be held responsible for any damages incurred in such test. Where it is required that the Fire Department witness any such test, such test shall be scheduled with a minimum of 48 hour notice to the Fire Chief or his representative.

*Sec. 901.7 is amended to read as follows:*

**Sec. 901.7 Systems out of service.** Where a required fire protection system is out of service or in the event of an excessive number of accidental activations, the fire department and the code official shall be notified immediately and, where required by the code official, the building shall either be evacuated or standby personnel shall be provided for all occupants left unprotected by the shut down until the fire protection system has been returned to service.

Where utilized, standby personnel shall be provided with at least one approved means for notification of the fire department and their only duty shall be to perform constant patrols of the protected premises and keep watch for fires.

*Sec. 902.1; under "Standpipe, Types of" definition, amend "manual dry" to read as follows:*

**Manual Dry.** A dry standpipe system that does not have a permanent water supply attached to the system. Manual dry standpipe systems require water from a fire department pumper to be pumped into the system through the fire department connection in order to supply the system demand. The system must be supervised as specified in Section 905.2.

*Sec. 903.2; delete the exception:*

**Exception:** Spaces or areas in telecommunications buildings used exclusively for telecommunications equipment, associated electrical power distribution equipment, batteries and standby engines, provided those spaces or areas are equipped throughout with an automatic fire alarm system and are separated from the remainder of the building by fire barriers consisting of not less than 1-hour fire-resistance-rated walls and 2-hour fire-resistance-rated floor/ceiling assemblies.

*Sec. 903.2.1.1, 903.2.1.3, 903.2.1.4, 903.2.2, 903.2.2 903.2.3, 903.2.6, 903.2.8, and 903.2.8.1 change to read as follows:*

**Sec. 903.2.1.1 Group A-1.** An automatic sprinkler system shall be provided for Group A-1 Occupancies where one of the following conditions exists:

1. The fire area exceeds 6,000 square feet (557.4m<sup>2</sup>).

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2. The fire area has an occupant load of 300 or more.
3. The fire area is located on a floor other than the level of exit discharge.
4. The fire area contains a multi theater complex.

**Sec. 903.2.1.3 Group A-3. An automatic sprinkler system shall be for Group A-3 Occupancies where one of the following conditions exists:**

1. The fire area exceeds 6,000 square feet (557.4m<sup>2</sup>).
2. The fire area has an occupant load of 300 or more.
3. The fire area is located on a floor other than the level of exit discharge.

Exception: Areas used exclusively as participant sports areas where the main floor area is located at the same level as the level of exit discharge of the main entrance and exit.

**Sec. 903.2.1.4 Group A-4. An automatic sprinkler system shall be provided for Group A-4 Occupancies where one of the following conditions exists:**

1. The fire area exceeds 6,000 square feet (557.4m<sup>2</sup>).
2. The fire area has an occupant load of 300 or more.
3. The fire area is located on a floor other than the level of exit discharge.

Exception: Areas used exclusively as participant sports areas where the main floor area is located at the same level as the level of exit discharge of the main entrance and exit.

**Sec. 903.2.2 Group E. An automatic sprinkler system shall be provided for Group E Occupancies where one of the following conditions exists:**

1. Throughout all Group E fire areas greater than 6,000 square feet (557.4m<sup>2</sup>) in area;
2. Throughout every portion of educational building below the level of exit discharge.

Exception: An automatic sprinkler system is not required in any fire area or area below the level of exit discharge where every classroom throughout the building has at least one exterior exit door at ground level.

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**Sec. 903.2.3 Group F-1. An automatic sprinkler system shall be provided for Group F-1 Occupancies where one of the following conditions exists:**

1. Where a Group F-1 fire area exceeds 6,000 square feet (557.4m<sup>2</sup>);
2. Where a Group F-1 fire area is located more than three stories above grade plane;  
or
3. Where combined area of all Group F-1 fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230m<sup>2</sup>).

**Sec. 903.2.6 Group M. An automatic sprinkler system shall be for Group M Occupancies where one of the following conditions exists:**

1. Where a Group M fire area exceeds 6,000 square feet (557.4m<sup>2</sup>);
2. Where a Group M fire area is located more than three stories above grade plane;  
or
3. Where the combined area of all Group M fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230m<sup>2</sup>).

**Sec. 903.2.8 Group S-1. An automatic sprinkler system shall be for Group S-1 Occupancies where one of the following conditions exists:**

1. A Group S-1 fire area exceeds 6,000 square feet (557.4m<sup>2</sup>);
2. A Group S-1 fire area is located more than three stories above grade plane; or
3. The combined area of all Group S-1 fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230m<sup>2</sup>).

**Sec. 903.2.8.1 Repair Garages. An automatic sprinkler system shall be for Repair Garages where one of the following conditions exists:**

1. Buildings two or more stories in height, including basements, with a fire area containing a repair garage exceeding 6,000 square feet (557.4m<sup>2</sup>);
2. One-story buildings with a fire area containing a repair garage exceeding 6,000 square feet (557.4m<sup>2</sup>);
3. Buildings with a repair garage servicing vehicles parked in the basement.

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*Sec. 903.2.8.3 is amended by the addition of the following:*

**Sec. 903.2.8.3 Self-service storage facility.** An automatic sprinkler system shall be installed throughout all self-service storage facilities. A screen shall be installed at eighteen (18) inches below the level of the sprinkler heads to restrict storage above that level. This screen shall be a mesh of not less than one (1) inch nor greater than six (6) inches in size. The screen and its supports shall be installed such that all elements are at least eighteen (18) inches below any sprinkler heads.

*Sec. 903.2.10 is amended to read as follows:*

**Sec. 903.2.10 All occupancies except R-3 and U.** An automatic sprinkler system shall be installed in the locations set for in Sections 903.2.10.1 through 903.2.10.8.

Exception: Group R-3 and Group U.

*Sec. 903.2.10.3; change 903.2.10.3 to read as follows:*

**903.2.10.3 Buildings more than 35 feet in height.** An automatic sprinkler system shall be installed throughout buildings with a floor level, other than penthouses in compliance with Section 1509 of the *International Building Code*, that are located 35 feet (10,668 mm) or more above the lowest level of fire department vehicle access.

**Exception:** Open parking structures in compliance with Section 406.3 of the *International Building Code*.

*Sec. 903.2.10; add 903.2.10.4, 903.2.10.5, 903.2.10.6, 903.2.10.7, and 903.2.10.8 as follows:*

**Sec. 903.2.10.4 High Piled Combustible Storage.** For any building with a clear height exceeding 12 feet (4,572 mm), see Chapter 23 to determine if those provisions apply.

**Sec. 903.2.10.5 Spray Booths and Rooms.** New and existing spray booths and spraying rooms shall be protected by an approved automatic fire-extinguishing system.

**Sec. 903.2.10.6 Buildings Over 6,000 sq. ft.** An automatic sprinkler system shall be installed throughout all buildings over 6,000 sq. ft. and greater, and in all existing buildings that are enlarged to be 6,000 square feet or greater, and in buildings greater than 6,000 square feet which are enlarged. For the purpose of this provision, fire walls shall not define separate buildings.

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**Exceptions:**

1. Open parking garages in compliance with Section 406.3 of the *International Building Code*.
2. When of non-combustible construction, the area of awning extension or free-standing canopies, both sides, and not used for display or storage shall not be considered for requiring sprinkler protection for areas greater than 6,000 square feet but less than otherwise required in this code.

**Sec. 903.2.10.7 Expanded Tenant Spaces.** Fire sprinklers shall be installed in all tenant spaces where the total fire area exceeds 6,000 square feet. For the purpose of fire sprinklers, fire walls shall not be used to separate single tenant fire areas.

***Sec. 903.3.1.1.1; change to read as follows:***

**Sec. 903.3.1.1.1 Exempt locations.** When approved by the code official, automatic sprinklers shall not be required in the following rooms or areas where such rooms or areas are protected with an approved automatic fire detection system in accordance with Section 907.2 that will respond to visible or invisible particles of combustion. Sprinklers shall not be omitted from any room merely because it is damp, of fire-resistance-rated construction or contains electrical equipment.

1. Any room where the application of water, or flame and water, constitutes a serious life or fire hazard.
2. Any room or space where sprinklers are considered undesirable because of the nature of the contents, when approved by the code official.
3. Generator and transformer rooms, under the direct control of a public utility, separated from the remainder of the building by walls and floor/ceiling or roof/ceiling assemblies having a fire-resistance rating of not less than 2 hours.

***Sec. 903.3.1.2 is amended to read as follows:***

**Sec. 903.3.1.2 NFPA 13 R sprinkler systems.** Where allowed in buildings of Group R, up to and including four stories in height, automatic sprinklers shall be installed throughout in accordance with NFPA 13R. Sprinkler systems installed in accordance with 13R shall include sprinkler protection in combustible attics of buildings two (2) or more stories in height.

***Sec. 903.3.1 is amended by the addition of the following:***

**Sec. 903.3.1.4 Installation.** Automatic sprinkler and standpipe systems shall be installed with the following:

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1. A single underground supply and point for the Fire Department Connection (FDC) shall be provided for all buildings.
2. Fire department connections serving more than 500 GPM shall be provided with one 5-inch Storz connection and one 2-1/2 inch connection.
3. All inspectors' test, ball-drips, and main-drains shall be piped directly to the outside of the building.
4. At least one inspection test valve shall be located at the remote system area.
5. Risers shall be equipped with a properly sized test header.
6. Fire pumps shall be equipped with a properly sized test header.
7. Underground piping shall have a 10-foot minimum separation from all other utilities and placed in a separate trench. Underground piping within 5 feet of the building may be combined with other utilities for entrance to the building.
8. Porches and balconies shall be fire sprinkled on all Group R-2 and R-3 occupancies.
9. A minimum of 4-feet of pipe between the check valve and inside wall of the Fire Department Connection.

***Sec. 903.3.5; add a second paragraph to read as follows:***

**Sec. 903.3.5 Water supplies.** Water supply as required for such systems shall be provided in conformance with the supply requirements of the respective standards; however, every fire protection system shall be designed with a 10 psi safety factor.

***Sec. 903.4; add a second paragraph after the exceptions to read as follows:***

**Sec. 903.4 Sprinkler system monitoring and alarms.** Sprinkler and standpipe system water-flow detectors shall be provided for each floor tap to the sprinkler system and shall cause an alarm upon detection of water flow for a minimum of 45 seconds and not more than 90 seconds. All control valves in the sprinkler and standpipe systems except for fire department hose connection valves shall be electrically supervised to initiate a supervisory signal at the central station upon tampering.

***Sec. 903.4.2 add second paragraph to read as follows:***

**Sec. 903.4.2 Alarms.** The alarm device required on the exterior of the building shall be a weatherproof horn/strobe notification appliance with a minimum 75 candela strobe rating, installed as close as practicable to the fire department connection.

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*Sec. 903.4.3; change to read as follows:*

**903.4.3 Floor control valves.** Approved supervised indicating control valves shall be provided at the point of connection to the riser on each floor.

*Sec. 903.6.2 and 903.6.3 is amended to read as follows:*

**Sec. 903.6.2 Spray booths and rooms.** New and existing spray booths and spray rooms shall be protected by an approved automatic fire-extinguishing system in accordance with Section 1504.

**903.6.3 Existing R-1 and 2 Occupancies:** In R-1 and 2 occupancies where a fire has occurred and displaces one or more occupants, the affected building shall be fire-sprinkled prior to re-occupancy of the unit/building.

*Sec. 905.2; change to read as follows:*

**Sec. 905.2 Installation standards.** Standpipe system shall be installed in accordance with this section and NFPA 14. Manual dry standpipe systems shall be supervised with a minimum of 10 psig and a maximum of 40 psig air pressure with a high/low alarm.

*Sec. 905.3.2 amend as follows:*

*Sec. 905.3.2 Group A; delete exceptions 1 and 2.*

1. Open-air-seating spaces without enclosed spaces.
2. Class I automatic dry and semiautomatic dry standpipes or manual wet standpipes are allowed in buildings where the highest floor surface used for human occupancy is 75 feet (22,860 mm) or less above the lowest level of fire department vehicle access.

*Sec. 905.4, item 5; change to read as follows:*

**Sec. 905.4 Location of Class I standpipe hose connections.**

5. Where the roof has a slope less than four units vertical in 12 units horizontal (33.3-percent slope), each standpipe shall be provided with a two-way hose connection located either on the roof or at the highest landing of stairways with stair access to the roof. An additional hose connection shall be provided at the top of the most hydraulically remote standpipe for testing purposes.

*Sec. 905.4 add item 7 to read as follows:*

**Sec. 905.4 Location of Class I standpipe hose connections.**

7. Class I standpipes shall also be required on all occupancies in which the distance from accessible points for Fire Department ingress to any point in the structure exceeds two hundred fifty feet (250') along the route that a fire hose is laid as measured from the fire lane. When required by this Chapter, standpipe connections shall be placed adjacent to all required exits to the structure and at two hundred feet (200') intervals along major corridors thereafter.

*Sec. 905.9; add a second paragraph after the exceptions to read as follows:*

**Sec. 905.9 Valve Supervision.** Sprinkler and standpipe system water-flow detectors shall be provided for each floor tap to the sprinkler system and shall cause an alarm upon detection of water flow for a minimum of 45 seconds and not more than 90 seconds. All control valves in the sprinkler and standpipe systems except for fire department hose connection valves shall be electrically supervised to initiate a supervisory signal at the central station upon tampering.

*Sec. 906.1 is amended to read as follows:*

**Sec. 906.1 Where required.** Portable fire extinguishers shall be installed in the following locations:

1. In Group A, B, E, F, H, I, M, R-1, R-2, R-4 AND S occupancies.
2. Within 30 feet (9,144 mm) of commercial equipment.
3. In areas where flammable or combustible liquids are stored, used or dispensed.
4. On each floor of structures under construction, except Group R-3 occupancies, in accordance with Section 1414.1.
5. Where required by the sections indicated in Table 906.1.
6. Special-hazard areas, including but not limited to laboratories, computer rooms, and generator rooms where required by the code official.

*Sec. 907.1.1; shall be amended by the addition of the following:*

**Sec. 907.1.1 Construction documents.** Plans for fire alarm systems shall be in accordance with Plano Fire Department Fire Alarm Submittal Guidelines.

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*Sec. 907.1.; amended by the addition of the following:*

**Sec. 907.1.3 Design Standards.** All alarm systems new or replacement serving 20 or more alarm actuating devices shall be addressable fire detection systems. Alarm systems serving more than 40 smoke detectors or more than 100 total alarm activating devices shall be analog intelligent addressable fire detection systems.

**Exception:** Existing systems need not comply unless the total building remodel or expansion initiated after January 1, 1998, as adopted, exceeds 30% of the building. When cumulative building remodel or expansion exceeds 50% of the building must comply within 18 months of permit application.

*Sec. 907.2.1 amend to read as follows:*

**Sec. 907.2.1 Group A.** A manual fire alarm system shall be installed in Group A occupancies having an occupant load of 300 or more persons or more than 100 persons above or below the lowest level of exit discharge. Portions of Group E occupancies occupied for assembly purposes shall be provided with a fire alarm system as required for the Group E occupancy.

*Sec. 907.2.3; change to read as follows:*

**Sec. 907.2.3 Group E.** A manual fire alarm system shall be installed in Group E occupancies. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system. An approved smoke detection system shall be installed in Group E day cares. Where automatic fire sprinklers are not provided, a full-coverage smoke detection system shall be provided in all Group E occupancies. Unless separated by a minimum of 100 feet open space, all buildings, whether portable buildings or the main building, will be considered one building for alarm occupant load consideration and interconnection of alarm systems.

*Sec. 907.2.3 is amended to read as follows:*

*Sec. 907.2.3; change exception 1 and add exception 1.1 to read as follows:*

1. Group E educational and day care occupancies with an occupant load of less than 50 when provided with an approved automatic sprinkler system.
  - 1.1 Residential In-Home day care with not more than 12 children may use interconnected single station detectors in all habitable rooms. (For care of more than five children 2 ½ or less years of age, see Section 907.2.6)

*Sec. 907.2.6; amended by the addition of the following:*

**Sec. 907.2.6.4 Group I-4 Occupancies.** An approved smoke detection system shall be installed in Group I-4 occupancies where automatic fire sprinklers are not

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provided, a full-coverage smoke detection system shall be provided in all Group I-4 occupancies.

*Sec. 907.2.12; change to read as follows:*

**Sec. 907.2.12 High-rise buildings.** Buildings having floors used for human occupancy located more than 55 feet (16,764 mm) above the lowest level of fire department vehicle access shall be provided with an automatic fire alarm system and an emergency voice/alarm communication system in accordance with Section 907.2.12.2.

*Sec. 907.2.12, exception 3; change to read as follows:*

3. Buildings with an occupancy in Group A-5 in accordance with Section 303.1 of the *International Building Code*, when used for open air seating; however, this exception does not apply to accessory uses including but not limited to sky boxes, restaurants and similarly enclosed areas.

*Sec. 907.4 is amended by the addition of the following:*

**Sec. 907.4.6 Manual alarm actuating devices shall be an approved double action type.**

*Add Sec. 907.6.1 to read as follows:*

**Sec. 907.6.1 Installation.** All fire alarm systems shall be installed in such a manner that a failure of any single initiating device or single open in an initiating circuit conductor will not interfere with the normal operation of other such devices. All initiating circuit conductors shall be Class "A" wired with a minimum of six feet separation between supply and return circuit conductors. IDC – Class "A" Style D; SLC – Class "A" Style 6; NAC – Class "B" Style Y. The IDC from an addressable device used to monitor the status of a suppression system may be wired Class B, Style B provided the distance from the addressable device is within 10-feet of the suppression system device.

*Sec. 907.9.2; change to read as follows:*

**Sec. 907.9.2 High-rise buildings.** In buildings that have floors located more than 55 feet (16,764 mm) above the lowest level of fire department vehicle access that are occupied for human occupancy, a separate zone by floor shall be provided for all of the following types of alarm-initiating devices where provided:

1. Smoke detectors.
2. Sprinkler water-flow devices.
3. Manual fire alarm boxes.

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4. Other approved types of automatic detection devices or suppression systems.

*Sec. 907.15; is amended by the addition of the following:*

**Sec. 907.15.1 Flow detectors and electronic monitoring.** Sprinkler and standpipe system water flow detectors shall be provided for each floor zone to the sprinkler system and shall cause an alarm upon detection of water flow for a minimum of 45 seconds and not more than 90 seconds. All control valves in the sprinkler and standpipe systems except for fire department hose connection valves shall be electrically supervised to initiate a trouble signal at the central station upon tampering.

*Sec. 910.2; is amended by the addition of the following:*

**Sec. 910.2.4 Group H.** Buildings and portions thereof used as a Group H occupancy as follows:

1. In occupancies classified as Group H-2 or H-3, any of which are more than 15,000 square feet (1394m<sup>2</sup>) in single floor area.

**Exception:** Buildings of noncombustible construction containing only noncombustible materials.

2. In areas of buildings in Group H used for storing Class 2, 3 and 4 liquid and solid oxidizers, Class 1 and unclassified detonable organic peroxides, Class 3 and 4 unstable (reactive) materials, or Class 2 or 3 water-reactive materials as required for a high-hazard commodity classification.

**Exception.** Buildings of noncombustible construction containing only noncombustible materials.

*Sec. 910.3 is amended as follows:*

**Sec. 910.3 Design and installation.** Change the title of the first row of the table from "Group F-1 and S-1" to include "Group H" and to read as follows:

Group H, F-1, S-1

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*Table 910.3; Change the title of the first row of the table to read as follows:*

**[F] TABLE 910.3  
REQUIREMENTS FOR DRAFT CURTAINS AND SMOKE AND HEAT VENTS<sup>a</sup>**

OCCUPANCY GROUP AND COMMODITY CLASSIFICATION	DESIGNATED STORAGE HEIGHT (feet)	MINIMUM DRAFT CURTAIN DEPTH (feet)	MAXIMUM AREA FORMED BY DRAFT CURTAINS (square feet)	VENT-AREA TO-FLOOR-AREA RATIO <sup>c</sup>	MAXIMUM SPACING OF VENT CENTERS (feet)	MAXIMUM DISTANCE TO VENTS FROM WALL OR DRAFT CURTAINS <sup>b</sup> (feet)
Group F-1, H and S-1	—	0.2 × Hd but ≥ 4	50,000	1:100	120	60
<i>(Balance of table remains unchanged)</i>						

*Sec. 910.3.2.1; is amended by deletion of the following:*

**Sec. 910.3.2.1** Gravity-operated drop out vents. Automatic smoke and heat vents containing heat-sensitive glazing designed to shrink and drop out of the vent opening when exposed to fire shall fully open within 5 minutes after the vent cavity is exposed to a simulated fire represented by a time-temperature gradient that reaches an air temperature of 500°F (260°C) within 5 minutes.

*Sec. 910.3.2.2; is amended by the addition of the following:*

**Section 910.3.2.2 Sprinklered buildings.** Where installed in buildings equipped with an approved automatic sprinkler system, smoke and heat vents shall operate automatically. The automatic operating mechanism of the smoke and heat vents shall operate at a temperature rating at least 100°F (38°C) greater than the temperature rating of the sprinklers installed.

*Sec. 913.1; add paragraph to read as follows:*

**Sec. 913.1 General.** When located on the ground level, the fire pump room shall be provided with an exterior fire department access door that is not less than 3 ft. in width and 6 ft. in height, regardless of any interior doors that are provided. A key box shall be provided at this door, as required by Section 506.1.

**Exception:** When it is necessary to locate the fire pump room on other levels or not at an exterior wall, the corridor leading to the fire pump room access from the exterior of the building shall be provided with equivalent fire resistance as that required for the pump room, or as approved by the fire code official. Access keys shall be provided in the key box as required by Section 506.1.

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*Sec. 913.4; add a second paragraph to read as follows:*

The fire-pump system shall also be supervised for “loss of power”, and “phase reversal” on supervisory circuits, and “pump running” as an alarm condition and shall report individually to the monitoring station.

*Sec. 1004.1.1; delete exception as follows:*

**Sec. 1004.1.1 Areas without fixed seating.** The number of occupants shall be computed at the rate of one occupant per unit of area as prescribed in Table 1004.1.1. For areas without fixed seating, the occupant load shall not be less than that number determined by dividing the floor area under consideration by the occupant per unit of area factor assigned to the occupancy as set forth in Table 1004.1.1. Where an intended use is not listed in Table 1004.1.1, the building official shall establish a use based on a listed use that most nearly resembles the intended use.

**Exception:** Where approved by the building official, the actual number of occupants for whom each occupied space, floor or building is designed, although less than those determined by calculation shall be permitted to be used in the determination of the design occupant load.

*Sec. 1017.1; add exception 5 to read as follows:*

**Sec. 1017.1 Construction.**

5. In Group B office buildings, corridor walls and ceilings need not be of fire-resistive construction within office spaces of a single tenant when the space is equipped with an approved automatic smoke-detection system within the corridor. The smoke-detection system shall be connected to the building’s fire alarm system where such a system is provided.

*Sec. 1020.1.7; change to read as follows:*

**Sec. 1020.1.7 Smokeproof enclosures.** In buildings required to comply with Section 403 or 405 of the IBC, each of the exits of a building that serves stores where any floor surface is located more than 55 feet (16,764 mm) above the lowest level of fire department vehicle access or more than 30 feet (9144 mm) below the level of exit discharge service such floor levels shall be a smokeproof enclosure or pressurized stairway in accordance with Section 909.20.

*Sec. 1504.4 to read as follows:*

**Sec. 1504.4 Fire Protection.** New and existing spray booths and spray rooms shall be protected by an approved automatic fire-extinguishing system complying with Chapter 9 which shall also protect exhaust plenums, exhaust ducts and both sides of dry filters when such filters are used.

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*Sec. 2302; add a second paragraph to the definition of "High-Piled Combustible Storage" to read as follows:*

Any building exceeding 6,000 sq. ft. that has a clear height in excess of 12 feet, shall be considered to be high-piled storage and shall comply with the provisions of this section. When a specific product cannot be identified, a fire protection system shall be installed as for Class IV commodities, to the maximum pile height.

**Standby personnel.**

*Sec. 2404.20; change to read as follows:*

**Sec. 2404.20 Standby personnel/Crowd managers.** When, in the opinion of the code official, it is essential for public safety in a place of assembly or any other place where people congregate, because of the number of persons, or the nature of the performance, exhibition, display, contest or activity, the owner, agent or lessee shall employ standby personnel, to remain on duty during the times such places are open to the public, or when such activity is being conducted.

Before each performance or the start of such activity, standby personnel shall keep diligent watch for fires during the time such place is open to the public or such activity is being conducted and take prompt measures as directed by the Fire Chief. Such duties may include, but not be limited to, extinguishment of fires that occur and assist in the evacuation of the public from the structure.

There shall be trained crowd managers or crowd manager supervisors at a ratio of one crowd manager/supervisor for every 250 occupants, as approved.

**Fireworks.**

*Sec. 3301.1.3; change to read as follows:*

**3301.1.3 Fireworks.** The possession, manufacture, storage, sale, handling and use of fireworks are prohibited.

**Exceptions:**

1. Only when approved for fireworks displays, storage and handling of fireworks as provided in Section 3304 and 3308.
2. The use of fireworks for approved display as permitted in Section 3308.

The presence or use of fireworks within the jurisdiction of the City of Plano in violation of this ordinance is hereby declared to be a common and public nuisance. The restrictions of this Section shall be applicable and in force throughout the territory of the City of Plano, Texas, and extending for a distance outside the City limits for a total of

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5,000 feet; provided that this Section shall not be in effect within any portion of such 5,000 feet area which is contained within the territory of any other municipal corporation.

*Sec. 3301.3 is amended to read as follows:*

**Sec. 3301.3 Prohibited explosives.** Permits shall not be issued or renewed for possession, manufacture, storage, handling, sale or use of explosives within the city limits of Plano.

*Sec. 3302; is amended to read as follows:*

**Sec. 3302 Fireworks.** Any composition or device for the purpose of producing a visible or an audible effect for entertainment purposes by combustion, deflagration, detonation, and/or activated by ignition with a match or other heat producing device that meets the definition of 1.4G fireworks or 1.3G fireworks as set forth herein.

**Fireworks, 1.4G.** (Formerly known as Class C, Common Fireworks.) Small fireworks devices containing restricted amounts of pyrotechnic composition designed primarily to produce visible or audible effects by combustion. Such 1.4G fireworks which comply with the construction, chemical composition and labeling regulations of the DOT for Fireworks, UN 0336, and the U.S. Consumer Product Safety Commission as set forth in CPSC 16 CFR: Parts 1500 and 1507, are not explosive materials for the purpose of this code.

**Fireworks, 1.3G.** (Formerly Class B, Special Fireworks.) Large fireworks devices, which are explosive materials, intended for use in fireworks displays and designed to produce audible or visible effects by combustion, deflagration or detonation. Such 1.3G fireworks include, but are not limited to firecrackers containing more than 130 milligrams (2 grains) of explosive composition, aerial shells containing more than 40 grams of pyrotechnic composition, and other display pieces which exceed the limits for classification as 1.4G fireworks. Such 1.3G fireworks are also described as Fireworks, UN0335 by the DOT.

*Sec. 3308.5.3 is amended by the addition of the following section:*

**Sec. 3308.5.3 Marking of shells.** Each aerial shell shall have printed directly on its outer casing the following minimum warning 1/8 inch high letters which contrast to the background:

**WARNING  
EXPLOSIVES CLASS "C"  
FIRE WORKS  
DO NOT HANDLE – CALL "911"**

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*Sec. 3308 is amended by the addition of the following:*

**Sec. 3308.12 Ignition.** Aerial shells shall be ignited by lighting the tips of fuses by an electrical ignition source except when manual ignition is approved by the Fire Chief. Operators shall not place any part of their bodies over the throat of the mortar.

**Flammable and combustible liquids.**

*Sec. 3403.6; add a sentence to read as follows:*

An approved method of secondary containment shall be provided for underground tank and piping systems.

*Sec. 3404.2.7 is amended as follows: Sec. 3404.2.7 shall be amended by the addition of:*

Secondary containment shall be provided for all Above and Underground Storage Tanks (UST) and product lines in the form of double wall tanks and piping. Alternate methods of secondary containment may be used if approved by the Chief.

*Sec. 3404.2.9.5.1 is amended to read as follows:*

**Sec. 3404.2.9.5.1 Location Where Above-Ground Tanks are Prohibited.**

The storage of flammable or combustible liquids in outside above ground tanks is prohibited within each and every zoning district within the City of Plano with the exception of those districts which are zoned for light industrial zoning use. Installation of above ground tanks in other than light industrial zoning districts shall be permitted at the discretion of the Fire Chief following his review of the proposed installation location, and the fire protection for the storage area. Tanks shall not be located within one hundred feet (100') of the property line of any Group E, I or R occupancies.

*3404.2.11.5; add a sentence to read as follows:*

An approved method of secondary containment shall be provided for underground tank and piping systems.

*Add Sec. 3404.2.11.5.2; change to read as follows:*

**Sec. 3404.2.11.5.2 Leak detection.** Underground storage tank systems shall be provided with an approved method of leak detection from any component of the system that is designed and installed in accordance with NFPA 30 and as specified in Section 3404.2.11.5.3.

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*Add Sec. 3404.2.11.5.3 to read as follows:*

**Sec. 3404.2.11.5.3 Dry sumps.** Approved sampling tubes of a minimum 6 inches in diameter shall be installed in the backfill material of each underground flammable or combustible liquid storage tank. The tubes shall extend from a point 12 inches below the average grade of the excavation to ground level and shall be provided with suitable surface access caps. Each tank site shall provide a sampling sump at the corners of the excavation with a minimum of 4 sumps. Sampling tubes shall be placed in the product line excavation within 10 feet of the tank excavation and one every 50 feet routed along product lines towards the dispensers. A minimum of two are required.

*Sec. 3406.5.4.5 and 3406.5.4.5.1 through 3406.5.4.5.3 to read as follows:*

**Sec. 3406.5.4.5 Commercial, industrial, governmental or manufacturing.** Dispensing of Class II and III motor vehicle fuel from tank vehicles into the fuel tanks of motor vehicles located at commercial, industrial, governmental or manufacturing establishments is allowed where permitted, provided such dispensing operations are conducted in accordance with Sections 3406.5.4.5.1 through 3406.5.4.5.3.

**Section 3406.5.4.5.1 Site requirements.**

1. Dispensing may occur at sites that have been permitted to conduct mobile fueling.
2. A detailed site plan shall be submitted with each application for a permit. The site plan must indicate:
  - a) All buildings, structures, and appurtenances on site and their use or function;
  - b) All uses adjacent to the property lines of the site;
  - c) The locations of all storm drain openings, adjacent waterways or wetlands;
  - d) Information regarding slope, natural drainage, curbing, impounding and how a spill will be retained upon the site property; and,
  - e) The scale of the site plan.
3. The Code Official is authorized to impose limits upon the times and/or days during which mobile fueling operations are allowed to take place, and specific locations on a site where fueling is permitted.
4. Mobile fueling operations shall be conducted in areas not generally accessible to the public. Mobile fueling shall not take place within 15 feet (4.572 m) of buildings, property lines, or combustible storage.

**Sec. 3406.5.4.5.2 Refueling Operator Requirements.**

1. The owner of a mobile fueling operation shall provide to the jurisdiction a written response plan which demonstrates readiness to respond to a fuel spill, carry out

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appropriate mitigation measures, and to indicate its process to properly dispose of contaminated materials when circumstances require.

2. The tank vehicle shall comply with the requirements of NFPA 385 and Local, State and Federal requirements. The tank vehicle's specific functions shall include that of supplying fuel to motor vehicle fuel tanks. The vehicle and all its equipment shall be maintained in good repair.
3. Signs prohibiting smoking or open flames within 25 feet (7.62 m) of the tank vehicle or the point of fueling shall be prominently posted on 3 sides of the vehicle including the back and both sides.
4. A fire extinguisher with a minimum rating of 40:BC shall be provided on the vehicle with signage clearly indicating its location.
5. The dispensing nozzles and hoses shall be of an approved and listed type.
6. The dispensing hose shall not be extended from the reel more than 100 feet (30.48 m) in length.
7. Absorbent materials, non-water absorbent pads, a 10 foot (3.048 m) long containment boom, and approved container with lid, and a non-metallic shovel shall be provided to mitigate a minimum 5-gallon fuel spill.
8. Tanker vehicles shall be equipped with a fuel limit switch such as a count-back switch, limiting the amount of a single fueling operation to a maximum of 500 gallons (1,893 L) between re-settings of the limit switch.

**Exception:** Tankers utilizing remote emergency shut-off device capability where the operator constantly carries the shut-off device which, when activated, immediately causes flow of fuel from the tanker to cease.

9. Persons responsible for dispensing operations shall be trained in the appropriate mitigating actions in the event of fire, leak, or spill. Training records shall be maintained by the dispensing company and shall be made available to the Code Official upon request.
10. Operators of tank vehicles used for mobile fueling operations shall have in their possession at all times an emergency communications device to notify the proper authorities in the event of an emergency.

#### **Sec. 3406.5.4.5.3 Operational Requirements.**

1. The tank vehicle dispensing equipment shall be constantly attended and operated only by designated personnel who are trained to handle and dispense motor fuels.

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2. Prior to beginning dispensing operations, precautions shall be taken to assure ignition sources are not present.
3. The engines of vehicles being fueled shall be shut off during dispensing operations.
4. Night time fueling operations shall only take place in adequately lighted areas.
5. The tank vehicle shall be positioned with respect to vehicles being fueled so as to preclude traffic from driving over the delivery hose and between the tank vehicle and the motor vehicle being fueled.
6. During fueling operations, tank vehicle brakes shall be set, chock blocks shall be in place and warning lights shall be in operation.
7. Motor vehicle fuel tanks shall not be topped off.
8. The dispensing hose shall be properly placed on an approved reel or in an approved compartment prior to moving the tank vehicle.
9. The Code Official and other appropriate authorities shall be notified when a reportable spill or unauthorized discharge occurs.

**Flammable Gas.**

*Sec. 3504.2 shall be amended by the addition of the following:*

**Sec. 3504.2 Maximum capacity within established limits.** Tanks shall not be located within one hundred feet (100') of the property line of any Group A, E, I, or R occupancies.

**LP Gas.**

*Sec. 3803.2.1 shall be amended by the addition of the following sections:*

**Sec. 3803.2.1.8 Jewelry Repair, Dental Labs and Similar Occupancies.** Where natural gas service is not available, portable LP-Gas containers are allowed to be used to supply approved torch assemblies or similar appliances. Such containers shall not exceed 20 pounds (9.0 kg) water capacity. Aggregate capacity shall not exceed 60 pounds (27.2 kg) water capacity. Each device shall be separated from other containers by not less than 20 feet.

*Sec. 3804.2 is amended to read as follows:*

**Sec. 3804.2 Maximum capacity within established limits.** The manufacturing of LP-Gas shall be prohibited in each and every zoning district of the City of Plano. The

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storage and use of LP-Gas shall be allowed only in industrial zoned districts of the City of Plano and as allowed in specific uses outlined in Section 3803 and 3804. Storage shall not be located within one hundred feet (100') of the property line of E, A, I, or R occupancies.

*Sec. 3804.3 shall be amended by the addition of the following:*

**Sec. 3804.3.2 Spas and Pool Heaters.** Where natural gas service is not available, LP-Gas containers are allowed to be used to supply spa and pool heaters. Such containers shall not exceed 250 gallon water capacity. See Table 3804.3 for location of containers.

**Arson reward.**

The City hereby offers a reward fund of up to One Thousand Dollars (\$1,000.00) for the arrest and conviction of any person found guilty of committing the crime of arson within the corporate limits of the City. This reward fund is a standing offer, and shall be paid out of the general fund of the City.

**Authorizing suites for injunctive relief.**

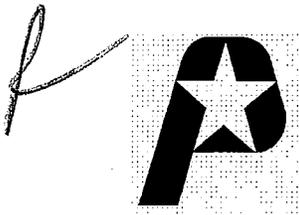
Notwithstanding any penal provision of this Ordinance, the City Attorney is authorized to file on behalf of the City of Plano, the Fire Chief or his authorized representative, or both for injunctive relief as may be necessary to enforce the provisions of this Ordinance."

**Section III.** All provisions of the Code of Ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Code of Ordinances of the City of Plano not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**Section IV.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, or section of this Ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining phrase, clause, sentence, paragraph or section of this Ordinance.

**Section V.** The repeal of any Ordinance or part of Ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such Ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions at the time of passage of this Ordinance.

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**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget <i>C.S.</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:	<b>5/27/2008</b>		Reviewed by Legal <i>[Signature]</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Finance		Initials	Date	
Department Head	John McGrane		Executive Director		
Dept Signature:	<i>[Signature]</i>		City Manager	<i>[Signature]</i>	<b>5.16.08</b>
Agenda Coordinator (include phone #):	<b>Brianna Alvarado X7479</b>				

**ACTION REQUESTED:**     ORDINANCE     RESOLUTION     CHANGE ORDER     AGREEMENT  
 APPROVAL OF BID     AWARD OF CONTRACT     OTHER PUBLIC HEARING

**CAPTION**

**AN ORDINANCE OF THE CITY OF PLANO, TEXAS, DESIGNATING A CERTAIN AREA WITHIN THE CITY OF PLANO AS REINVESTMENT ZONE NO. 113 FOR A TAX ABATEMENT CONSISTING OF A 5.164 ACRE TRACT OF LAND LOCATED AT THE NORTHEAST CORNER OF THE DALLAS NORTH TOLLWAY AND LEGACY DRIVE, IN THE CITY OF PLANO, TEXAS ESTABLISHING THE BOUNDARIES OF SUCH ZONE; ORDAINING OTHER MATTERS RELATING THERETO; AND PROVIDING AN EFFECTIVE DATE.**

**FINANCIAL SUMMARY**

NOT APPLICABLE     OPERATING EXPENSE     REVENUE     CIP

FISCAL YEAR: <b>2007-2008</b>	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
<b>BALANCE</b>	0	0	0	0

**FUND(s):    GENERAL**

**COMMENTS:** The fiscal impact is contingent upon the value of improvements made to the property. Currently, the Real Property is estimated to have an approximate taxable value of not less than \$10,519,000. The Proposed Real Property tax abatement on the improvements will begin January 1, 2009 and continue to December 31, 2015, and will be equal to 32% for seven (7) years.

**SUMMARY OF ITEM**

This is related to the Ensemble Studios/Microsoft a Washington Corporation, and The Shops at Legacy (North), LLC, request for tax abatement. This Ordinance creates the geographical zone in which Council will hold a Public Hearing earlier on the same Agenda date. Notice of Public Hearing to be published on May 15, 2008.

***INTEROFFICE MEMORANDUM***

**TO:** Thomas H. Muehlenbeck  
City Manager

**DATE:** May 14, 2008

**FROM:** John F. McGrane  
Director of Finance

**CC:** Cindy Pierce  
Exec. Admin. Asst.

**SUBJECT:** Tax Abatement for Ensemble Studios/Microsoft and The Shops at Legacy (North)  
LLC – Reinvestment Zone 113

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Microsoft/ Ensemble will complete construction improvements and/or repairs to the Real Property consisting primarily of new buildings that total 50,000 gross square feet of office space. Reinvestment zone 113 will consist of a 5.164 acre tract of land located north east corner of The Dallas North Tollway and Legacy Drive. The development will result in approximately 120 full time jobs.

The tax abatement will be based on the following values; the estimated amount of \$10,519,000 of Real Property. This tax abatement will be for a period of ten years, from January 1, 2009 through December 31, 2015, and shall be based on amounts equal to 32% for Real Property, which is a savings of \$15,938.39 annually at the current rate of .4735.

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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, DESIGNATING A CERTAIN AREA WITHIN THE CITY OF PLANO AS REINVESTMENT ZONE NO. 113 FOR A TAX ABATEMENT CONSISTING OF A 5.164 ACRE TRACT OF LAND LOCATED AT THE NORTHEAST CORNER OF THE DALLAS NORTH TOLLWAY AND LEGACY DRIVE, IN THE CITY OF PLANO, TEXAS ESTABLISHING THE BOUNDARIES OF SUCH ZONE; ORDAINING OTHER MATTERS RELATING THERETO; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Plano, Texas (the "City"), desires to promote the development or redevelopment of a certain contiguous geographic area within its jurisdiction by the creation of a reinvestment zone for retail tax abatement, as authorized by V.T.C.A. Tax Code Chapter 312 (referred to as the "Property Redevelopment and Tax Abatement Act" or the "Act"); and

WHEREAS, a public hearing before the City Council was set for 7:00 p.m. on the 27th day of May, 2008, such date being at least seven (7) days after the date of publication of the notice of such public hearing; and

WHEREAS, the City held such public hearing after giving written notice of said hearing to all taxing units overlapping the territory inside the proposed reinvestment zone; and

WHEREAS, the City at such hearing invited any interested person or his representative to appear for or against the creation of the reinvestment zone, the boundaries of the proposed reinvestment zone, whether all or part of the territory described in the notice calling such public hearing should be included in such proposed reinvestment zone, and the concept of tax abatement; and

WHEREAS, the proponents of the reinvestment zone offered evidence, both oral and documentary, in favor of all matters relating to the creation of the reinvestment zone.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

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**Section I.** The facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct.

**Section II. Definitions.** For the purposes of this Ordinance, the following terms and phrases shall have the following meanings ascribed to them:

- a) Improvements - Improvements shall include, for the purpose of establishing eligibility under the Act, any activity at the location, including, but not limited to, new construction.
- b) Taxable Real Property - Taxable real property shall be as defined in the Texas Property Tax Code and shall not include personal property as defined in said code, nor shall it include land.
- c) Taxable Tangible Personal Property - Shall be defined, for purposes of this Ordinance, as tangible personal property, such as office machines and office furnishings, but shall specifically exclude inventory or supplies.
- d) Base Year - The base year for determining increased value shall be the taxable real property value assessed the year in which the agreement is executed.

**Section III.** The City, after conducting the above-mentioned hearing and having heard such evidence and testimony, has made the following findings and determinations based on the testimony presented to it:

- a) That a public hearing on the adoption of the reinvestment zone has been properly called, held and conducted and that notices of such hearings have been published as required by law and mailed to all taxing units overlapping the territory inside the proposed reinvestment zone; and
- b) That the boundaries of the reinvestment zone should be the area as described in the metes and bounds description attached hereto as Exhibit "A"; and
- c) That creation of the reinvestment zone for commercial/industrial tax abatement with boundaries as described in Exhibit "A" will result in benefits to the City and

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to the land included in the zone and the improvements sought are feasible and practical; and

- d) That the reinvestment zone as defined in Exhibit "A" meets the criteria for the creation of a reinvestment zone as set forth in Section 312.202 of the Act in that it is "reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the City"; and
- e) That the reinvestment zone as defined in Exhibit "A" meets the criteria for the creation of a reinvestment zone as set forth in the City of Plano Revised Policy Statement for Tax Abatement.

**Section IV.** Pursuant to Section 312.201 of the Act, the City hereby creates a reinvestment zone for commercial/industrial tax abatement encompassing only the area described by metes and bounds in Exhibit "A" attached hereto and such reinvestment zone is hereby designated and shall hereafter be designated as Reinvestment Zone No. 113, City of Plano, Texas.

**Section V.** The zone shall be effective as of January 1, 2009.

**Section VI.** To be eligible for tax abatement a retail project shall:

- a) Be located wholly within the zone as established herein.
- b) Have a minimum expenditure on real property improvements equal to or greater than **Ten Million Five Hundred and Nineteen Million and No/100 Dollars (\$10,519,000.00).**
- c) Not include property that is owned or leased by a member of the City Council of the City of Plano or by a member of the Planning and Zoning Commission.
- d) Conform to the requirements of the City's Zoning Ordinance and all other applicable laws and regulations.

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- e) Have and maintain all land located within the designated zone, appraised at market value for tax purposes.

**Section VII.** Written tax abatement agreements with property owner(s) located within the zone shall provide the terms regarding duration of exemption and share of taxable real property (and personalty) value from taxation as approved hereunder as shown below:

- a) Duration of Exemption – seven (7) consecutive tax years beginning with and including the January 1, 2009 assessment date.
- b) Share of taxes abated - percentage of taxes on total value of appraised Personal Property and Improvements at the rate of: 32% for the years 2009, 2010, 2011, 2012, 2013, 2014, and 2015.

**Section VIII.** Any written agreements authorized under this Ordinance must include provisions for:

- a) Listing the kind, number and location of all proposed improvements of the property;
- b) Access to and inspection of property by municipal employees to ensure that the improvements or repairs are made according to the specification and conditions of the agreements;
- c) Limiting the use of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect; and
- d) Recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements or repairs as provided by the agreement.

**Section IX.** If any portion of this Ordinance shall, for any reason, be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions hereof.

**Section X.** This Ordinance shall become effective from and after its date of passage.

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**DULY PASSED AND APPROVED** this 27th day of May, 2008.

\_\_\_\_\_  
Pat Evans, MAYOR

ATTEST:

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

APPROVED AS TO FORM:

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

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**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**REINVESTMENT ZONE NO. 113**  
**Real Property**  
**Metes and Bounds**

**BEING** a tract of land out of the Henry Cook Survey, Abstract No. 183 and the Maria C. Vela Survey, Abstract No. 935, in the City of Plano, Collin County, Texas, being part of Lot 1R of The Shops at Legacy Town Center (North), Lots 1R & 5, Block C, an addition to the City of Plano according to the plat thereof recorded in Cabinet 2007, Page 601 of the Map Records of Collin County, Texas and being more particularly described as follows:

**BEGINNING** at a 5/8" iron rod found with a plastic cap stamped "KHA" (hereinafter called 5/8" iron rod found) for the north corner of a corner clip at the intersection of the west right-of-way line of Bishop Road and the north right-of-way line of Legacy Drive for the southeast corner of Lot said Lot 1R;

**THENCE** with said north right-of-way line, the following courses and distances to wit:  
South 44°57'18" West, a distance of 21.23 feet to a 5/8" iron rod found for corner;  
South 89°54'36" West, a distance of 79.46 feet to a 5/8" iron rod found for corner;  
North 88°10'57" West, a distance of 184.35 feet to a 5/8" iron rod found for corner;  
South 89°54'55" West, a distance of 96.83 feet to a 5/8" iron rod found for corner;  
North 86°11'27" West, a distance of 62.73 feet to a point for corner;

**THENCE** leaving said north right-of-way line, the following courses and distances to wit:  
NORTH, a distance of 666.64 feet to a point for corner;  
EAST, a distance of 115.75 feet to a point for corner;  
NORTH, a distance of 115.68 feet to a point for corner;  
North 30°00'00" East, a distance of 40.65 feet to a point for corner;  
North 80°34'45" East, a distance of 85.01 feet to a point for corner;  
EAST, a distance of 167.56 feet to a point for corner in the northerly most west line of Lot 5 of said The Shops at Legacy Town Center (North), Lots 1R & 5, Block C;

**THENCE** with said west line, SOUTH, a distance of 3.10 feet to a 5/8" iron rod found for corner;

**THENCE** with the northerly most south line of said Lot 5, EAST, a distance of 81.50 feet to a point for corner;

**THENCE** with the southerly most west line of said Lot 5, SOUTH, a distance of 131.69 feet to a 5/8" iron rod found for corner;

**THENCE** with the south line of said Lot 5, EAST, a distance of 38.90 feet to a 5/8" iron rod found for corner in the west right-of-way line of said Bishop Road;

**THENCE** with said west right-of-way line, SOUTH, a distance of 60.00 feet to a 5/8" iron rod found for the northeast corner of Lot 3 of Legacy Town Center (North), an addition to

March 25, 2008  
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the City of Plano according to the plat thereof recorded in Cabinet 2006, Page 440 of the Map Records of Collin County, Texas.

THENCE with the north line of said Lot 3, WEST, a distance of 277.54 feet to a 5/8" iron rod found for corner;

THENCE with the west line of said Lot 3 part of the way and with the west and south line of Baccus Cemetery, the following courses and distances to wit:

South 00°38'20" West, a distance of 602.31 feet to a 5/8" iron rod found for corner;

South 88°23'32" East, a distance of 172.95 feet to a 5/8" iron rod found for corner;

THENCE leaving said south line the following courses and distances to wit:

South 00°05'24" East, a distance of 19.07 feet to an X in concrete found for corner;

South 89°52'31" East, a distance of 31.80 feet to an X in concrete found for corner;

North 45°03'44" East, a distance of 8.52 feet to a 5/8" iron rod found for corner;

NORTH, a distance of 21.71 feet to a point for corner;

EAST, a distance of 5.75 feet to a 5/8" iron rod found for corner in the west right-of-way line of said Bishop Road;

THENCE with said west right-of-way line, SOUTH, a distance of 32.82 feet to the POINT OF BEGINNING and containing 5.164 acres of land.

Bearing system based on the monuments found according to the plat of Shops at Legacy Town Center (North), Lots 1R & 5, Block C, an addition to the City of Plano according to the plat thereof recorded in Cabinet 2007, Page 601 of the Map Records of Collin County, Texas.

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**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget <i>C.S.</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date: <b>5/27/08</b>		Reviewed by Legal <i>MS</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department:	FINANCE		Initials	Date	
Department Head	John McGrane		Executive Director		
Dept Signature:	<i>John McGrane</i>		City Manager	<i>BSA</i> 05.16.08	
Agenda Coordinator (include phone #):		Brianna Alvarado x7479	<i>BA</i>		

**ACTION REQUESTED:**

<input type="checkbox"/> ORDINANCE	<input checked="" type="checkbox"/> RESOLUTION	<input type="checkbox"/> CHANGE ORDER	<input type="checkbox"/> AGREEMENT
<input type="checkbox"/> APPROVAL OF BID	<input type="checkbox"/> AWARD OF CONTRACT	<input type="checkbox"/> OTHER	

**CAPTION**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN AGREEMENT BY AND BETWEEN THE CITY OF PLANO, TEXAS, THE COUNTY OF COLLIN, TEXAS, AND ENSEMBLE STUDIOS/MICROSOFT, A WASHINGTON CORPORATION, AND THE SHOPS AT LEGACY (NORTH) LLC, A TEXAS LIMITED LIABILITY COMPANY, AND PROVIDING FOR A REAL AND BUSINESS PERSONAL PROPERTY TAX ABATEMENT, AND AUTHORIZING ITS EXECUTION BY THE CITY MANAGER, OR IN HIS ABSENCE AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.

**FINANCIAL SUMMARY**

NOT APPLICABLE     OPERATING EXPENSE     REVENUE     CIP

FISCAL YEAR: <b>2007-2008</b>	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0

**FUND(s): GENERAL**

**COMMENTS:** The real property is estimated to have an approximate taxable value of not less \$10,519,000 The proposed tax abatement on the improvements will begin January 1, 2009 and continue through the year 2015, and will be equal to 32% for seven (7) years.

**SUMMARY OF ITEM**

This is related to the Ensemble Studios/Microsoft a Washington Corporation, and The Shops at Legacy (North), LLC, request for tax abatement on reinvestment zone 113.

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
Tax Abatement Agreement	

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RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN AGREEMENT BY AND BETWEEN THE CITY OF PLANO, TEXAS, THE COUNTY OF COLLIN, TEXAS, AND ENSEMBLE STUDIOS/MICROSOFT, A WASHINGTON CORPORATION, AND THE SHOPS AT LEGACY (NORTH) LLC, A TEXAS LIMITED LIABILITY COMPANY, AND PROVIDING FOR A REAL AND BUSINESS PERSONAL PROPERTY TAX ABATEMENT, AND AUTHORIZING ITS EXECUTION BY THE CITY MANAGER, OR IN HIS ABSENCE AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City Council has been presented a proposed Tax Abatement Agreement by and between the City of Plano, Texas, and Ensemble Studios/Microsoft, a Washington Corporation, and The Shops at Legacy (North) LLC, a Texas Limited Liability Company, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and

WHEREAS, upon full review and consideration of the Agreement and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager, or in his absence an Executive Director, shall be authorized to execute it on behalf of the City of Plano.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS:**

**Section I.** The terms and conditions of the Agreement having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interests of the City of Plano and its citizens, are hereby in all things approved.

**Section II.** The City Manager, or in his absence an Executive Director, is hereby authorized to execute the Agreement and all other documents in connection therewith on behalf

of the City of Plano, substantially according to the terms and conditions set forth in the Agreement.

**Section III.** This Resolution shall become effective from and after its passage.

**DULY PASSED AND APPROVED** this \_\_\_\_\_ day of May, 2008.

\_\_\_\_\_  
Pat Evans, MAYOR

ATTEST:

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

APPROVED AS TO FORM:

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

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**NOW THEREFORE**, the parties hereto do mutually agree as follows:

1. The real property subject to this Agreement is described by metes and bounds in **EXHIBIT "A"** (the "Real Property"). At the time of this Agreement The Shops at Legacy (North) LLC is the owner of the Real Property. This Agreement shall be terminated should the Real Property not be leased by Lessee, its successors or affiliates, or should such lease be terminated during the term of this Agreement.

### **JOBS**

2. The Lessee estimates the occupancy of the proposed development of the Real Property as shown in **EXHIBIT "B"** (the "Development") will result in approximately 120 full-time jobs at the Development when the new office building is completed.

### **IMPROVEMENTS**

3. The Owner shall complete construction of improvements and/or repairs to the Real Property (hereinafter referred to as "Improvements") consisting primarily of an underground parking facility and not less than 50,000 gross square feet of office space with an initial expenditure of not less than **Ten Million Five Hundred and Nineteen Thousand Dollars (\$10,519,000)** on or before September 30, 2008 provided that Owner shall have such additional time to complete the Improvements as may be required in the event of "force majeure" if Owner is diligently and faithfully pursuing the completion of the Improvements, or if in the reasonable opinion of the City, the Owner has made substantial progress toward completion of the initial phase of the Improvements. For this purpose, "force majeure" shall mean any contingency or cause beyond the reasonable control of Owner including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, governmental or de facto governmental action (unless caused by acts or omissions of Owner), fire, shortages of material and/or labor, explosion or flood, and labor disturbances. The date of completion of the Improvements shall be defined as the date a Certificate of Occupancy is issued by the City of Plano.

4. The Owner agrees and covenants that they will diligently and faithfully in a good and workmanlike manner pursue the substantial completion of the Improvements as a good and valuable consideration of this Agreement. Owner further covenants and agrees that all construction of the Improvements will be in accordance with all applicable federal, state and local laws and regulations or valid waiver thereof.

5. The Lessee agrees and covenants that they shall occupy not less than 50,000 gross square feet of office space on the Real Property and employ thereon approximately 120 employees for the purpose of providing consumer products and services to its customers, referred to herein as the "Purposes."

**DEFAULT**

6. Any of the following events shall be deemed a breach of this agreement resulting in default:

(a) The Improvements are not completed in accordance with this Agreement;

(b) Owner allows its Real Property taxes owed to City or County to become delinquent and fails to timely and properly follow the legal procedures for protest and/or contest of any such ad valorem taxes;

(c) Lessee fails to occupy the Improvements for the Purposes set forth in paragraph 5 above on or before September 30, 2008; or

(d) The initial investment value of the Improvements to Real Property and maintained on the Real Property during the term of this Agreement is less than the minimum amount set forth in paragraph 3 above; or

(e) Lessee fails to employ at least 75% of their employee commitment as provided in paragraph 5 above; or

(f) Owner or Lessee fails to provide annual certification as required in paragraph 11 below; or

(g) Owner or Lessee has been convicted of a violation under 8 U.S.C. Section 1324a (f) regarding the unlawful employment of aliens.

7. In the event that the Owner defaults under this Agreement then the City or Taxing Units shall give the Owner written notice of such default and if the Owner has not cured such default, or obtained a waiver thereof from the appropriate authority, within thirty (30) days of said written notice, this Agreement may be terminated by the City and County; provided, however, that such 30 day period shall be extended if the breach is of a nature that cannot be cured within such 30-day period and Owner is diligently pursuing such remedy. Notice shall be in writing as provided below. Upon the occurrence of an event of default other than under Paragraph 6(b) above and after the Owner fails to cure same in accordance herewith, this Agreement shall immediately terminate and all taxes due after the event of default shall be paid in full without the benefit of any abatement. The parties acknowledge that actual damages in the event of default and termination would be speculative and difficult to determine.

8. Upon the occurrence of an event of default under Paragraph 6(b) above and after the Owner fails to cure same in accordance herewith or upon the occurrence of an event of default under Paragraph 6 (g), then this Agreement shall immediately terminate with respect to the tax abatements attributable to the Improvements and all taxes, including previously abated taxes which would have been paid to the Taxing Units without the benefit of this Agreement, shall become due

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and owing to the Taxing Units, together with interest charged from the date of this Agreement at the statutory rate for delinquent taxes as determined by V.T.C.A., Tax Code § 33.01, but without the addition of penalty other than that mandated by V.T.C.A., § 33.01 or 33.07.

### ANNUAL CERTIFICATION

9. On or before the 1st day of November of each calendar year during the term of this Agreement, the Owner and Lessee, or their successors or assigns, must provide annual certification (substantially in the form attached as **EXHIBIT "C"** hereto) to the Governing Body of the City certifying compliance with each applicable term of the Agreement.

### ASSIGNMENT

10. The terms and conditions of this Agreement are binding upon the successors and assigns of all parties hereto. This Agreement cannot be assigned by Owner or Lessee unless written permission is first granted by the City, which permission shall be at the reasonable discretion of the City, except under the following conditions:

(a) A transfer or assignment of the Real Property and Improvements, or an assignment of this Agreement, by Owner or Lessee to one or more affiliates of Owner or Lessee is permissible without the prior written consent of the City; or

(b) A transfer or assignment of the Real Property and Improvements, or an assignment of this Agreement, by Owner or Lessee to successors or assigns is permitted without the prior written consent of the City if the successors or assigns agree to be bound by the terms of this Agreement and Lessee shall continue to conduct business on the subject premises, and shall remain the primary tenant.

Owner and Lessee agree to give written notice to the City of any assignment or transfer of interest permitted pursuant to subparagraphs (a) and (b) thereof. Upon an assignment or transfer permitted pursuant to subparagraphs (a) or (b), such affiliate, successor or assign shall become "Owner" or "Lessee", respectively, for all purposes under this Agreement.

### ABATEMENT PROVISIONS

11. Subject to the terms and conditions of this Agreement, a portion of ad valorem real property taxes from the Improvements otherwise owed to the Taxing Units shall be abated as follows:

(a) The tax abatements as to the Real Property and Improvements, as provided for herein, shall be for a period of seven (7) tax years, from January 1, 2009, through December 31, 2015.

(b) In accordance with all applicable federal, state, and local laws and regulations, the Taxing Units' abatement shall be based on amounts equal to thirty-two percent (32%) of the improved value of the Real Property and Improvements for each tax year from January 1, 2009, through December 31, 2015.

(c) The Owner shall have the right to protest and/or contest any assessment of the Real Property or Improvements and the abatement shall be applied to the amount of taxes finally determined to be due as a result of any such protest and/or contest. Notwithstanding the above, it shall be a breach of this agreement if assessed values fall below those in paragraph 3 as a result of an Owner filed protest and/or contest.

**NOTICE**

12. Notices required to be given to any party to this Agreement shall be given personally or by registered or certified mail, return receipt requested, postage prepaid, addressed to the party at its address as set forth below, and, if given by mail, shall be deemed delivered as of the date deposited in the United States mail:

For City by notice to:

City of Plano  
Attention: Mr. Thomas H. Muehlenbeck  
City Manager  
P.O. Box 860358  
Plano, Texas 75086-0358

With copy to:

City of Plano  
Attention: Ms. Diane C. Wetherbee  
City Attorney  
P.O. Box 860358  
Plano, Texas 75086-0358

For Taxing Units by notice to:

County of Collin, Texas  
Attention: The Honorable Keith Self  
County Judge  
Collin County Commissioners' Court  
210 S. McDonald, Ste. 626  
McKinney, Texas 75069

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For Owner by notice to:

The Shops at Legacy (North) LLC  
Attention: Fehmi Karahan  
7200 Bishop Road, Suite 250  
Plano, Texas 75024

For Lessee by notice to:

Ensemble Studios/Microsoft  
Attention: Patrick Hudson  
10400 N. Central Expressway  
Dallas, Texas 75231

Any party may change the address to which notices are to be sent by giving the other parties written notice in the manner provided in this paragraph.

#### MISCELLANEOUS PROVISIONS

13. The Owner and Lessee further agree that the Taxing Units, their agents and employees, shall have reasonable right (upon reasonable prior notice to Owner and Lessee) to access the Real Property to inspect the Improvements in order to insure that the construction of the Improvements are in accordance with this Agreement and all applicable federal, state, and local laws and regulations. After completion of the Improvements, the Taxing Units shall have the continuing right (upon reasonable prior notice to Owner and Lessee) to inspect the Real Property to insure that the Real Property is thereafter maintained, operated and occupied in accordance with this Agreement.

14. It is understood and agreed between the parties that the Owner and Lessee, in performing their respective obligations hereunder, are acting independently, and the Taxing Units assume no responsibilities or liabilities in connection therewith to third parties and Owner and Lessee agree to indemnify and hold harmless Taxing Units from any and all claims, suits, and causes of actions, including attorneys' fees, of any nature whatsoever arising out of Owner's or Lessee's default of their respective obligations hereunder.

15. The Taxing Units represent and warrant that the Real Property Improvements do not include any property that is owned by a member of their respective councils or boards, agencies, commissions, or other governmental bodies approving, or having responsibility for the approval of this Agreement.

16. This Agreement was authorized by Resolution of the City Council at its Council meeting on the 27th day of May, 2008, authorizing the City Manager to execute the Agreement on behalf of the City.

17. This Agreement was authorized by the minutes of the Commissioners' Court of Collin County, Texas, at its meeting on the \_\_\_\_ day of \_\_\_\_\_, 2008, whereupon it was duly determined that the County Judge would execute the Agreement on behalf of Collin County.

18. This Agreement was entered into by Owner pursuant to authority granted by its \_\_\_\_\_, whereby the \_\_\_\_\_ of the corporation was authorized to execute this Agreement on behalf of Owner.

19. This Agreement was entered into by Lessee pursuant to authority granted by its \_\_\_\_\_, whereby the \_\_\_\_\_ of the corporation was authorized to execute this Agreement on behalf of Lessee.

20. This instrument shall constitute a valid and binding agreement between the City and Owner and Lessee when executed in accordance herewith, regardless of whether the County executes this Agreement. This shall constitute a valid and binding Agreement between such Taxing Units and Owner and Lessee when executed on behalf of said parties, for the abatement of such Taxing Units' taxes in accordance therewith.

21. Severability. If any term or provision of this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement (or the application of such term or provision, to persons or circumstances other than those in respect of which it is invalid or unenforceable) except those terms or provisions, which are made subject to or conditioned upon such invalid or unenforceable term or provision, shall not be affected thereby, and each other term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

This Agreement is performable in Collin County, Texas. Signed this 27th day of May, 2008.

ATTEST:

CITY OF PLANO, TEXAS, a home-rule municipal corporation

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

\_\_\_\_\_  
Thomas H. Muehlenbeck, CITY MANAGER

APPROVED AS TO FORM:

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

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ATTEST:

COMMISSIONERS' COURT OF COLLIN  
COUNTY

\_\_\_\_\_

\_\_\_\_\_  
COUNTY JUDGE

ATTEST:

THE SHOPS AT LEGACY (NORTH) LLC,  
a Texas limited liability company

\_\_\_\_\_

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

Name:

Title:

ATTEST:

ENSEMBLE STUDIOS/MICROSOFT, a  
Washington Corporation

\_\_\_\_\_

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

Name:

Title:

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**REINVESTMENT ZONE NO. 113**  
**Real Property**  
**Metes and Bounds**

**BEING** a tract of land out of the Henry Cook Survey, Abstract No. 183 and the Maria C. Vela Survey, Abstract No. 935, in the City of Plano, Collin County, Texas, being part of Lot 1R of The Shops at Legacy Town Center (North), Lots 1R & 5, Block C, an addition to the City of Plano according to the plat thereof recorded in Cabinet 2007, Page 601 of the Map Records of Collin County, Texas and being more particularly described as follows:

**BEGINNING** at a 5/8" iron rod found with a plastic cap stamped "KHIA" (hereinafter called 5/8" iron rod found) for the north corner of a corner clip at the intersection of the west right-of-way line of Bishop Road and the north right-of-way line of Legacy Drive for the southeast corner of Lot said Lot 1R;

**THENCE** with said north right-of-way line, the following courses and distances to wit:  
South 44°57'18" West, a distance of 21.23 feet to a 5/8" iron rod found for corner;  
South 89°54'36" West, a distance of 79.46 feet to a 5/8" iron rod found for corner;  
North 88°10'57" West, a distance of 134.35 feet to a 5/8" iron rod found for corner;  
South 89°54'55" West, a distance of 96.83 feet to a 5/8" iron rod found for corner;  
North 86°11'27" West, a distance of 62.73 feet to a point for corner;

**THENCE** leaving said north right-of-way line, the following courses and distances to wit:  
NORTH, a distance of 666.64 feet to a point for corner;  
EAST, a distance of 115.75 feet to a point for corner;  
NORTH, a distance of 115.68 feet to a point for corner;  
North 30°00'00" East, a distance of 40.65 feet to a point for corner;  
North 80°34'45" East, a distance of 85.01 feet to a point for corner;  
EAST, a distance of 167.56 feet to a point for corner in the northerly most west line of Lot 5 of said The Shops at Legacy Town Center (North), Lots 1R & 5, Block C;

**THENCE** with said west line, SOUTH, a distance of 3.10 feet to a 5/8" iron rod found for corner;

**THENCE** with the northerly most south line of said Lot 5, EAST, a distance of 81.50 feet to a point for corner;

**THENCE** with the southerly most west line of said Lot 5, SOUTH, a distance of 131.69 feet to a 5/8" iron rod found for corner;

**THENCE** with the south line of said Lot 5, EAST, a distance of 36.90 feet to a 5/8" iron rod found for corner in the west right-of-way line of said Bishop Road;

**THENCE** with said west right-of-way line, SOUTH, a distance of 60.00 feet to a 5/8" iron rod found for the northeast corner of Lot 3 of Legacy Town Center (North), an addition to

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the City of Plano according to the plat thereof recorded in Cabinet 2006, Page 440 of the Map Records of Collin County, Texas

THENCE with the north line of said Lot 3, WEST, a distance of 277.54 feet to a 5/8" iron rod found for corner;

THENCE with the west line of said Lot 3 part of the way and with the west and south line of Baccus Cemetery, the following courses and distances to wit:

South 00°38'20" West, a distance of 602.31 feet to a 5/8" iron rod found for corner;

South 88°23'32" East, a distance of 172.95 feet to a 5/8" iron rod found for corner;

THENCE leaving said south line the following courses and distances to wit:

South 00°05'24" East, a distance of 19.07 feet to an X in concrete found for corner;

South 89°52'31" East, a distance of 31.80 feet to an X in concrete found for corner;

North 45°03'44" East, a distance of 8.52 feet to a 5/8" iron rod found for corner;

NORTH, a distance of 21.71 feet to a point for corner;

EAST, a distance of 5.75 feet to a 5/8" iron rod found for corner in the west right-of-way line of said Bishop Road;

THENCE with said west right-of-way line, SOUTH, a distance of 32.82 feet to the POINT OF BEGINNING and containing 5.164 acres of land.

Bearing system based on the monuments found according to the plat of Shops at Legacy Town Center (North), Lots 1R & 5, Block C, an addition to the City of Plano according to the plat thereof recorded in Cabinet 2007, Page 601 of the Map Records of Collin County, Texas.

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**EXHIBIT "C"  
CERTIFICATION FORM  
REINVESTMENT ZONE NO. 113**

This letter certifies that Owner and Lessee are in compliance with each applicable term as set forth in the Agreement to Resolution No. \_\_\_\_\_ (R) as of \_\_\_\_\_, 2008. The term of this agreement is January 1, 2009, through December 31, 2015. This form is due on November 1 of each year this tax abatement is in force.

ATTEST:

THE SHOPS AT LEGACY (NORTH) LLC,  
a Texas limited liability company ("Owner")

\_\_\_\_\_

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

Name:  
Title:

\_\_\_\_\_  
Date

ATTEST:

ENSEMBLE STUDIOS/MICROSOFT, a  
Washington Corporation ("Lessee")

\_\_\_\_\_

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

Name:  
Title:

\_\_\_\_\_  
Date

**NOTE: This certification form should be mailed to:**

**City of Plano  
Finance Department  
P.O. Box 860358  
Plano, Texas 75086-0358**

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- (3) **Public Hearing and Consideration of an Ordinance as Requested in Zoning Cases 2008-45 – 2008-50** all of which are limited to the repeal of certain Specific Use Permits for Private Clubs. The following ordinances are proposed to be repealed which, if approved, will result in the rescission of the Specific Use Permit for an additional use of a Private Club and the applicant is the City of Plano.
- (3a) **Zoning Case 2008-45** – Request to rescind Specific Use Permit #505 for Private Club on 3.1± acres located at the northwest corner of Spring Creek Parkway and Des Moines Drive. Zoned Retail.
- (3b) **Zoning Case 2008-46** – Request to rescind Specific Use Permit #510 for Private Club on 1.6± acres located on the west side of U.S. Highway 75, 1,050± feet north of Ruisseau Drive. Zoned Corridor Commercial.
- (3c) **Zoning Case 2008-47** – Request to rescind Specific Use Permit #512 for Private Club on 0.1± acre located 90± feet south of Legacy Drive and 150± feet west of Parkwood Boulevard. Zoned Planned Development-65-Central Business-1.
- (3d) **Zoning Case 2008-48** – Request to rescind Specific Use Permit #532 for Private Club on 1.6± acres located at the northeast corner of Park Boulevard and Prestwick Road. Zoned Planned Development-68-Retail.
- (3e) **Zoning Case 2008-49** – Request to rescind Specific Use Permit #536 for Private Club on 0.1± acre located on the south side of Parker Road, 495± feet west of Custer Road. Zoned Planned Development-90-Retail.
- (3f) **Zoning Case 2008-50** – Request to rescind Specific Use Permit #544 for Private Club on 0.8± acre located on the west side of U.S. Highway 75, 700± feet south of 15th Street. Zoned Corridor Commercial.

All of the above locations are located within the City of Plano, Collin County, Texas, and the repeal of each ordinance will amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to reflect such action; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date.

**DATE:** May 6, 2008  
**TO:** Honorable Mayor & City Council  
**FROM:** James Duggan, Chairman, Planning & Zoning Commission  
**SUBJECT:** Results of Planning & Zoning Commission Meeting of May 5, 2008

**AGENDA ITEM NO. 7A - PUBLIC HEARING  
ZONING CASE 2008-45  
APPLICANT: CITY OF PLANO**

Request to rescind Specific Use Permit #505 for Private Club on 3.1± acres located at the northwest corner of Spring Creek Parkway and Des Moines Drive. Zoned Retail.

**APPROVED:** 7-0 **DENIED:** \_\_\_\_\_ **TABLED:** \_\_\_\_\_

**LETTERS RECEIVED WITHIN 200 FOOT NOTICE AREA:** **SUPPORT:** 0 **OPPOSE:** 0

**LETTERS RECEIVED OUTSIDE 200 FOOT NOTICE AREA:** **SUPPORT:** 0 **OPPOSE:** 0

**PETITION(s) RECEIVED:** N/A **# OF SIGNATURES:** N/A

**STIPULATIONS:**

Recommended for approval as submitted.

**FOR CITY COUNCIL MEETING OF:** May 27, 2008 (To view the agenda for this meeting, see [www.planotx.org](http://www.planotx.org))

**PUBLIC HEARING - ORDINANCE**

TF/dc

CITY OF PLANO  
PLANNING & ZONING COMMISSION

May 5, 2008

**Agenda Item No. 7A**

**Public Hearing: Zoning Case 2008-45**

**Applicant: City of Plano**

---

**DESCRIPTION:**

Request to rescind Specific Use Permit #505 for Private Club on 3.1± acres located at the northwest corner of Spring Creek Parkway and Des Moines Drive. Zoned Retail.

**REMARKS:**

This is a city-initiated zoning request to rescind Specific Use Permit (SUP) #505 for Private Club. The purpose and intent of an SUP is to authorize and regulate a use not normally permitted in a district which could be of benefit in a particular case to the general welfare, provided adequate development standards and safeguards are established for such use during the review of an SUP application.

Prior to the May 2005 election, a restaurant in Plano desiring to serve alcoholic beverages had to obtain SUP approval for a Private Club from the City of Plano and had to obtain a Private Club Permit from the Texas Alcoholic Beverage Commission (TABC). The election gave restaurants another option to serve alcoholic beverages by acquiring a Mixed Beverage Permit (with a Food and Beverage Certificate) directly from TABC. With the Mixed Beverage Permit, an SUP is no longer necessary.

Reflections On Spring Creek operates with a Mixed Beverage Permit from TABC. Therefore, for "housekeeping" purposes, staff recommends that the Private Club SUP be rescinded since the SUP is not necessary for the restaurant to sell alcoholic beverages. Staff has not received a response from the property owner as to whether or not they concur with the removal of the SUP.

**RECOMMENDATION:**

Recommended for approval as submitted.

**ORDINANCE NO. \_\_\_\_\_**  
**(Zoning Case 2008-45)**

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, REPEALING IN ITS ENTIRETY ORDINANCE NO. 2003-8-22; THEREBY RESCINDING SPECIFIC USE PERMIT NO. 505 FOR THE ADDITIONAL USE OF PRIVATE CLUB ON 3.1± ACRES OF LAND OUT OF THE JOSEPH RUSSELL SURVEY, ABSTRACT NO. 776, LOCATED AT THE NORTHWEST CORNER OF SPRING CREEK PARKWAY AND DES MOINES DRIVE IN THE CITY OF PLANO, COLLIN COUNTY, TEXAS, AND AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, ORDINANCE NO. 2006-4-24, AS HERETOFORE AMENDED, TO REFLECT SUCH ACTION; DIRECTING A CHANGE ACCORDINGLY IN THE OFFICIAL ZONING MAP OF THE CITY; AND PROVIDING A PENALTY CLAUSE, A REPEALER CLAUSE, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

**WHEREAS**, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 27th day of May, 2008, for the purpose of considering rescinding Specific Use Permit No. 505 for the additional use of Private Club on 3.1± acres of land out of the Joseph Russell Survey, Abstract No. 776, located at the northwest corner of Spring Creek Parkway and Des Moines Drive in the City of Plano, Collin County, Texas; and

**WHEREAS**, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

**WHEREAS**, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 27th day of May, 2008; and

**WHEREAS**, the City Council is of the opinion and finds that the rescinding of Specific Use Permit No. 505 for the additional use of Private Club would not be detrimental or injurious to the public health, safety and general welfare, or otherwise offensive to the neighborhood; and

**WHEREAS**, the City Council is of the opinion and finds that such change will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

**IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** Ordinance No. 2003-8-22, duly passed and approved by the City Council of the City of Plano, Texas, on August 25, 2003, granting Specific Use Permit No. 505 for the additional use of Private Club on 3.1± acres of land out of the Joseph Russell Survey, Abstract No. 776, located at the northwest corner of Spring Creek Parkway and Des Moines Drive in the City of Plano, Collin County, Texas, presently zoned Retail, more fully described on Exhibit "A", attached hereto, is hereby repealed in its entirety. Consequently, Specific Use Permit No. 505 is hereby rescinded.

**Section II.** It is hereby directed that the Comprehensive Zoning Ordinance, No. 2006-4-24, as heretofore amended, be revised and amended (which is retained in electronic record format), to reflect the action and zoning classification established by this Ordinance.

**Section III.** All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

**Section IV.** The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

**Section V.** Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

**Section VI.** It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

**Section VII.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED AND APPROVED THIS THE 27TH DAY OF MAY, 2008.**

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Pat Evans, MAYOR

ATTEST:

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Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

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Diane C. Wetherbee, CITY ATTORNEY

EXHIBIT "A"  
LEGAL DESCRIPTION

BEING a 3.1211 acre tract or parcel of land situated in Collin County, Texas, out of the Joseph Russell Survey, Abstract No. 776 and being a part of that certain tract of land conveyed to Conti Partners, Ltd., a Texas limited partnership, according to the deed filed for record under Clerk's File No. 99-0129573, of the Deed Records of Collin County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2-inch iron rod with cap stamped "Lone Star" set for corner, said corner being in the north line of Spring Creek Parkway) a 160 foot right-of-way);

THENCE North  $01^{\circ} 09' 23''$  West, a distance of 266.79 feet to a 1/2-inch iron rod with cap stamped "Lone Star" set for corner;

THENCE South  $88^{\circ} 50' 37''$  West, a distance of 150.00 feet to a 1/2-inch iron rod with cap stamped "Lone Star" set for corner;

THENCE North  $01^{\circ} 09' 23''$  West, a distance of 163.96 feet to a 1/2-inch iron rod with cap stamped "Lone Star" set for corner, said corner being on the most northerly south line of Lot 1, Block A, of Outlet Malls of America-Plano, as recorded in Volume G, Page 410 of the Plat Records of Collin County, Texas;

THENCE North  $89^{\circ} 37' 34''$  East along said south line, a distance of 394.25 feet to an "X" cut in concrete set for corner, said corner being on the west line of Des Moines Drive (a 60 foot right-of-way);

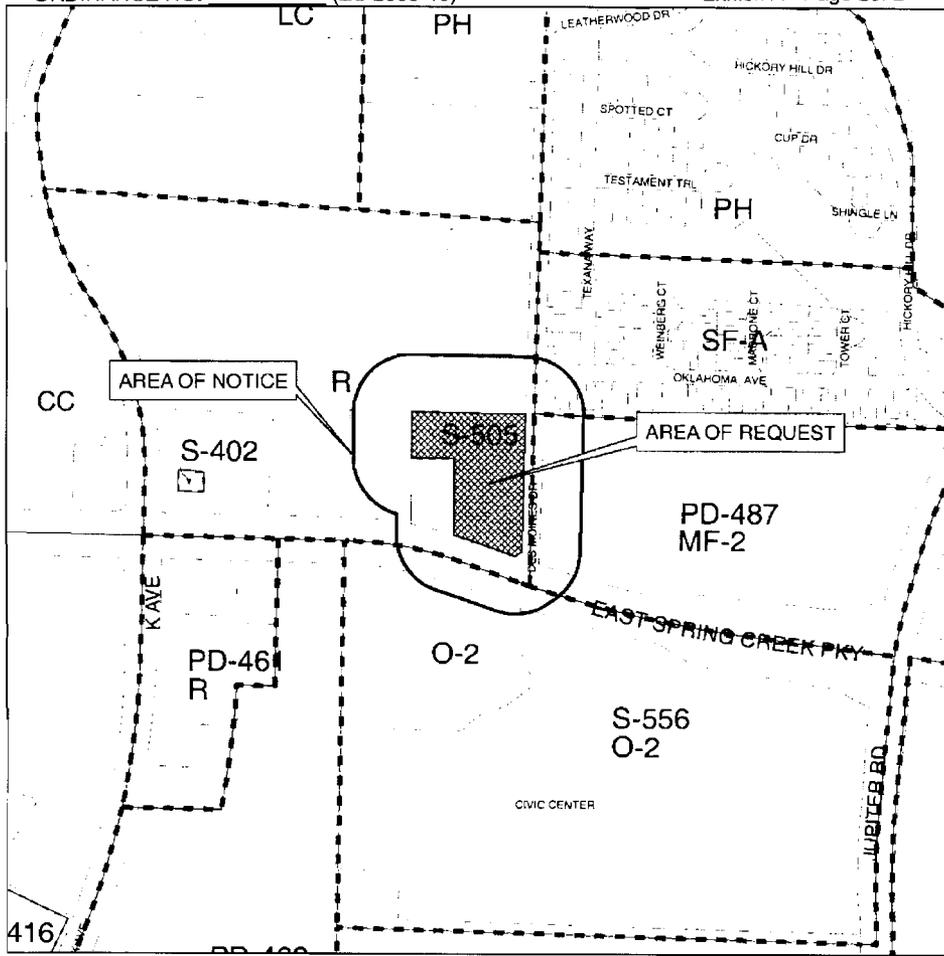
THENCE South along the west line of said right-of-way, a distance of 480.45 feet to a 1/2-inch iron rod with cap stamped "Lone Star" set for a corner clip;

THENCE South  $53^{\circ} 50' 49''$  West along said corner clip, a distance of 29.50 feet to the aforementioned north right-of-way line of Spring Creek Parkway to a 1/2-inch iron rod with cap stamped "Lone Star" set for corner;

THENCE North  $72^{\circ} 18' 23''$  West along said right-of-way, a distance of 10.97 feet to a 1/2-inch iron rod with cap stamped "Lone Star" set for corner;

THENCE North  $72^{\circ} 03' 41''$  West along said right-of-way, a distance of 164.52 feet to a 1/2-inch iron rod with cap stamped "Lone Star" set for corner, said corner being at the beginning of a curve to the left with a central angle of  $02^{\circ} 00' 54''$ , a radius of 1,330.95 feet, a chord which bears North  $73^{\circ} 04' 08''$  West, and a chord distance of 46.81 feet;

THENCE along said curve to the left, an arc length of 46.81 feet to the POINT OF BEGINNING and CONTAINING 135,955 square feet or 3.1211 acres of land.



Zoning Case #: 2008-45

Existing Zoning: RETAIL w/SPECIFIC USE PERMIT #505



○ 200' Notification Buffer

**DATE:** May 6, 2008  
**TO:** Honorable Mayor & City Council  
**FROM:** James Duggan, Chairman, Planning & Zoning Commission  
**SUBJECT:** Results of Planning & Zoning Commission Meeting of May 5, 2008

**AGENDA ITEM NO. 7B - PUBLIC HEARING  
ZONING CASE 2008-46  
APPLICANT: CITY OF PLANO**

Request to rescind Specific Use Permit #510 for Private Club on 1.6± acres located on the west side of U.S. Highway 75, 1,050± feet north of Ruisseau Drive. Zoned Corridor Commercial.

**APPROVED:** 7-0 **DENIED:** \_\_\_\_\_ **TABLED:** \_\_\_\_\_

**LETTERS RECEIVED WITHIN 200 FOOT NOTICE AREA:** **SUPPORT:** 1 **OPPOSE:** 0

**LETTERS RECEIVED OUTSIDE 200 FOOT NOTICE AREA:** **SUPPORT:** 0 **OPPOSE:** 0

**PETITION(s) RECEIVED:** N/A **# OF SIGNATURES:** N/A

**STIPULATIONS:**

Recommended for approval as submitted.

**FOR CITY COUNCIL MEETING OF:** May 27, 2008 (To view the agenda for this meeting, see [www.planotx.org](http://www.planotx.org))

**PUBLIC HEARING - ORDINANCE**

TF/dc

CITY OF PLANO  
PLANNING & ZONING COMMISSION

May 5, 2008

**Agenda Item No. 7B**

**Public Hearing: Zoning Case 2008-46**

**Applicant: City of Plano**

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**DESCRIPTION:**

Request to rescind Specific Use Permit #510 for Private Club on 1.6± acres located on the west side of U.S. Highway 75, 1,050± feet north of Ruisseau Drive. Zoned Corridor Commercial.

**REMARKS:**

This is a city-initiated zoning request to rescind Specific Use Permit (SUP) #510 for Private Club. The purpose and intent of an SUP is to authorize and regulate a use not normally permitted in a district which could be of benefit in a particular case to the general welfare, provided adequate development standards and safeguards are established for such use during the review of an SUP application.

Prior to the May 2005 election, a restaurant in Plano desiring to serve alcoholic beverages had to obtain SUP approval for a Private Club from the City of Plano and had to obtain a Private Club Permit from the Texas Alcoholic Beverage Commission (TABC). The election gave restaurants another option to serve alcoholic beverages by acquiring a Mixed Beverage Permit (with a Food and Beverage Certificate) directly from TABC. With the Mixed Beverage Permit, an SUP is no longer necessary.

Red Lobster operates with a Mixed Beverage Permit from TABC. Therefore, for "housekeeping" purposes, staff recommends that the Private Club SUP be rescinded since the SUP is not necessary for the restaurant to sell alcoholic beverages. Staff has not received a response from the property owner as to whether or not they concur with the removal of the SUP.

**RECOMMENDATION:**

Recommended for approval as submitted.

**ORDINANCE NO. \_\_\_\_\_**  
**(Zoning Case 2008-46)**

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, REPEALING IN ITS ENTIRETY ORDINANCE NO. 2003-10-22, THEREBY RESCINDING SPECIFIC USE PERMIT NO. 510 FOR THE ADDITIONAL USE OF PRIVATE CLUB ON 1.6± ACRES OF LAND OUT OF THE DANIEL ROWLETT SURVEY, ABSTRACT NO. 738, LOCATED ON THE WEST SIDE OF U.S. HIGHWAY 75, 1,050± FEET NORTH OF RUISSEAU DRIVE, IN THE CITY OF PLANO, COLLIN COUNTY, TEXAS, AND AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, ORDINANCE NO. 2006-4-24, AS HERETOFORE AMENDED, TO REFLECT SUCH ACTION; DIRECTING A CHANGE ACCORDINGLY IN THE OFFICIAL ZONING MAP OF THE CITY; AND PROVIDING A PENALTY CLAUSE, A REPEALER CLAUSE, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

**WHEREAS**, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 27th day of May, 2008, for the purpose of considering rescinding Specific Use Permit No. 510 for the additional use of Private Club on 1.6± acres of land out of the Daniel Rowlett Survey, Abstract No. 738, located on the west side of U.S. Highway 75, 1,050± feet north of Ruisseau Drive, in the City of Plano, Collin County, Texas; and

**WHEREAS**, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

**WHEREAS**, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 27th day of May, 2008; and

**WHEREAS**, the City Council is of the opinion and finds that the rescinding of Specific Use Permit No. 510 for the additional use of Private Club would not be detrimental or injurious to the public health, safety and general welfare, or otherwise offensive to the neighborhood; and

**WHEREAS**, the City Council is of the opinion and finds that such change will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

**IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** Ordinance No. 2003-10-22, duly passed and approved by the City Council of the City of Plano, Texas, on October 14, 2003, granting Specific Use Permit No. 510 for the additional use of Private Club on 1.6± acres of land out of the Daniel Rowlett Survey, Abstract No. 738, located on the west side of U.S. Highway 75, 1,050± feet north of Ruisseau Drive, in the City of Plano, Collin County, Texas, presently zoned Corridor Commercial, more fully described on Exhibit "A", attached hereto, is hereby repealed in its entirety. Consequently, Specific Use Permit No. 510 is hereby rescinded.

**Section II.** It is hereby directed that the Comprehensive Zoning Ordinance, No. 2006-4-24, as heretofore amended, be revised and amended (which is retained in electronic record format), to reflect the action and zoning classification established by this Ordinance.

**Section III.** All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

**Section IV.** The repeal of any ordinance or part of ordinances affectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

**Section V.** Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

**Section VI.** It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

**Section VII.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED AND APPROVED THIS THE 27TH DAY OF MAY, 2008.**

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Pat Evans, MAYOR

ATTEST:

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Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

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Diane C. Wetherbee, CITY ATTORNEY

EXHIBIT "A"  
LEGAL DESCRIPTION

BEING a tract of land situated in the Daniel Rowlett Survey, Abstract No. 738, in the City of Plano, Collin County, Texas, and being part of the 23.5781 acre tract of land conveyed to Fairview Farm Land Company, Ltd., by deed recorded in County Clerk's File Number 93-0089552 of the Deed Records of Collin County, Texas, same being part of Lot 4 in Block A of the Fairview Central Park Addition as shown on the Conveyance Plat recorded in Cabinet N, Slide 890 of the Plat Records of Collin County, Texas, and being more particularly described as follows:

COMMENCING at an "x" found in concrete in the Northwesterly right-of-way line of U.S. Highway 75 (300 foot-wide at this point), same being the Northeast corner of Lot 1 in Block A of Fairview Central Park Addition, an addition to the City of Plano, Texas, according to the plat thereof as recorded in Cabinet J, Slide 726 of the Plat Records of Collin County, Texas:

THENCE North  $24^{\circ} 15' 35''$  East, along the said West right-of-way line of U.S. Highway 75 for a distance of 207.69 feet to a 1" iron rod found for the POINT OF BEGINNING of the tract being described hereon, said point also being the Southeast corner of the aforesaid Lot 4 in Block A of the Fairview Central Park Addition as shown on the Conveyance Plat recorded in Cabinet N, Slide 632 of the Plat Records of Collin County, Texas:

THENCE North  $65^{\circ} 44' 25''$  West, leaving said west line of U.S. Highway 75 for a distance of 238.76 feet to a 1" iron rod found for corner, said point being in a curve to the left having a central angle of  $02^{\circ} 48' 22''$  and a radius of 739.00 feet whose center bears South  $39^{\circ} 18' 25''$  East, and whose chord bears South  $52^{\circ} 05' 46''$  West, at a distance of 36.19 feet;

THENCE Southwesterly along said curve to the left for an arc distance of 36.19 feet to a 1" iron rod found for corner;

THENCE North  $65^{\circ} 44' 25''$  West, for a distance of 51.33 feet to a 1" iron rod found for corner;

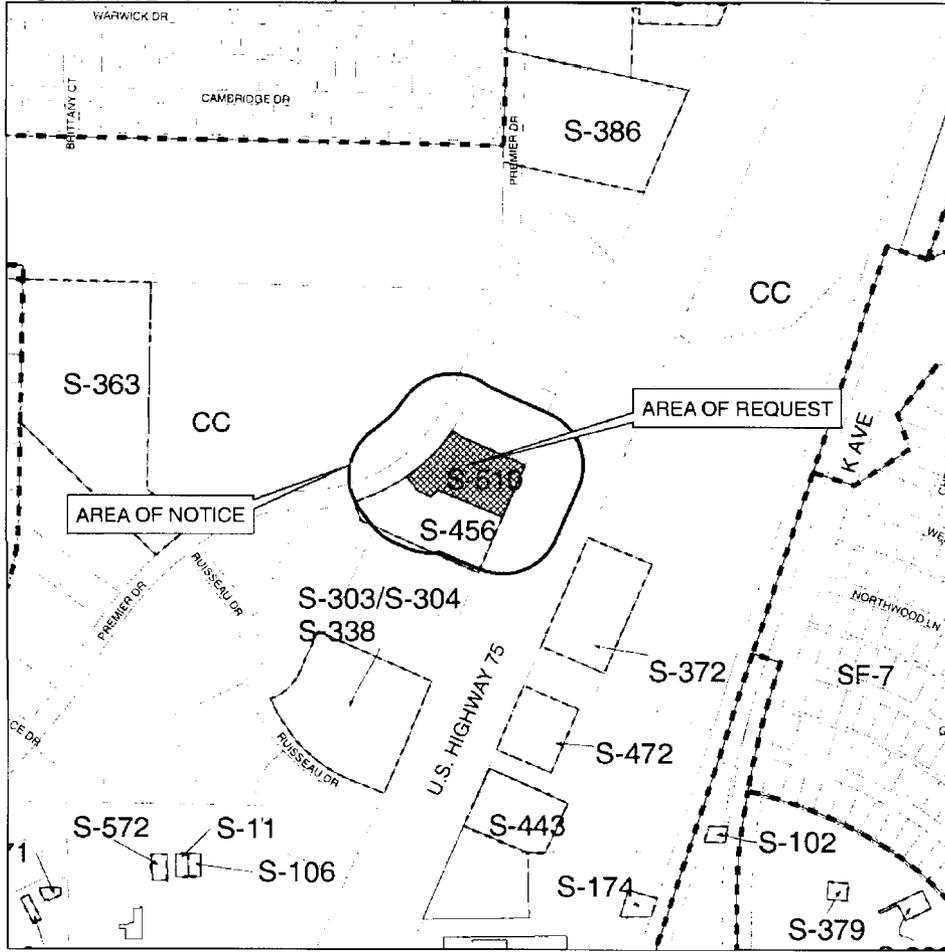
THENCE North  $34^{\circ} 25' 58''$  West, for a distance of 62.16 feet to a 1" iron rod found for corner in the arc of a curve to the left having a central angle of  $20^{\circ} 46' 18''$ , a radius of 632.50 feet, a chord bearing of North  $45^{\circ} 10' 55''$  East, and a chord distance of 228.05 feet;

THENCE Northeasterly along said curve to the left, for an arc distance of 229.30 feet to a 1" iron rod found for corner;

THENCE South  $55^{\circ} 12' 14''$  East, a distance of 42.50 feet to a 1" iron rod found for corner;

THENCE South  $65^{\circ} 44' 25''$  East, for a distance of 236.88 feet to a 1" iron rod found for corner in the aforementioned West right-of-way line of U.S. Highway 75;

THENCE South  $24^{\circ} 15' 35''$  West, along said west line of U.S. Highway 75 for a distance of 205.54 feet to the POINT OF BEGINNING and CONTAINING 1.5454 acres of land, more or less. Bearings shown hereon are based upon the northerly right-of-way line of U.S. Highway 75, as per Fairview Central Park Addition as shown on the Conveyance Plat recorded in Cabinet N, Slide 890 of the Plat Records of Collin County, Texas.



Zoning Case #: 2008-46

Existing Zoning: CORRIDOR COMMERCIAL w/SPECIFIC USE PERMIT #510

○ 200' Notification Buffer



**DATE:** May 6, 2008  
**TO:** Honorable Mayor & City Council  
**FROM:** James Duggan, Chairman, Planning & Zoning Commission  
**SUBJECT:** Results of Planning & Zoning Commission Meeting of May 5, 2008

**AGENDA ITEM NO. 7C - PUBLIC HEARING  
ZONING CASE 2008-47  
APPLICANT: CITY OF PLANO**

Request to rescind Specific Use Permit #512 for Private Club on 0.1± acre located 90± feet south of Legacy Drive and 150± feet west of Parkwood Boulevard. Zoned Planned Development-65-Central Business-1.

**APPROVED:** 7-0 **DENIED:** \_\_\_\_\_ **TABLED:** \_\_\_\_\_

**LETTERS RECEIVED WITHIN 200 FOOT NOTICE AREA:** **SUPPORT:** 1 **OPPOSE:** 0

**LETTERS RECEIVED OUTSIDE 200 FOOT NOTICE AREA:** **SUPPORT:** 0 **OPPOSE:** 0

**PETITION(s) RECEIVED:** N/A **# OF SIGNATURES:** N/A

**STIPULATIONS:**

Recommended for approval as submitted.

**FOR CITY COUNCIL MEETING OF:** May 27, 2008 (To view the agenda for this meeting, see [www.planotx.org](http://www.planotx.org))

**PUBLIC HEARING - ORDINANCE**

EH/dc

CITY OF PLANO  
PLANNING & ZONING COMMISSION

May 5, 2008

**Agenda Item No. 7C**

**Public Hearing: Zoning Case 2008-47**

**Applicant: City of Plano**

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**DESCRIPTION:**

Request to rescind Specific Use Permit #512 for Private Club on 0.1± acre located 90± feet south of Legacy Drive and 150± feet west of Parkwood Boulevard. Zoned Planned Development-65-Central Business-1.

**REMARKS:**

This is a city-initiated zoning request to rescind Specific Use Permit (SUP) #512 for Private Club. The purpose and intent of an SUP is to authorize and regulate a use not normally permitted in a district which could be of benefit in a particular case to the general welfare, provided adequate development standards and safeguards are established for such use during the review of an SUP application.

Prior to the May 2005 election, a restaurant in Plano desiring to serve alcoholic beverages had to obtain SUP approval for a Private Club from the City of Plano and had to obtain a Private Club Permit from the Texas Alcoholic Beverage Commission (TABC). The election gave restaurants another option to serve alcoholic beverages by acquiring a Mixed Beverage Permit (with a Food and Beverage Certificate) directly from TABC. With the Mixed Beverage Permit, an SUP is no longer necessary.

Sal's Pizza operates with a Mixed Beverage Permit from TABC. Therefore, for "housekeeping" purposes, staff recommends that the Private Club SUP be rescinded, since the SUP is not necessary for the restaurant to sell alcoholic beverages. Staff has not received a response from the property owner as to whether or not they concur with the removal of the SUP.

**RECOMMENDATION:**

Recommended for approval as submitted.

**ORDINANCE NO. \_\_\_\_\_**  
**(Zoning Case 2008-47)**

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, REPEALING IN ITS ENTIRETY ORDINANCE NO. 2003-11-9; THEREBY RESCINDING SPECIFIC USE PERMIT NO. 512 FOR THE ADDITIONAL USE OF PRIVATE CLUB ON 0.1± ACRE OF LAND OUT OF THE MARIA C. VELA SURVEY, ABSTRACT NO. 935, LOCATED 90± FEET SOUTH OF LEGACY DRIVE, 150± FEET WEST OF PARKWOOD BOULEVARD, IN THE CITY OF PLANO, COLLIN COUNTY, TEXAS, AND AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, ORDINANCE NO. 2006-4-24, AS HERETOFORE AMENDED, TO REFLECT SUCH ACTION; DIRECTING A CHANGE ACCORDINGLY IN THE OFFICIAL ZONING MAP OF THE CITY; AND PROVIDING A PENALTY CLAUSE, A REPEALER CLAUSE, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

**WHEREAS**, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 27th day of May, 2008, for the purpose of considering rescinding Specific Use Permit No. 512 for the additional use of Private Club on 0.1± acre of land out of the Maria C. Vela Survey, Abstract No. 935, located 90± feet south of Legacy Drive, 150± feet west of Parkwood Boulevard, in the City of Plano, Collin County, Texas; and

**WHEREAS**, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

**WHEREAS**, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 27th day of May, 2008; and

**WHEREAS**, the City Council is of the opinion and finds that the rescinding of Specific Use Permit No. 512 for the additional use of Private Club would not be detrimental or injurious to the public health, safety and general welfare, or otherwise offensive to the neighborhood; and

**WHEREAS**, the City Council is of the opinion and finds that such change will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

**IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** Ordinance No. 2003-11-9, duly passed and approved by the City Council of the City of Plano, Texas, on November 10, 2003, granting Specific Use Permit No. 512 for the additional use of Private Club on 0.1± acre of land out of the Maria C. Vela Survey, Abstract No. 935, located 90± feet south of Legacy Drive, 150± feet west of Parkwood Boulevard in the City of Plano, Collin County, Texas, presently zoned Planned Development-65-Central Business-1, more fully described on Exhibit "A", attached hereto, is hereby repealed in its entirety. Consequently, Specific Use Permit No. 512 is hereby rescinded.

**Section II.** It is hereby directed that the Comprehensive Zoning Ordinance, No. 2006-4-24, as heretofore amended, be revised and amended (which is retained in electronic record format), to reflect the action and zoning classification established by this Ordinance.

**Section III.** All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

**Section IV.** The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

**Section V.** Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

**Section VI.** It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

**Section VII.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED AND APPROVED THIS THE 27TH DAY OF MAY, 2008.**

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Pat Evans, MAYOR

ATTEST:

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Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

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Diane C. Wetherbee, CITY ATTORNEY

EXHIBIT "A"  
LEGAL DESCRIPTION

BEING a tract of land situated in the Maria C. Vela Survey, Abstract No. 935, in the City of Plano, Collin County, Texas, and being a portion of Lot 2, Block F of Legacy Town Center (South), an Addition to the City of Plano, Texas, according to the map or plat thereof recorded in Volume M on Page 47 of the Plat Records of Collin County, Texas, and being more particularly described by metes and bounds as follows (bearings based on the West right-of-way line of Parkwood Boulevard as dedicated in said Legacy Town Center (South), said bearing being North):

COMMENCING at the Southeast corner of said Lot 2, Block F, same being on the West right-of-way line of Parkwood Boulevard (a variable width right-of-way);

THENCE North  $00^{\circ} 05' 22''$  West, along said right-of-way, a distance of 297.28 feet, to a corner;

THENCE North  $03^{\circ} 54' 34''$  West, along said right-of-way, a distance of 97.27 feet, to a corner;

THENCE North  $00^{\circ} 05' 22''$  East, along said right-of-way, a distance of 113.21 feet, to a corner;

THENCE North  $89^{\circ} 54' 38''$  West, departing said West right-of-way line, a distance of 148.03" to the POINT OF BEGINNING, said corner also being on the face of the Northerly exterior wall of an existing building;

THENCE South, departing the face of said Northerly exterior wall, a distance of 69.32 feet to a corner;

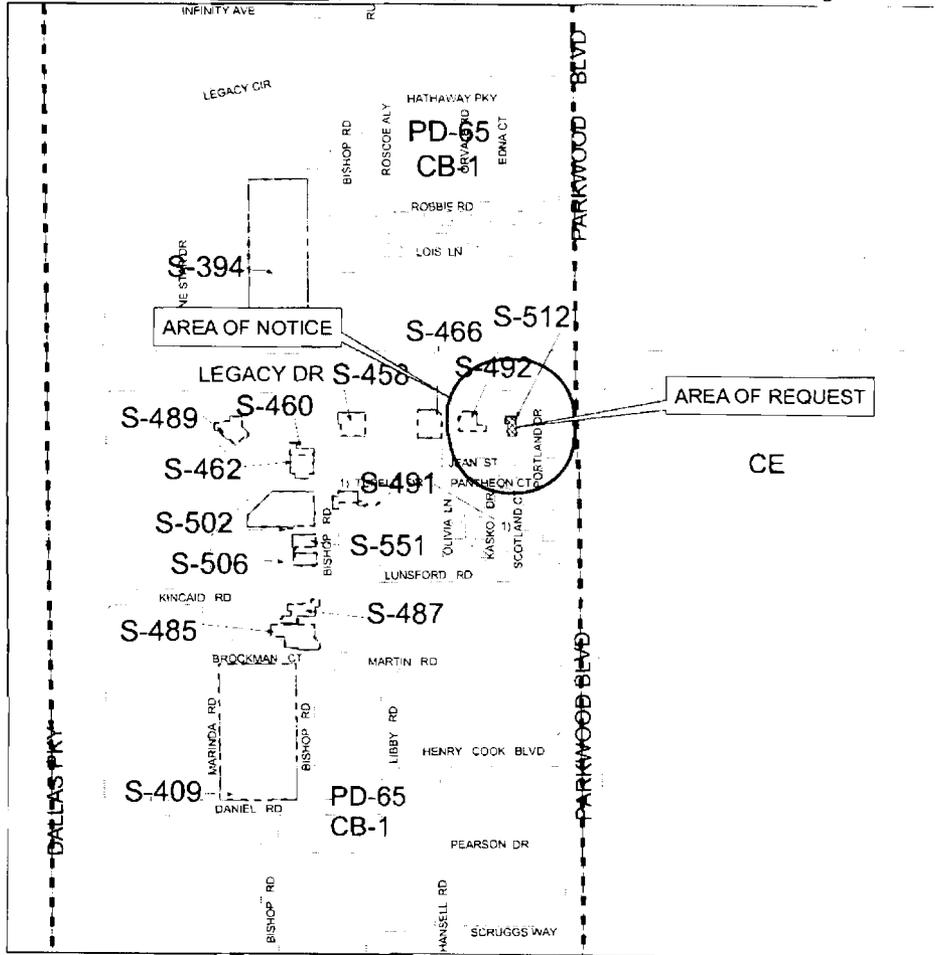
THENCE West, a distance of 28.35 feet to a corner;

THENCE North, a distance of 43.29 feet to a corner;

THENCE West, a distance of 8.57 feet to a corner;

THENCE North, a distance of 25.78 feet to a corner;

THENCE East, a distance of 36.67 feet to THE POINT OF BEGINNING and CONTAINING 0.050 acres, more or less.



Zoning Case #: 2008-47

Existing Zoning: PLANNED DEVELOPMENT-65-CENTRAL BUSINESS-1  
 w/SPECIFIC USE PERMIT #512/  
 DALLAS NORTH TOLLWAY OVERLAY DISTRICT

○ 200' Notification Buffer



**DATE:** May 6, 2008  
**TO:** Honorable Mayor & City Council  
**FROM:** James Duggan, Chairman, Planning & Zoning Commission  
**SUBJECT:** Results of Planning & Zoning Commission Meeting of May 5, 2008

**AGENDA ITEM NO. 7D - PUBLIC HEARING  
ZONING CASE 2008-48  
APPLICANT: CITY OF PLANO**

Request to rescind Specific Use Permit #532 for Private Club on 1.6± acres located at the northeast corner of Park Boulevard and Prestwick Road. Zoned Planned Development-68-Retail.

**APPROVED:** 7-0 **DENIED:** \_\_\_\_\_ **TABLED:** \_\_\_\_\_

**LETTERS RECEIVED WITHIN 200 FOOT NOTICE AREA:** **SUPPORT:** 0 **OPPOSE:** 0

**LETTERS RECEIVED OUTSIDE 200 FOOT NOTICE AREA:** **SUPPORT:** 0 **OPPOSE:** 0

**PETITION(s) RECEIVED:** N/A **# OF SIGNATURES:** N/A

**STIPULATIONS:**

Recommended for approval as submitted.

**FOR CITY COUNCIL MEETING OF:** May 27, 2008 (To view the agenda for this meeting, see [www.planotx.org](http://www.planotx.org))

**PUBLIC HEARING - ORDINANCE**

EH/dc

CITY OF PLANO  
PLANNING & ZONING COMMISSION

May 5, 2008

**Agenda Item No. 7D**

**Public Hearing: Zoning Case 2008-48**

**Applicant: City of Plano**

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**DESCRIPTION:**

Request to rescind Specific Use Permit #532 for Private Club on 1.6± acres located at the northeast corner of Park Boulevard and Prestwick Road. Zoned Planned Development-68-Retail.

**REMARKS:**

This is a city-initiated zoning request to rescind Specific Use Permit (SUP) #532 for Private Club. The purpose and intent of an SUP is to authorize and regulate a use not normally permitted in a district which could be of benefit in a particular case to the general welfare, provided adequate development standards and safeguards are established for such use during the review of an SUP application.

Prior to the May 2005 election, a restaurant in Plano desiring to serve alcoholic beverages had to obtain SUP approval for a Private Club from the City of Plano and had to obtain a Private Club Permit from the Texas Alcoholic Beverage Commission (TABC). The election gave restaurants another option to serve alcoholic beverages by acquiring a Mixed Beverage Permit (with a Food and Beverage Certificate) directly from TABC. With the Mixed Beverage Permit, an SUP is no longer necessary.

SUP #532 was granted to Cozymel's restaurant which is no longer in existence. Since Cozymel's is no longer in operation at this site, staff recommends that the SUP be rescinded. Staff has not received a response from the property owner as to whether or not they concur with the removal of the SUP.

**RECOMMENDATION:**

Recommended for approval as submitted.

**ORDINANCE NO. \_\_\_\_\_**  
**(Zoning Case 2008-48)**

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, REPEALING IN ITS ENTIRETY ORDINANCE NO. 2004-1-13; THEREBY RESCINDING SPECIFIC USE PERMIT NO. 532 FOR THE ADDITIONAL USE OF PRIVATE CLUB ON 1.6± ACRES OF LAND OUT OF THE T. J. COTTON SURVEY, ABSTRACT NO. 202 AND THE LAWSON CLARK SURVEY, ABSTRACT NO. 217, LOCATED AT THE NORTHEAST CORNER OF PARK BOULEVARD AND PRESTWICK ROAD, IN THE CITY OF PLANO, COLLIN COUNTY, TEXAS, AND AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, ORDINANCE NO. 2006-4-24, AS HERETOFORE AMENDED, TO REFLECT SUCH ACTION; DIRECTING A CHANGE ACCORDINGLY IN THE OFFICIAL ZONING MAP OF THE CITY; AND PROVIDING A PENALTY CLAUSE, A REPEALER CLAUSE, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

**WHEREAS**, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 27th day of May, 2008, for the purpose of considering rescinding Specific Use Permit No. 532 for the additional use of Private Club on 1.6± acres of land out of the T. J. Cotton Survey, Abstract No. 202 and the Lawson Clark Survey, Abstract No. 217, located at the northeast corner of Park Boulevard and Prestwick Road in the City of Plano, Collin County, Texas; and

**WHEREAS**, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

**WHEREAS**, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 27th day of May, 2008; and

**WHEREAS**, the City Council is of the opinion and finds that the rescinding of Specific Use Permit No. 532 for the additional use of Private Club would not be detrimental or injurious to the public health, safety and general welfare, or otherwise offensive to the neighborhood; and

**WHEREAS**, the City Council is of the opinion and finds that such change will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

**IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** Ordinance No. 2004-1-13, duly passed and approved by the City Council of the City of Plano, Texas, on January 12, 2004, granting Specific Use Permit No. 532 for the additional use of Private Club on 1.6± acres of land out of the T. J. Cotton Survey, Abstract No. 202 and the Lawson Clark Survey, Abstract No. 217, located at the northeast corner of Park Boulevard and Prestwick Road in the City of Plano, Collin County, Texas, presently zoned Planned Development-68-Retail, more fully described on Exhibit "A", attached hereto, is hereby repealed in its entirety. Consequently, Specific Use Permit No. 532 is hereby rescinded.

**Section II.** It is hereby directed that the Comprehensive Zoning Ordinance, No. 2006-4-24, as heretofore amended, be revised and amended (which is retained in electronic record format), to reflect the action and zoning classification established by this Ordinance.

**Section III.** All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

**Section IV.** The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

**Section V.** Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

**Section VI.** It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

**Section VII.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED AND APPROVED THIS THE 27TH DAY OF MAY, 2008.**

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Pat Evans, MAYOR

ATTEST:

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Diane Zucco, CITY SECRETARY

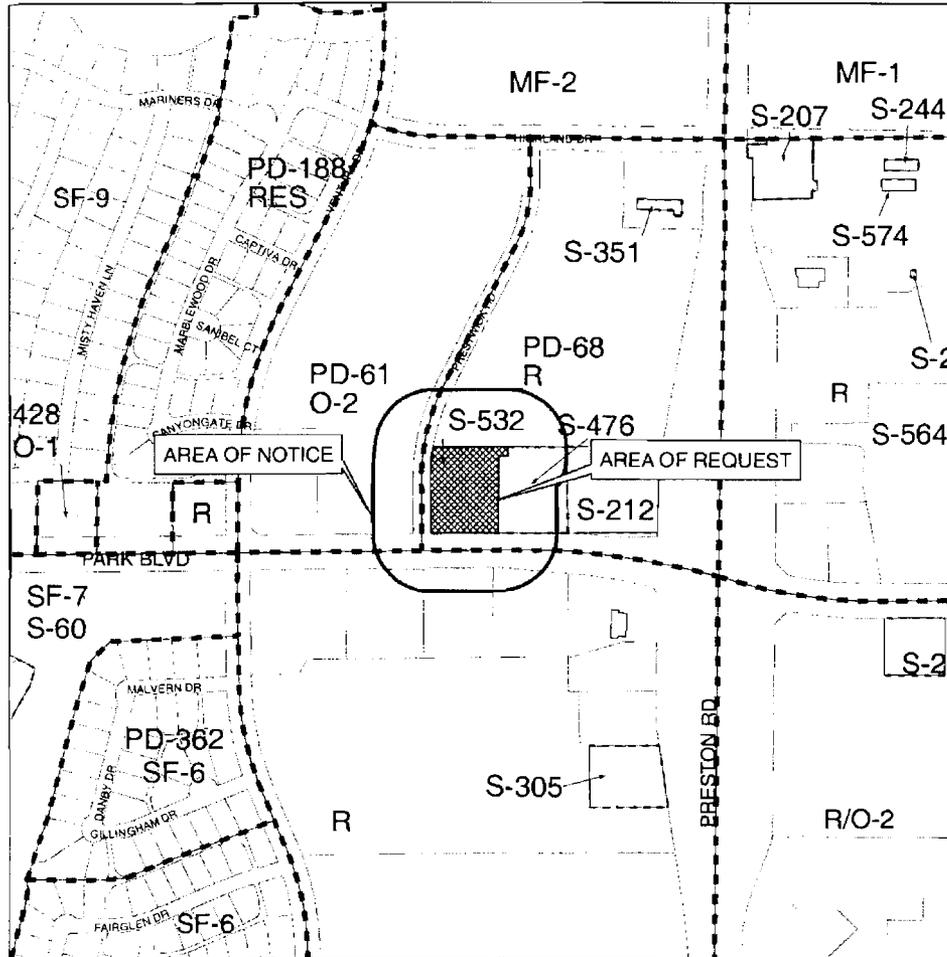
APPROVED AS TO FORM:

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Diane C. Wetherbee, CITY ATTORNEY

EXHIBIT "A"  
LEGAL DESCRIPTION

BEING approximately 1.6± acres out of the T. J. Cotton Survey, Abstract No. 202 and the Lawson Clark Survey, Abstract No. 217, Lot 1R, Block A, West Park Preston Addition, City of Plano, County of Collin, State of Texas, as recorded in Cabinet I on Pages 301 and 302 of the Collin County Plat Records.



Zoning Case #: 2008-48



Existing Zoning: PLANNED DEVELOPMENT-68-RETAIL w/SPECIFIC USE PERMIT #532/  
 PRESTON ROAD OVERLAY DISTRICT

○ 200' Notification Buffer



**DATE:** May 6, 2008

**TO:** Honorable Mayor & City Council

**FROM:** James Duggan, Chairman, Planning & Zoning Commission

**SUBJECT:** Results of Planning & Zoning Commission Meeting of May 5, 2008

**AGENDA ITEM NO. 7E - PUBLIC HEARING**

**ZONING CASE 2008-49**

**APPLICANT: CITY OF PLANO**

Request to rescind Specific Use Permit #536 for Private Club on 0.1± acre located on the south side of Parker Road, 495± feet west of Custer Road. Zoned Planned Development-90-Retail.

**APPROVED:** 7-0 **DENIED:** \_\_\_\_\_ **TABLED:** \_\_\_\_\_

**LETTERS RECEIVED WITHIN 200 FOOT NOTICE AREA:** **SUPPORT:** 0 **OPPOSE:** 0

**LETTERS RECEIVED OUTSIDE 200 FOOT NOTICE AREA:** **SUPPORT:** 0 **OPPOSE:** 0

**PETITION(s) RECEIVED:** N/A **# OF SIGNATURES:** N/A

**STIPULATIONS:**

Recommended for approval as submitted.

**FOR CITY COUNCIL MEETING OF:** May 27, 2008 (To view the agenda for this meeting, see [www.planotx.org](http://www.planotx.org))

**PUBLIC HEARING - ORDINANCE**

BT/dc

CITY OF PLANO  
PLANNING & ZONING COMMISSION

May 5, 2008

**Agenda Item No. 7E**

**Public Hearing: Zoning Case 2008-49**

**Applicant: City of Plano**

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**DESCRIPTION:**

Request to rescind Specific Use Permit #536 for Private Club on 0.1± acre located on the south side of Parker Road, 495± feet west of Custer Road. Zoned Planned Development-90-Retail.

**REMARKS:**

This is a city-initiated zoning request to rescind Specific Use Permit (SUP) #536 for Private Club. The purpose and intent of an SUP is to authorize and regulate a use not normally permitted in a district which could be of benefit in a particular case to the general welfare, provided adequate development standards and safeguards are established for such use during the review of an SUP application.

Prior to the May 2005 election, a restaurant in Plano desiring to serve alcoholic beverages had to obtain SUP approval for Private Club from the City of Plano and had to obtain a Private Club Permit from the Texas Alcoholic Beverage Commission (TABC). The election gave restaurants another option to serve alcoholic beverages by acquiring a Mixed Beverage Permit (with a Food and Beverage Certificate) directly from TABC. With the Mixed Beverage Permit, an SUP is no longer necessary.

Scotty P's Hamburgers operates with a Mixed Beverage Permit from TABC. Therefore, for "housekeeping" purposes, staff recommends that the Private Club SUP be rescinded, since the SUP is not necessary for the restaurant to sell alcoholic beverages. Staff has not received any responses from the property owner as to whether or not they concur with the removal of the SUP.

**RECOMMENDATION:**

Recommended for approval as submitted.

**ORDINANCE NO. \_\_\_\_\_**  
**(Zoning Case 2008-49)**

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, REPEALING IN ITS ENTIRETY ORDINANCE NO. 2004-4-7; THEREBY RESCINDING SPECIFIC USE PERMIT NO. 536 FOR THE ADDITIONAL USE OF PRIVATE CLUB ON 0.1± ACRE OF LAND OUT OF THE MARY KATHERINE & SALLY OWENS SURVEY, ABSTRACT NO. 672, LOCATED ON THE SOUTH SIDE OF PARKER ROAD, 495± FEET WEST OF CUSTER ROAD, IN THE CITY OF PLANO, COLLIN COUNTY, TEXAS, AND AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, ORDINANCE NO. 2006-4-24, AS HERETOFORE AMENDED, TO REFLECT SUCH ACTION; DIRECTING A CHANGE ACCORDINGLY IN THE OFFICIAL ZONING MAP OF THE CITY; AND PROVIDING A PENALTY CLAUSE, A REPEALER CLAUSE, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

**WHEREAS**, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 27th day of May, 2008, for the purpose of considering rescinding Specific Use Permit No. 536 for the additional use of Private Club on 0.1± acre of land out of the Mary Katherine & Sally Owens Survey, Abstract No. 672, located on the south side of Parker Road, 495± feet west of Custer Road in the City of Plano, Collin County, Texas; and

**WHEREAS**, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

**WHEREAS**, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 27th day of May, 2008; and

**WHEREAS**, the City Council is of the opinion and finds that the rescinding of Specific Use Permit No. 536 for the additional use of Private Club would not be detrimental or injurious to the public health, safety and general welfare, or otherwise offensive to the neighborhood; and

**WHEREAS**, the City Council is of the opinion and finds that such change will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

**IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** Ordinance No. 2004-4-7, duly passed and approved by the City Council of the City of Plano, Texas, on April 12, 2004, granting Specific Use Permit No. 536 for the additional use of Private Club on 0.1± acre of land out of the Mary Katherine & Sally Owens Survey, Abstract No. 672, located on the south side of Parker Road, 495± feet west of Custer Road, in the City of Plano, Collin County, Texas, presently zoned Planned Development-90-Retail, more fully described on Exhibit "A", attached hereto, is hereby repealed in its entirety. Consequently, Specific Use Permit No. 536 is hereby rescinded.

**Section II.** It is hereby directed that the Comprehensive Zoning Ordinance, No. 2006-4-24, as heretofore amended, be revised and amended (which is retained in electronic record format), to reflect the action and zoning classification established by this Ordinance.

**Section III.** All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

**Section IV.** The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

**Section V.** Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

**Section VI.** It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

**Section VII.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED AND APPROVED THIS THE 27TH DAY OF MAY, 2008.**

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Pat Evans, MAYOR

ATTEST:

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Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

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Diane C. Wetherbee, CITY ATTORNEY

EXHIBIT "A"  
LEGAL DESCRIPTION

BEING all that certain lot, tract or parcel of land situated in the Mary Katherine & Sally Owens Survey, Abstract No. 672 in the City of Plano, Collin County, Texas, and being a part of Lot 3 in Block A of the replat of Custer Park Shopping Center, an addition to the City of Plano, Texas, according to the plat thereof recorded in Cabinet N at Slide 650 of the Map Records of Collin County, Texas, and being a description of an existing lease space of Scotty P's Kitchen, and being more particularly described by metes and bounds as follows:

BEGINNING at the northeast corner of an existing one story retail building which is 68.8 feet south of the south right-of-way line of Parker Road (called a 100-foot right-of-way), said point also being South  $80^{\circ} 19' 33''$  West, at a distance of 406.71 from the northeast corner of said Lot 3 of the replat of Custer Park Shopping Center, said Northeast corner being referenced on said plat as having State Plane Coordinates of 2,234,934.74 north and 500,621.02 east and also being South  $89^{\circ} 56' 30''$  East (Basis of Bearing per plat recorded in Cabinet N at Slide 650 of the Plat Records of Collin County, Texas) at a distance of 622.28 feet from the northwest corner of said Lot 3;

THENCE South  $0^{\circ} 00' 54''$  East, along the outside edge of the said existing one story retail building for a distance of 40.11 feet to a point for corner;

THENCE South  $89^{\circ} 59' 06''$  West, and departing the outside line of said existing one story brick retail building and following the center of an existing demising wall for a distance of 75.61 feet to a point for corner;

THENCE South  $0^{\circ} 00' 54''$  East, and continuing along the center of said existing demising wall for a distance of 7.50 feet to a point for corner;

THENCE South  $89^{\circ} 59' 06''$  West, and continuing along the center of said existing demising wall for a distance of 15.83 feet to a point for corner;

THENCE South  $0^{\circ} 00' 54''$  East, and continuing along the center of said existing demising wall for a distance of 47.58 feet to a point for corner;

THENCE South  $89^{\circ} 59' 06''$  West, and continuing along the center of said existing demising wall for a distance of 10.42 feet to a point for corner;

THENCE South  $0^{\circ} 00' 54''$  East, and continuing along the center of said existing demising wall for a distance of 11.65 feet to a point on the outside edge of the aforesaid existing one story retail building;

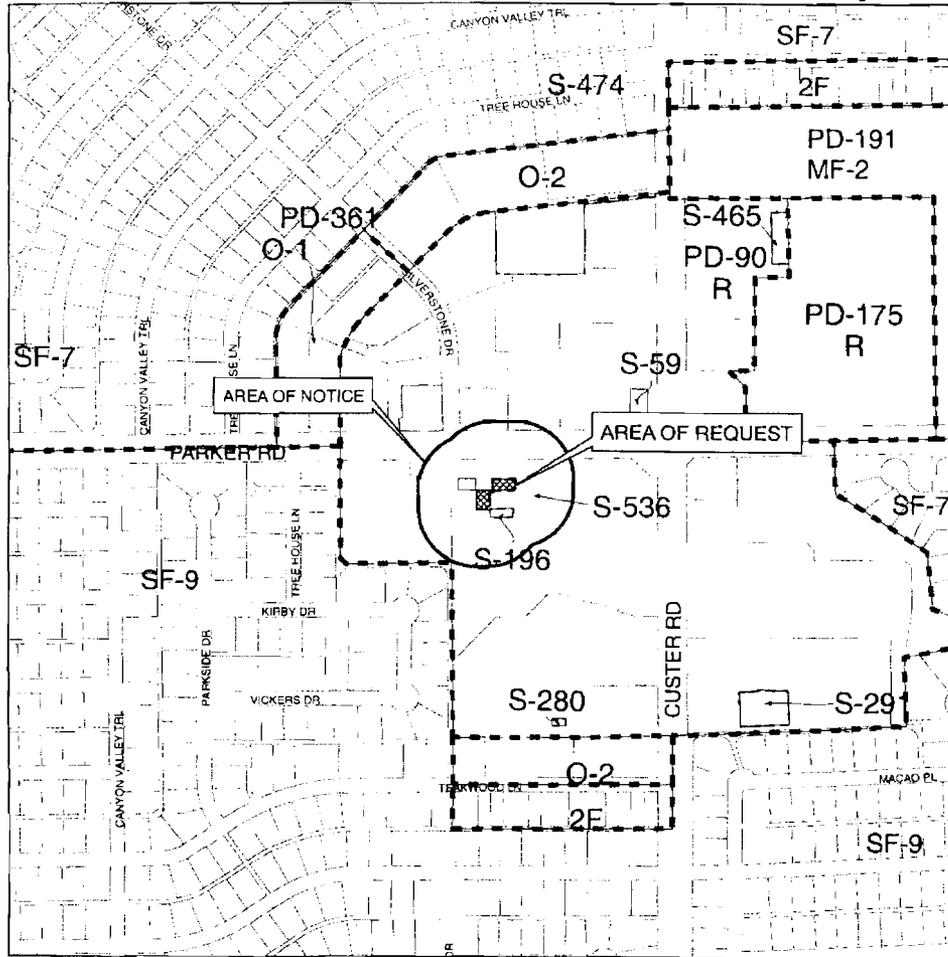
THENCE South  $89^{\circ} 59' 06''$  West, along the outside edge of said existing one story brick retail building for a distance of 34.94 feet to a corner of said building;

THENCE North  $0^{\circ} 00' 54''$  West, and continuing along the outside edge of said existing one story brick retail building for a distance of 66.40 feet to a corner of said building;

THENCE North  $89^{\circ} 59' 06''$  East, departing the outside edge of said existing one story brick building and following along the center of an existing demising wall for a distance of 56.52 feet to a point for corner;

THENCE North  $0^{\circ} 00' 54''$  West, and continuing along the center of an existing demising wall for a distance of 40.45 feet to a point for corner on the outside edge of said one story brick retail building;

THENCE North  $89^{\circ} 59' 06''$  East, along the north outside edge of said existing one story brick retail building for a distance of 80.28 feet to the POINT OF BEGINNING and CONTAINING 6,225 square feet of land, more or less.



Zoning Case #: 2008-49

Existing Zoning: PLANNED DEVELOPMENT-90-RETAIL w/SPECIFIC USE PERMIT #536

○ 200' Notification Buffer



**DATE:** May 6, 2008  
**TO:** Honorable Mayor & City Council  
**FROM:** James Duggan, Chairman, Planning & Zoning Commission  
**SUBJECT:** Results of Planning & Zoning Commission Meeting of May 5, 2008

**AGENDA ITEM NO. 7F - PUBLIC HEARING  
ZONING CASE 2008-50  
APPLICANT: CITY OF PLANO**

Request to rescind Specific Use Permit #544 for Private Club on 0.8± acre located on the west side of U.S. Highway 75, 700± feet south of 15th Street. Zoned Corridor Commercial.

**APPROVED:** 7-0 **DENIED:** \_\_\_\_\_ **TABLED:** \_\_\_\_\_

**LETTERS RECEIVED WITHIN 200 FOOT NOTICE AREA:** **SUPPORT:** 0 **OPPOSE:** 0

**LETTERS RECEIVED OUTSIDE 200 FOOT NOTICE AREA:** **SUPPORT:** 0 **OPPOSE:** 0

**PETITION(s) RECEIVED:** N/A **# OF SIGNATURES:** N/A

**STIPULATIONS:**

Recommended for approval as submitted.

**FOR CITY COUNCIL MEETING OF:** May 27, 2008 (To view the agenda for this meeting, see [www.planotx.org](http://www.planotx.org))

**PUBLIC HEARING - ORDINANCE**

BT/dc

CITY OF PLANO  
PLANNING & ZONING COMMISSION

May 5, 2008

**Agenda Item No. 7F**

**Public Hearing: Zoning Case 2008-50**

**Applicant: City of Plano**

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**DESCRIPTION:**

Request to rescind Specific Use Permit #544 for Private Club on 0.8± acre located on the west side of U.S. Highway 75, 700± feet south of 15th Street. Zoned Corridor Commercial.

**REMARKS:**

This is a city-initiated zoning request to rescind Specific Use Permit (SUP) #544 for Private Club. The purpose and intent of an SUP is to authorize and regulate a use not normally permitted in a district which could be of benefit in a particular case to the general welfare, provided adequate development standards and safeguards are established for such use during the review of an SUP application.

Prior to the May 2005 election, a restaurant in Plano desiring to serve alcoholic beverages had to obtain SUP approval for Private Club from the City of Plano and had to obtain a Private Club Permit from the Texas Alcoholic Beverage Commission (TABC). The election gave restaurants another option to serve alcoholic beverages by acquiring a Mixed Beverage Permit (with a Food and Beverage Certificate) directly from TABC. With the Mixed Beverage Permit, an SUP is no longer necessary.

BJ's Restaurant & Brewhouse operates with a Mixed Beverage Permit from TABC. Therefore, for "housekeeping" purposes, staff recommends that the Private Club SUP be rescinded, since the SUP is not necessary for the restaurant to sell alcoholic beverages. Staff has not received any responses from the property owner as to whether or not they concur with the removal of the SUP.

**RECOMMENDATION:**

Recommended for approval as submitted.

**ORDINANCE NO. \_\_\_\_\_**  
**(Zoning Case 2008-50)**

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, REPEALING IN ITS ENTIRETY ORDINANCE NO. 2004-8-23; THEREBY RESCINDING SPECIFIC USE PERMIT NO. 544 FOR THE ADDITIONAL USE OF PRIVATE CLUB ON 0.8± ACRE OF LAND OUT OF THE JOSEPH KLEPPER SURVEY, ABSTRACT NO. 213, LOCATED ON THE WEST SIDE OF U.S. HIGHWAY 75, 700± FEET SOUTH OF 15TH STREET, IN THE CITY OF PLANO, COLLIN COUNTY, TEXAS, AND AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, ORDINANCE NO. 2006-4-24, AS HERETOFORE AMENDED, TO REFLECT SUCH ACTION; DIRECTING A CHANGE ACCORDINGLY IN THE OFFICIAL ZONING MAP OF THE CITY; AND PROVIDING A PENALTY CLAUSE, A REPEALER CLAUSE, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

**WHEREAS**, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 27th day of May, 2008, for the purpose of considering rescinding Specific Use Permit No. 544 for the additional use of Private Club on 0.8± acre of land out of the Joseph Klepper Survey, Abstract No. 213, located on the west side of U.S. Highway 75, 700± feet south of 15th Street in the City of Plano, Collin County, Texas; and

**WHEREAS**, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

**WHEREAS**, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 27th day of May, 2008; and

**WHEREAS**, the City Council is of the opinion and finds that the rescinding of Specific Use Permit No. 544 for the additional use of Private Club would not be detrimental or injurious to the public health, safety and general welfare, or otherwise offensive to the neighborhood; and

**WHEREAS**, the City Council is of the opinion and finds that such change will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

**IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** Ordinance No. 2004-8-23, duly passed and approved by the City Council of the City of Plano, Texas, on August 9, 2004, granting Specific Use Permit No. 544 for the additional use of Private Club on 0.8± acre of land out of the Joseph Klepper Survey, Abstract No. 213, located on the west side of U.S. Highway 75, 700± feet south of 15th Street, in the City of Plano, Collin County, Texas, presently zoned Corridor Commercial, more fully described on Exhibit "A", attached hereto, is hereby repealed in its entirety. Consequently, Specific Use Permit No. 544 is hereby rescinded.

**Section II.** It is hereby directed that the Comprehensive Zoning Ordinance, No. 2006-4-24, as heretofore amended, be revised and amended (which is retained in electronic record format), to reflect the action and zoning classification established by this Ordinance.

**Section III.** All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

**Section IV.** The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

**Section V.** Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

**Section VI.** It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

**Section VII.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED AND APPROVED THIS THE 27TH DAY OF MAY, 2008.**

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Pat Evans, MAYOR

ATTEST:

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Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

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Diane C. Wetherbee, CITY ATTORNEY

EXHIBIT "A"  
LEGAL DESCRIPTION

BEING a tract of land situated in the City of Plano, Collin County, Texas, out of the Joseph Klepper Survey, Abstract No. 213, and being a part of Lot 1R in Block A of the replat of Dallas North Shopping Center 1988 Addition, an addition to the City of Plano as recorded in Cabinet "H" at Slide 399 of the Plat Records of Collin County, Texas, and being more particularly described as follows:

COMMENCING at a 5/8" iron rod found for the southeast corner of Lot 1R in Block A, and being in the west line of U.S. 75 (North Central Expressway); said point being North,  $74^{\circ} 57' 06''$  East, a distance of 10.00 feet from the northeast corner of Lot 1 in Block A of Janwood Addition, an addition to the City of Plano, Texas, according to the plat therefore as recorded in Cabinet G, Page 723 of the Plat Records of Collin County, Texas; a 5/8" iron rod found for corner, said point being in a curve to the left having a central angle of  $00^{\circ} 37' 07''$  and a radius of 5,569.58 feet with a chord bearing North,  $11^{\circ} 18' 38''$  West, a distance of 60.12 feet;

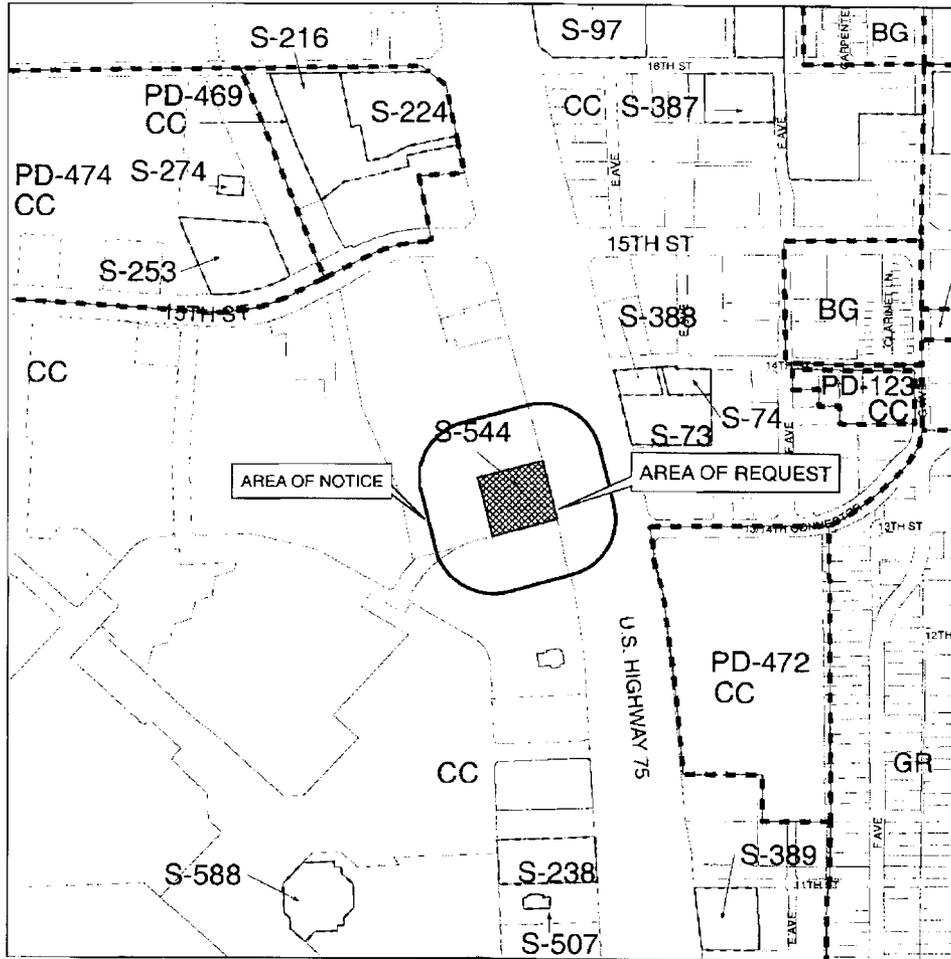
THENCE northwesterly along said curve to the left and following the west right-of-way line of U.S. 75, same being the east line of said Lot 1R for an arc distance of 60.12 feet to a 5/8" iron rod set for the POINT OF BEGINNING for this description, said point also being the northeast corner of a 60 foot utility, drainage, fire lane and access easement as shown on said plat of Lot 1R in Block A of the Dallas North Shopping Center 1988 Addition as recorded in Cabinet "H" at Slide 399 of the Plat Records of Collin County, Texas;

THENCE South,  $74^{\circ} 57' 06''$  West along the north line of said 60 foot utility, drainage, fire lane and access easement for a distance of 202.44 feet to a survey marker nail set for corner;

THENCE North,  $15^{\circ} 05' 00''$  West, and departing the north line of said 60' utility, drainage, fire lane and access easement for a distance of 166.47 feet to a survey marker nail set for corner;

THENCE North,  $74^{\circ} 57' 06''$  East for a distance of 210.02 feet to a 5/8" iron rod set for corner in the west right-of-way line of the aforesaid U.S. 75, said point being in a curve to the right having a central angle of  $01^{\circ} 42' 51''$  with a radius of 5,569.58 feet and a chord bearing South,  $12^{\circ} 28' 37''$  East, at a distance of 166.64 feet;

THENCE southeasterly along said curve to the right and following the west right-of-way line of said U.S. 75, same being the east line of the aforesaid Lot 1R in Block A of the replat of 166.64 feet to the POINT OF BEGINNING and CONTAINING 34,400 square feet of land, more or less.



Zoning Case #: 2008-50

Existing Zoning: CORRIDOR COMMERCIAL w/SPECIFIC USE PERMIT #544

○ 200' Notification Buffer



**DATE:** May 20, 2008  
**TO:** Honorable Mayor & City Council  
**FROM:** James Duggan, Chairman, Planning & Zoning Commission  
**SUBJECT:** Results of Planning & Zoning Commission Meeting of May 19, 2008

**AGENDA ITEM NO. 6 - PUBLIC HEARING  
ZONING CASE 2008-51  
APPLICANT: CITY OF PLANO**

Request to amend Subsection 2.821 (BG - Downtown Business/Government) of Section 2.800 (District Charts) of Article 2 (Zoning Districts and Uses) and related sections of the Zoning Ordinance pertaining to the regulations limiting the number of multifamily dwelling units per block and the requirement for a maximum 60% first floor residential use along street frontage within the Downtown Business/Government zoning district.

**APPROVED:** 7-0 **DENIED:** \_\_\_\_\_ **TABLED:** \_\_\_\_\_

**LETTERS RECEIVED WITHIN 200 FOOT NOTICE AREA:** **SUPPORT:** 0 **OPPOSE:** 0

**LETTERS RECEIVED OUTSIDE 200 FOOT NOTICE AREA:** **SUPPORT:** 0 **OPPOSE:** 0

**PETITION(s) RECEIVED:** N/A **# OF SIGNATURES:** N/A

**STIPULATIONS:**

Recommended for approval as follows: (Additions are bold and underline; deletions are shown in strikethrough text.)

Subsection 2.821 BG - Downtown Business/Government

(5) Special District Requirements

(a) Definitions of Streets within the District

- (i) Major streets shall be defined as 15th Street, 14th Street, K Avenue, and Municipal Avenue.
- (ii) Minor streets shall be defined as all streets, other than the major streets, which are built with a standard curb, gutter, and sidewalks.
- (iii) Mews streets shall be defined as a service drive for automotive and pedestrian traffic with a central circulation lane a width of 24 feet or less which functions as a public street. No curbs or sidewalks are required within mews street right-of-way.

- (b) Front yard setbacks are measured from the outside of curb or outside of lane marking where there is no curb. Front yard setbacks are determined based on provided on-street parking and the type of street frontage as follows:

Setback	Designated on-street parking spaces are provided between the street and the building.		No designated on-street parking spaces are provided between the street and the building.	
	Minimum	Maximum	Minimum	Maximum
Mews Street	3	20	3	20
Minor Street	5	20	10	20
Major Street	10	20	15	20

- (c) A nonconforming building may be reconstructed to its original setback if it does not exceed the maximum permitted setback.
- (d) Minimum of two-thirds of the front facade of the building shall fall within the minimum and maximum setback.
- (e) First Floor Use

No building, excluding parking structures, in the area bounded by 14th Street on the south, H Avenue on the west, 16th Street on the north, and Municipal/L Avenue on the east, shall have more than 60% of its total linear frontage on major streets or ~~public ways~~ devoted to residential use.

- (f) Extensions into Rights-of-Way or Access Easements
- (i) Outdoor eating areas may extend into rights-of-way or access easements of streets or public ways, if a minimum sidewalk clearance and/or distance to curb line of a street or public way of five feet is maintained.
- (ii) Canopies, balconies, stoops, bay windows, awnings, planting beds, and other building projections may extend into rights-of-way and/or easements of streets, public ways, and/or railroad or transit facilities if a minimum sidewalk clearance and/or distance to the curb line of five feet is maintained.

(g) Special Regulations for Multifamily Residences

- (i) Minimum Floor Area per Dwelling Unit
1. 400 square feet for efficiency units
  2. 475 square feet for one bedroom units
  3. 625 square feet for two bedroom units
  4. 150 square feet for each additional bedroom
- (ii) Maximum Density: 100 dwelling units per acre

- (iii) Minimum Density: 40 dwelling units per acre
- (iv) No more than 200 230 dwelling units may be located within any block bounded by streets, public ways, and/or railroad or transit rights-of-way.
- (v) Usable open space requirements as specified in Subsection 3.104.4. shall not apply.
- (vi) The above requirements shall also apply to situations where only one or two units are included in a building.

**FOR CITY COUNCIL MEETING OF:** May 27, 2008 (To view the agenda for this meeting, see [www.planotx.org](http://www.planotx.org))

**PUBLIC HEARING - ORDINANCE**

TMF/dw

CITY OF PLANO  
PLANNING & ZONING COMMISSION

May 19, 2008

**Agenda Item No. 6**

**Public Hearing:** Zoning Case 2008-51

**Applicant:** City of Plano

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**DESCRIPTION:**

Request to amend Subsection 2.821 (BG - Downtown Business/Government) of Section 2.800 (District Charts) of Article 2 (Zoning Districts and Uses) and related sections of the Zoning Ordinance pertaining to the regulations limiting the number of multifamily dwelling units per block and the requirement for a maximum 60% first floor residential use along street frontage within the Downtown Business/Government zoning district.

**HISTORY:**

Zoning Case 97-47 - This amendment to the BG district furthered the recommendation of the Downtown Development Plan and the East Plano Development Task Force to create a diversity of activities within downtown Plano. Zoning Case 97-47 added multifamily residential as an allowable use, established development standards for multifamily residences within the BG district, established minimum setbacks distances between uses within the BG district and adjacent residential zoning districts, and amended the minimum distances from private clubs to churches and private and public schools. Approved 10/17/97.

Zoning Case 99-10 - The amendment to the BG district added Studio Residence, Home Occupation and Neighborhood Theatre as allowable uses, permitted eating areas and building projections within rights-of-way, amended building setbacks, increased the allowable height of parking structures to five stories, and amended multifamily development standards. Approved 06/14/99.

Zoning Case 2001-49 - This request amended BG parking standards. Existing structures designated or pre-designated as Heritage Resource properties can expand by 4,500 square feet without providing additional parking. Approved 01/14/02.

Zoning Case 2002-37 - This request amended the development standards and allowable uses. Changes included adding townhouses as an allowable use and

associated townhouse development standards. Residential parking requirements were also modified. Approved 12/09/02.

Zoning Case 2003-51 - This request expanded the BG district to include the property bounded by 14th Street, G Avenue, 15th Street and F Avenue within the downtown area. The property was rezoned from Corridor Commercial (CC) to BG. Approved 10/27/03.

Zoning Case 2003-52 - The BG district was amended in order to improve the practical application of the development standards. The City recognized the need to expand upon the existing standards at that time, finding that certain modifications would aid the opportunity for infill housing and redevelopment within the district. Standards amended included building setbacks, limiting residential uses to no more than 60% of total linear street frontages within the downtown area, increasing the minimum density, improving access and street frontage by implementing a mews street design, and allowing fencing within the front yards. Approved 10/27/03.

**REMARKS:**

The requested zoning is to amend the BG district to: 1) increase the maximum allowable dwelling units within a block from 200 units to 230 units; and 2) apply the maximum 60% allowable first floor residential use to major street frontages only.

**Maximum Dwelling Units within a Block**

Currently, the BG district stipulates that no more than 200 dwelling units may be located within any block bounded by streets, public ways (i.e. areas that are accessible by vehicles), and/or railroad or transit rights-of-way. This maximum cap, while an arbitrary number, was established in order to prevent large “super blocks” from occurring within the downtown urban area and to provide for a network of streets and block sizes conducive to a mixed use, pedestrian and transit-oriented development.

As properties continue to redevelop within the BG district, there may be situations where it is not possible to add new streets, given property dimensions (such as long, narrow tracts), topography, and existing railroad right-of-way. Development on land that cannot feasibly be broken into smaller blocks may need to benefit from an increase in the number of units to maintain the urban form of development in downtown.

When East Side Village II was developed (approximately 3.2 acres located at the northwest corner of 14th Street and Municipal/L Avenue), the developer was able to create an internal street (Vontress Drive) due to the shape of the property and since the property was bounded by streets. The site that encompasses the Eisenberg Skatepark and City of Plano property (approximately 3.0 acres located on the west side of the DART railroad tracks between 15th Street and 14th Street), while comparable in size to East Side Village II in terms of acreage, is long and narrow and adjacent to railroad right-of-way. It is not feasible to implement an internal street that would result in

reasonably developable blocks nor would it be possible to obtain an additional railroad crossing between 15th Street and 14th Street.

Given other development controls already in place within the BG district (such as minimum and maximum building setbacks, minimum dwelling unit size, overall density, and maximum building height), from a building mass consideration, the appearance of a 200-unit multifamily building versus a 230-unit multifamily building is likely not to be noticeable from public view. In an area where the existing zoning promotes building massing and placement in relationship to the public realm (i.e. streets), what happens towards the interior of the site and internal to the building should be less of a concern.

### **First Floor Residential Use**

The BG district presently defines 15th Street, 14th Street, K Avenue, and Municipal Avenue as major streets. All other streets within the district are either considered minor streets or mews streets depending upon their design/configuration.

For those properties located within an area bounded by 14th Street on the south, H Avenue on the west, 16th Street on the north, and Municipal/L Avenue on the east, the BG district requires that no building, excluding parking garages, shall have more than 60% of its total linear frontage on streets or public ways devoted to residential use. The converse is that the existing zoning requires for any building, excluding parking garages, a minimum of 40% of the total frontage on streets and public ways for first floor uses shall be nonresidential. The existing zoning allows for nonresidential uses along all streets (major, minor and mews) and other public ways to be counted towards the overall minimum 40% total street frontage requirement for nonresidential first floor use.

The purpose of this provision is to encourage some nonresidential uses at street level within the downtown core and to discourage solely residential use buildings within that same area. Furthermore, the existing zoning recognizes that nonresidential uses outside of the downtown core area are less likely to be successful.

The requested zoning proposes to amend the BG district to require that no building, excluding parking garages, shall have more than 60% of its total linear frontage on major streets devoted to residential use. The proposed BG amendment limits the amount of residential use on major streets (maximum 60% total major street frontages) thus promoting a minimum nonresidential threshold amount (minimum 40%) to be provided along major streets while allowing more flexibility pertaining to first floor uses for minor and mews streets.

As we have continued to learn from downtown Plano, The Shops at Legacy and other similar mixed-use developments, nonresidential uses will be more successful when located on major roadways with more visibility, marketability, and accessibility. Establishing a minimum threshold for nonresidential uses on properties located adjacent to major streets within the downtown core further promotes the potential success of the nonresidential uses within that limited area without forcing the location of nonresidential uses on minor streets to be less successful.

**SUMMARY:**

The requested zoning amendments will encourage infill and redevelopment opportunities within the downtown core as well as to help further promote opportunities within the remainder of the district. Allowing for a 15% increase in the number dwelling units (200 to 230) within a block assists with the redevelopment of those properties that may have physical constraints that make it impractical to otherwise subdivide into smaller blocks. Additionally, directing required first floor nonresidential uses to major streets within the downtown core further strengthens their potential success and viability while still preserving the walkable, mixed-use nature of downtown Plano.

**RECOMMENDATION:**

Recommended for approval as follows: (Additions are bold and underline; deletions are shown in strikethrough text.)

Subsection 2.821 BG - Downtown Business/Government

(5) Special District Requirements

(a) Definitions of Streets within the District

- (i) Major streets shall be defined as 15th Street, 14th Street, K Avenue, and Municipal Avenue.
- (ii) Minor streets shall be defined as all streets, other than the major streets, which are built with a standard curb, gutter, and sidewalks.
- (iii) Mews streets shall be defined as a service drive for automotive and pedestrian traffic with a central circulation lane a width of 24 feet or less which functions as a public street. No curbs or sidewalks are required within mews street right-of-way.

(b) Front yard setbacks are measured from the outside of curb or outside of lane marking where there is no curb. Front yard setbacks are determined based on provided on-street parking and the type of street frontage as follows:

Setback	Designated on-street parking spaces are provided between the street and the building.		No designated on-street parking spaces are provided between the street and the building.	
	Minimum	Maximum	Minimum	Maximum
Mews Street	3	20	3	20
Minor Street	5	20	10	20
Major Street	10	20	15	20

(c) A nonconforming building may be reconstructed to its original setback if it does not exceed the maximum permitted setback.

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(d) Minimum of two-thirds of the front facade of the building shall fall within the minimum and maximum setback.

(e) First Floor Use

No building, excluding parking structures, in the area bounded by 14th Street on the south, H Avenue on the west, 16th Street on the north, and Municipal/L Avenue on the east, shall have more than 60% of its total linear frontage on major streets or ~~public ways~~ devoted to residential use.

(f) Extensions into Rights-of-Way or Access Easements

(i) Outdoor eating areas may extend into rights-of-way or access easements of streets or public ways, if a minimum sidewalk clearance and/or distance to curb line of a street or public way of five feet is maintained.

(ii) Canopies, balconies, stoops, bay windows, awnings, planting beds, and other building projections may extend into rights-of-way and/or easements of streets, public ways, and/or railroad or transit facilities if a minimum sidewalk clearance and/or distance to the curb line of five feet is maintained.

(g) Special Regulations for Multifamily Residences

(i) Minimum Floor Area per Dwelling Unit

1. 400 square feet for efficiency units
2. 475 square feet for one bedroom units
3. 625 square feet for two bedroom units
4. 150 square feet for each additional bedroom

(ii) Maximum Density: 100 dwelling units per acre

(iii) Minimum Density: 40 dwelling units per acre

(iv) No more than ~~200~~ 230 dwelling units may be located within any block bounded by streets, public ways, and/or railroad or transit rights-of-way.

(v) Usable open space requirements as specified in Subsection 3.104.4. shall not apply.

(vi) The above requirements shall also apply to situations where only one or two units are included in a building.

**ORDINANCE NO. \_\_\_\_\_**  
**(Zoning Case 2008-51)**

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, AMENDING SUBSECTION 2.821 (BG - DOWNTOWN BUSINESS/GOVERNMENT) OF SECTION 2.800 (DISTRICT CHARTS) OF ARTICLE 2 (ZONING DISTRICTS) AND RELATED SECTIONS OF THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, ORDINANCE NO. 2006-4-24, AS HERETOFORE AMENDED, PERTAINING TO THE REGULATIONS LIMITING THE NUMBER OF MULTIFAMILY DWELLING UNITS PER BLOCK AND THE REQUIREMENT FOR A MAXIMUM 60% FIRST FLOOR RESIDENTIAL USE ALONG STREET FRONTAGE WITHIN THE DOWNTOWN BUSINESS/GOVERNMENT ZONING DISTRICT; AND PROVIDING A PENALTY CLAUSE, A REPEALER CLAUSE, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

**WHEREAS**, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 27th day of May, 2008, for the purpose of considering a change in the Zoning Ordinance; and

**WHEREAS**, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

**WHEREAS**, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 27th day of May, 2008; and

**WHEREAS**, the City Council is of the opinion and finds that such change would not be detrimental to the public health, safety, or general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

**IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section 1.** Subsection 2.821 (BG - Downtown Business/Government) of Section 2.800 (District Charts) of Article 2 (Zoning Districts) of the Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended pertaining to the regulations limiting the number of multifamily dwelling units per block and the requirement for a maximum 60% first floor residential use along street frontage within the Downtown Business/Government zoning district, such portion of the subsection to read as follows:

(5) Special District Requirements

(e) First Floor Use

No building, excluding parking structures, in the area bounded by 14th Street on the south, H Avenue on the west, 16th Street on the north, and Municipal/L Avenue on the east, shall have more than 60% of its total linear frontage on major streets devoted to residential use.

g) Special Regulations for Multifamily Residences

(iv) No more than 230 dwelling units may be located within any block bounded by streets, public ways, and/or railroad or transit rights-of-way.

**Section II.** All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

**Section III.** The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

**Section IV.** Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

**Section V.** It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

**Section VI.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED AND APPROVED THIS THE 27TH DAY OF MAY, 2008.**

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Pat Evans, MAYOR

ATTEST:

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Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

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Diane C. Wetherbee, CITY ATTORNEY





**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date: <b>5/27/08</b>		Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department:	Planning		Initials	Date	
Department Head	P. Jarrell		Executive Director	5/21/08	
Dept Signature:	<i>P. Jarrell</i>		City Manager	5/21/08	
Agenda Coordinator (include phone #): <b>D. Carter - 7151</b>					

**ACTION REQUESTED:**     ORDINANCE     RESOLUTION     CHANGE ORDER     AGREEMENT  
 APPROVAL OF BID     AWARD OF CONTRACT     OTHER

**CAPTION**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF A DEVELOPMENT AGREEMENT BY AND BETWEEN PINNACLE AMS DEVELOPMENT COMPANY, LLC AND THE CITY OF PLANO FOR THE DEVELOPMENT OF EASTSIDE STATION-PLANO; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.

**FINANCIAL SUMMARY**

NOT APPLICABLE     OPERATING EXPENSE     REVENUE     CIP

FISCAL YEAR: <b>2008-2009</b>	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	1,100,000	<b>1,100,000</b>
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	-1,100,000	<b>-1,100,000</b>
BALANCE	0	0	0	0

**FUND(S):    TIF #2 AND PARK FEE FUND**

**COMMENTS:** Funding for infrastructure improvements for the Pinnacle Downtown Redevelopment is available in the TIF #2 and Park Fee Funds. The City of Plano's aggregate project cost is not to exceed \$1,100,000. At this time, a North Central Texas Council of Governments (NCTCOG) grant is pending approval for this project in the amount of \$800,000. Assuming this grant is approved, the City's remaining portion of \$300,000 will be funded from TIF #2 (\$200,000) and the Park Fee Fund (\$100,000). If the NCTCOG grant is not approved, the City will be responsible for the remaining \$800,000, to be funded from TIF#2.

**STRATEGIC PLAN GOAL:** Infrastructure improvements for the Pinnacle Downtown Redevelopment relate to the City Goals "Livable and Sustainable Community" and "Diverse Business Center".

**SUMMARY OF ITEM**

The development agreement sets forth the terms and conditions for the city's participation with Pinnacle AMS Development, LLC, to redevelop the 3.0 acre block bounded by 15<sup>th</sup> Street, I Avenue, 14<sup>th</sup> Street and the DART rail line in downtown Plano. Pinnacle has the Eisenberg's Skate Park property under contract to purchase, and intends to construct a mixed-use project containing 200,000 square feet with 225-230 apartment units, 15,000 square feet of non-residential space and a parking garage. The city's 1.5 acre tract of land in this block would be granted to Pinnacle in exchange for 100 dedicated and secured parking spaces in the parking garage to replace the parking lot which now serves the Police and Courts facility. The city would also participate in the



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

cost of infrastructure improvements in the public rights-of-way up to a maximum of \$200,000, to be provided from TIF #2 funds. A pedestrian promenade would be built along the rail line, partially on DART right-of-way and partially on Pinnacle's property, to connect 15<sup>th</sup> Street and 14<sup>th</sup> Street and provide access to the Douglass community. Funding for the promenade would be shared by the developer and the city, with 90% of the estimated \$1,000,000 cost to be funded by the city. \$100,000 of this cost would be covered by neighborhood park fees; the city is pursuing a grant from the North Central Texas Council of Governments for the remaining \$800,000. DART is working with the city to grant an easement for use of its right-of-way. The project will have an estimated private investment value of \$20,000,000.

Pinnacle held several meetings with a committee of homeowner representatives, downtown merchants and property owners, the Chamber of Commerce and several boards and commissions to develop the concept plan and preliminary façade plans for the proposed development. These are attached as exhibits to the development agreement. Under the terms of the development agreement, Pinnacle must commence construction by January 1, 2009 with construction to be completed by July 1, 2010.

List of Supporting Documents:  
Resolution  
Development Agreement

Other Departments, Boards, Commissions or Agencies

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF A DEVELOPMENT AGREEMENT BY AND BETWEEN PINNACLE AMS DEVELOPMENT COMPANY, LLC AND THE CITY OF PLANO FOR THE DEVELOPMENT OF EASTSIDE STATION-PLANO; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council has been presented a proposed development agreement for the development of Eastside Station - Plano between Pinnacle AMS Development Company, LLC and the City of Plano, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and,

**WHEREAS**, upon full review and consideration of the Agreement, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager or, in his absence, an Executive Director, shall be authorized to execute it on behalf of the City of Plano.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** The terms and conditions of the Agreement, having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interests of the City of Plano and its citizens, are hereby in all things approved.

**Section II.** The City Manager, or in his absence, an Executive Director, is hereby authorized to execute the Agreement and all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Agreement.

**Section III.** This Resolution shall become effective immediately upon its passage.

**DULY PASSED AND APPROVED** this the \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Pat Evans, MAYOR

ATTEST:

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

APPROVED AS TO FORM:

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

STATE OF TEXAS           §  
  §  
COUNTY OF COLLIN       §

**DEVELOPMENT AGREEMENT BETWEEN THE CITY OF PLANO,  
TEXAS AND PINNACLE AMS DEVELOPMENT COMPANY, LLC FOR  
DEVELOPMENT OF EASTSIDE STATION - PLANO**

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into by and between the City of Plano, a Texas municipal corporation of Collin County, Texas (the "City"), acting by and through its duly authorized officers, and Pinnacle AMS Development Company, LLC, a Texas limited liability company ("Pinnacle");

**RECITALS:**

WHEREAS, the City is authorized pursuant to the laws of Texas and its Home Rule Charter to enter into agreements with persons or entities intending to undertake any development on real property for the purposes of providing supporting public facilities and services; and

WHEREAS, Pinnacle desires to develop approximately 3.0 acres located at the southeast corner of 15th Street and I Avenue of which 1.5 acres is owned by the City of Plano and as shown in Exhibit "A" attached hereto ("the Property"); and

WHEREAS, Pinnacle has proposed a development on the Property in substantial compliance with a preliminary project design and concept plan prepared by Pinnacle attached hereto as Exhibit "B" (which design and concept plan, together with all additions, changes and amendments thereto approved by Pinnacle and the City, is referred to in this Agreement as the "Plan") ; and

WHEREAS, Pinnacle's proposed development is located in Tax Increment Financing District No. 2 and is in keeping with the intent of that reinvestment zone to promote sound growth; and

WHEREAS, a portion of the proposed public improvements that are to be dedicated to the public are to be funded through the revenue derived by Tax Increment Financing District No. 2; and

WHEREAS, Pinnacle's proposed development is consistent with the goals and objectives as set forth in *Downtown Plano, A Vision and Strategy for Creating a Transit Village* which was adopted by the City Council by Resolution No. 99-5-14, dated May 10, 1999, and

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WHEREAS, the development of the Property in accordance with the Plan by Pinnacle will contribute important direct and indirect economic and social benefits to the City including, but not limited to, the creation of a mixed-use, pedestrian-oriented, residential development in close proximity to the DART railway station, and

WHEREAS, the City is authorized by TEX. LOC. GOV'T CODE §380.001 *et seq.* to provide economic development grants to promote local economic development and to stimulate business and commercial activity in the City; and

WHEREAS, the City has determined that making an economic development grant to Pinnacle in accordance with the terms and conditions set forth in this Agreement will further the objectives of the City, will benefit the City and the City's inhabitants and will promote local economic development and stimulate business and commercial activity in the City;

WHEREAS, it is essential to the City's public health, safety and general welfare to assure that the Development is supported by adequate levels of public facilities and services; and

WHEREAS, the City Council has adopted Resolution No. \_\_\_\_\_ on \_\_\_\_\_, 2008, approving this Agreement with Pinnacle and authorizing the City Manager to execute same by affixing their hand and the City Seal;

NOW THEREFORE, in consideration of the mutual covenants and obligations herein, the parties agree as follows:

#### SECTION 1. PINNACLE'S OBLIGATIONS

As consideration for the obligations to be performed by the City as enumerated in Section 2 of this Agreement, Pinnacle agrees to the following:

- A. Prior to closing on the City's portion of the Property:
  - 1. Pinnacle will acquire fee title to the real property located 930 15<sup>th</sup> Street , Plano, Texas 75074;
  - 2. Pinnacle will complete and obtain approval of plans to include zoning, preliminary site plan, and filing of a preliminary plat for the Development;
  - 3. Pinnacle provides to the reasonable satisfaction of the City an economic overview letter from any of Pinnacle's bankers, mortgages or such other qualified person or entity attesting, to their knowledge, Pinnacle's financial ability to complete its obligations under this Agreement;
  - 4. DART will provide approval of the use of a portion of its right-of-way adjacent to the Property for a pedestrian walkway and the conveyance of an

easement to the City of Plano for the construction, use and maintenance of improvements related to the walkway (the "DART Easement"); and

5. Pinnacle provides Plans and reasonable assurances that it will construct a parking garage within the Development and provide an easement ("Parking Space Easement") to the City a portion of which will include 100 parking spaces for the exclusive use of the City. The terms and conditions of the Parking Space Easement shall be agreed upon by Pinnacle and the City as a condition precedent to any obligation of Pinnacle to acquire property under this Agreement.

B. After closing on the Property

1. Pinnacle will construct and convey by easement 100 parking spaces at or below grade within a parking garage on the Development for the exclusive use of the City without charge and that such use shall commence within 24 months of the date of the conveyance of the Property to Pinnacle. City may use the parking spaces for vehicle parking and any other lawful uses consistent with the activities of the City with the consent of Pinnacle, which consent shall not be unreasonably withheld, conditioned or delayed by Pinnacle. Notwithstanding the foregoing, the City may not lease or assign the parking spaces for a commercial enterprise.

2. Pinnacle causes, supervises, manages and completes the construction and design of not less than 200,000 square feet of gross residential, retail, and other non-residential space (which space is exclusive of plazas, decks, walkways, parking and outdoor common areas and contains not less than 15,000 square feet for non-residential uses) (hereafter the "Development") on the Property, which will substantially conform to the Plan (Exhibit "B"), and which when completed (and when the Public Improvements have also been completed) shall have a net private investment value of not less than Twenty Million Dollars (\$20,000,000.00). The Project Completion Budget (the "Budget"), attached hereto as Exhibit "D" and incorporated herein by this reference, sets forth the proposed nature and projected total costs of the Development and the related Public Improvements (as that term is defined in Subsection D of this Section). The Development will be the property of Pinnacle, except insofar as Pinnacle will convey easements over the Property to the City as may be necessary in connection with any Public Improvements constructed on or over the Property;

3. Pinnacle will obtain all necessary permits from the City, which shall not be unreasonably withheld, conditioned or delayed by the City and begin construction of the Development no later than January 1, 2009. Construction shall be deemed to have begun when Pinnacle actually commences site work (i.e., demolition, grading or clearing) on the Property;

4. Pinnacle shall be responsible for the construction of all Public Improvements in substantial conformity to the Plan as prepared by the architect of record or civil engineer, subject to all necessary City regulatory approvals which shall not be unreasonably withheld, conditioned or delayed, and for supervision and management of construction of the Public Improvements. The Public Improvements (as that term is used in this Agreement) shall include all of the proposed storm sewer, drainage, utility, paving, lighting, landscape, hardscape and other improvements required by the City, both on-site and off-site, that are described or referred to in Exhibit "B" attached to this Agreement. The cost of construction of the streetscape and sidewalks along 15<sup>th</sup> Street, I Avenue, and 14<sup>th</sup> Street shall be reimbursed by the City as described in Section 2 below. The construction of the walkway between the DART Light Railway and the development shall be conditioned on the conveyance of the DART Easement to the City and DART's and the City's approval of the plans for such walkway and other public improvements as well as the award of a grant administered by the North Central Texas Council of Governments (NCTCOG) or approval of an alternative source of funding. The DART Easement shall provide the City with the right, subject to DART's approval, to allow third parties to construct and maintain the Public Improvements within the DART Easement area;

5. All common areas, open spaces and landscaping improvements on the Property and all landscaping improvements on the Property in areas abutting public rights-of-way along the perimeter of the Property, shall be the responsibility of Pinnacle. Maintenance of all hardscape and landscaping in public property (14<sup>th</sup> Street, 15<sup>th</sup> Street and I Avenue) adjacent to the Property and extending to nearest curb of such public rights-of-way and to the east boundary of the DART Easement on the east side of the Property (collectively, the "Public Property") shall be the responsibility of Pinnacle. Landscaping and streetscaping in the Public Property shall be in accordance with the specifications and standards set forth in the Plan.

6. Pinnacle will be responsible for maintaining, repairing and replacing all landscaping, sidewalks, curbing, paving and related improvements in the Public Property in accordance with the City's standard right-of-way maintenance practices; and

7. Pinnacle shall be responsible for all maintenance and operation expenses associated with the Development.

## SECTION 2. CITY'S OBLIGATIONS

As consideration for the obligations to be performed by Pinnacle as enumerated in Section 1 of this Agreement, the City agrees to the following:

A. The City of Plano shall grant to Pinnacle the Property described in **Exhibit "A"** in "As Is" condition; except the City shall, as Pinnacle's sole remedy for Hazardous Materials claims, provide to Pinnacle for a period of five years a certificate of insurance or certificate of self-insurance providing coverage to Pinnacle in the total amount of One Million One Hundred Thousand Dollars (\$1,100,000) against any and all claims, lawsuits, judgments, costs and expenses incurred in connection with the injury, damage or other harm incurred by City's current or former tenants, licensees, invitees or such other occupants of the Property arising from any exposure to Hazardous Materials located on the Property prior to the City's grant of the Property to Pinnacle. Coverage is limited to claims resulting from claimant's substantially or materially exposure to Hazardous Materials on the Property not caused in whole or in part by Pinnacle, its agents, lessees or employees. For purposes of this Agreement, the term "Hazardous Material" shall mean any pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, or oil as defined in or pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation and Liability Act, as amended, the Federal Clean Water Act, as amended, or any other federal, state or local environmental law, regulation, ordinance, rule, or bylaw, whether existing as of the date hereof, previously enforced or subsequently enacted. The provisions of this paragraph are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. A prerequisite to the City's grant of the Property to Pinnacle is an approval by DART, within 60 days of the date of this Agreement, of the use of DART's right-of-way in such areas as more fully described in **Exhibit "C"**, for a pedestrian walkway and the conveyance of the DART Easement to the City of Plano for construction, use and maintenance of improvements related to the walkway and which shall provide sufficient authority to allow Pinnacle to perform such construction and maintenance of improvements related to the walkway. To the extent DART does not approve the use of its right of way within 60 days, either party has the right to terminate this Agreement;

B. The City agrees, subject to the conditions contained herein, to advance monthly funds for the Public Improvements and streetscape improvements made to Public Property in an amount up to but not to exceed in the aggregate the maximum of Two Hundred Thousand Dollars (\$200,000.00) as indicated in the Budget as the Construction Allowance (herein so called). Pinnacle will pay actual costs of completion of Public Improvements to the extent such aggregated total costs exceed the Construction Allowance. The Construction Allowance will be available to Pinnacle on an "aggregate cost" basis, as opposed to a "line-item cost" basis, such that cost savings realized with respect to discreet line-item allocations in the Budget will be freely available for use in connection with any cost overruns experienced as to other line-item allocations, provided that in no event will the

aggregate funds advanced by the City exceed the Construction Allowance. To the extent actual costs of Public Improvements are less than the Construction Allowance, any remainder shall be retained by the City. Advances of funds to Pinnacle out of the Construction Allowance will be made by the City on a percentage completion basis upon written request by Pinnacle. In connection with each such written request for payment, Pinnacle shall provide evidence of expenses paid and costs incurred and confirmation from the project engineer as to the percentage of work completed. Advances of Construction Allowance funds will be made in accordance with the line-item allocations indicated in the Budget for the Construction Allowance. In the event a "cost savings" is achieved for any line-item, determined as of the completion of work for such line-item, the amount of any such line-item cost savings will become available as "contingency funds" to supplement any other line-item of Construction Allowance funds as to which the actual cost of completion exceeds the amount of the line-item allocation. The City may seek reimbursement of any Public Improvement costs from Tax Increment Financing Funds. The source of funding (including grants) for all Public Improvements paid for by the City is at the discretion of the City and may include reimbursement of costs from Tax Increment Financing District 2 Funds. The City and Pinnacle will coordinate and jointly approve the design of the Development and the Public Improvements;

C. The City will reimburse Pinnacle 90% of the actual project costs for any improvements or such other work completed within DART's right-of-way up to a maximum of \$900,000. The City may use grants or payments from other governmental sources including but not limited to Tax Increment Financing District 2 revenue to pay this obligation; and

D. The City will repair or replace all sidewalks, curbing and related improvements it damages. The City will also be responsible for repairing any damage caused by City work crews or contractors engaged by the City to any part of the Public Improvements, irrigation system or systems within, on or under Public Property and the rights-of-way within the DART Easement, whether inside or outside the perimeter of the Property.

### SECTION 3. DESIGN AND CONSTRUCTION PROCUREMENT

A. Design management for the Public Improvements and the Development will be provided by the architect for the Development or such other party as shall be mutually agreed to by the parties to this Agreement.

B. Procurement of construction for the Public Improvements must be in accordance with the following provisions:

1. All Plans for the Public Improvements shall be submitted to the City Engineer for review and approval, which shall not be unreasonably withheld, conditioned or delayed. All Plans shall comply with the standards and requirements for similar developments located in the City, unless otherwise approved by the City in its reasonable discretion for this Development.
2. Pinnacle shall use its best efforts to insure that the Public Improvements are completed in a timely manner in accordance with the construction contract documents, plans and specifications.
3. Any construction contract for the construction of the Public Improvements shall specify that the contractor shall look solely to Pinnacle concerning any claim under the contract. For each such construction contract Pinnacle shall acquire and maintain or require its general contractor to acquire and maintain, during any period for which the Development of the Property is under construction, comprehensive general liability insurance in the amount of the construction contract or \$1,000,000, whichever is greater. Such insurance shall cover any and all claims which might arise out of the construction contract, whether by the contractor, a subcontractor, materialman or otherwise. All such insurance shall: (a) be issued by a carrier which is rated "B+" or better by A.M. Best's Key Rating Guide and licensed to do business in the State of Texas, and (b) name Pinnacle and City as an additional insured. Certified copies of all of such policies shall be delivered to the City upon the execution of a construction contract; provided, however, that the City, in its sole discretion and in lieu of certified copies of such policies, may permit the delivery of certificates of insurance together with the declaration page of such policies, along with the endorsement naming the City as an additional insured. Each such policy shall provide that, at least 30 days prior to the cancellation, non-renewal or modification of the same, Pinnacle and City shall receive written notice of such cancellation, non-renewal or modification.
4. The construction contract shall require, among other things, that the contractor provide performance and payment bonds or other lawful surety in a form acceptable to the City.
5. In accordance with the City's Subdivision Ordinance, Article 5.10c as amended, all electric utility lines and wires, terminals and other facilities and equipment shall be constructed, placed or located underground.
6. All project designs, drawings, site plans and other documents produced by Pinnacle in connection with the Development and the Public Improvements, including those attached to this Agreement, shall remain the property of Pinnacle. However, in exchange for Pinnacle's acceptance of the above-described reimbursement from the City, the City will retain all necessary rights to use such portion of the Plans created for public facilities and infrastructure, and all

assignable rights in the boundary survey and environmental site assessment of the Property obtained by Pinnacle.

#### **SECTION 4. FORCE MAJEURE**

It is expressly understood and agreed by the parties to this Agreement that if the substantial completion of the construction of any the Development and Public Improvements contemplated hereunder is delayed by reason by war, civil commotion, acts of God, inclement weather, governmental restrictions, regulations, or interferences, delays caused by the franchise utilities, fire or other casualty, court injunction, necessary condemnation proceedings, or acts of the other party, its affiliates/related entities and/or their contractors, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such design or construction requirement shall be extended for a period of time equal to the period such party was delayed.

#### **SECTION 5. TERM**

The term of this Agreement shall begin on the date of execution, and end upon the complete performance of all obligations and conditions precedent by parties to this Agreement; provided, however, that the obligations of the City to pay Pinnacle for unpaid Public Improvement costs pursuant to Section 2.A of this Agreement which accrued during the term of this Agreement, but which is not paid prior to the expiration of the term of this Agreement, shall survive.

#### **SECTION 6. AUTHORITY OF PINNACLE**

Pinnacle represents and warrants to the City that Pinnacle is duly formed, validly existing and in good standing under the laws of the State of Texas. Pinnacle has full power, authority and legal right to execute and deliver this Agreement. This Agreement constitutes a legal, valid, and binding obligation of Pinnacle and the City, enforceable in accordance with its terms.

#### **SECTION 7. EVENTS OF DEFAULT**

A default shall exist if either party fails to perform or observe any material covenant contained in this Agreement, or if the representation provided for in Section 8 is not true or correct. A party shall immediately notify the defaulting party in writing upon becoming aware of any change in the existence of any condition or event which would constitute a default by the defaulting party, or, with the giving of notice or passage of time, or both, would constitute a default by the defaulting party under this Agreement. Such notice shall specify the nature and the period of existence thereof and what action, if any, the notifying party requires or proposes to require with respect to curing the default.

#### **SECTION 8. REMEDIES AVAILABLE TO THE CITY**

A. If a default prior to closing on the Property shall occur and continue, after thirty (30) days' written notice to cure default, the City may, at its option, terminate this Agreement without any further obligation or duty to perform. If a default after closing on the Property occurs, the City may (1) pursue any and all remedies it may be entitled to, at law or in equity, in accordance with Texas law, or (2) recover as liquidated damages for the breach an amount equal to two times the fair market value of the Property on the date of termination of this Agreement as determined by a certified commercial real estate appraiser mutually agreeable to the parties but such damages to be adjusted *pari passu* as the construction of the Development is completed (i.e., 30% of Development completed, as determined by construction draws, then damages would be 70% of two times the fair market value); provided, however, that if Pinnacle shall within the thirty (30) day period after notice of the breach commence action to cure such default but is unable, by reason of the nature of the performance required, to cure the default within such period, and if Pinnacle continues such action thereafter diligently and without unnecessary delays, Pinnacle shall not be in default hereunder until the expiration of a period of time as may be reasonably necessary to cure such failure, provided further, however, that in any event Pinnacle shall be in default hereunder if such failure is not cured on or before ninety (90) days after receipt by Pinnacle of the above-described written notice of default and demand for performance. In the event of any termination of this Agreement due to any such default, Pinnacle will remain entitled to recover from the City any Construction Allowance funds for Public Improvements earned through the date of termination.

B. Notwithstanding the above, in the event Pinnacle does not commence construction of the Public Improvements identified in the Budget by the later of January 1, 2009 or six months from City and DART's approval of the Plans and issuance of the permits for the Development, the City's sole remedy shall be that the City grant of the Property shall become null and void and Pinnacle shall execute any and all documents necessary to convey the Property to the City. All expenses associated with the conveyance of the Property back to the City, including reasonable attorney fees, shall be the responsibility of Pinnacle.

C. If Pinnacle commences construction of the Public Improvements identified in the Budget by October 1, 2008 but fails to complete the entire Development by July 1, 2010, subject to the cure provisions in Section 8, City may, as an alternative to, but not in addition to the remedies set forth in Section 8A above, be entitled to the remedy of payment from Pinnacle, not as a penalty but as liquidated damages, an amount using the following formula:  $A \times B = C$ , where A is the amount of the Construction Allowance actually advanced to Pinnacle by the City, B is the percentage of the Development not ready for occupancy as of July 1, 2010, and C is the amount of liquidated damages to which the City is entitled.

D. In addition to the remedies set forth in Section 8A(1) above and the cure provisions set forth in Section 8A, if Pinnacle fails to construct or maintain the parking spaces as described in Section 1.B.1. above for the exclusive use and enjoyment of the City, Pinnacle will provide alternative parking spaces on the Property or at another location mutually agreeable with the City.

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## SECTION 9. REMEDIES AVAILABLE TO PINNACLE

If the City is in default of this Agreement, and said default shall occur and continue after thirty (30) days' written notice to cure default (unless otherwise provided in this Agreement), Pinnacle shall be entitled, at its option, to any or all of the following remedies (A) pursue any and all remedies it may be entitled to, at law or in equity, in accordance with Texas law, (B) terminate this agreement without any further obligation or duty to perform, (C) bring suit for damages against the City; provided, however, that if the City shall within the thirty (30) day period after notice of the breach commence action to cure such default but is unable, by reason of the nature of the performance required, to cure the default within such period, and if the City continues such action thereafter diligently and without unnecessary delays, the City shall not be in default hereunder until the expiration of a period of time as may reasonably be necessary to cure such failure, provided further, however, that in any event the City shall be in default hereunder if such failure is not cured on or before ninety (90) days after receipt by the City of the above-described written notice of default and demand for performance. In the event of any termination of this Agreement due to any such default, Pinnacle will remain entitled to recover from the City any Construction Allowance funds for Public Improvements earned through the date of termination. Notwithstanding the above, City does not waive any rights, immunities or defenses that may be available to it under Texas or federal law.

## SECTION 10. NOTICES

Any notice required by this Agreement shall be deemed to be properly served if deposited in the U.S. mails by certified letter, return receipt requested, addressed to the recipient at the recipient's address shown below, subject to the right of either party to designate a different address by notice given in the manner just described.

If intended for City, to:

City of Plano, Texas  
Attention: City Manager  
1520 Avenue K  
P. O. Box 860358  
Plano, Texas 75086-0358

If intended for Pinnacle, to:

Pinnacle AMS Development Company LLC  
Attention: Kent Plemons  
14001 Dallas Parkway, Suite 750  
Dallas, Texas 75240

## SECTION 11. GIFT TO PUBLIC SERVANT

A. City may terminate this Agreement immediately if Pinnacle has knowingly offered, conferred, or agreed to confer any benefit upon a City employee or official that the City employee or official is prohibited by law from accepting.

B. For purposes of this section, "benefit" means anything reasonably regarded as economic advantage, including benefit to any other person in whose welfare the beneficiary is interested, but does not include a contribution or expenditure made and reported in accordance with law.

C. Notwithstanding any other legal remedies, City may require Pinnacle to remove any employee of Pinnacle from the development of the Public Improvements who has violated the restrictions of this section or any similar state or federal law, and obtain reimbursement for any expenditures made to Pinnacle as a result of the improper offer, agreement to confer, or conferring of a benefit to a City employee or official.

#### **SECTION 12. APPLICABLE LAWS**

This Agreement is made subject to the provisions of the Charter and ordinances of City, as amended, and all applicable State and federal laws.

#### **SECTION 13. VENUE AND GOVERNING LAW**

This Agreement is performable in Collin County, Texas and venue of any action arising out of this Agreement shall be exclusively in Collin County, Texas. This Agreement shall be governed and construed in accordance with the laws of the State of Texas.

#### **SECTION 14. LEGAL CONSTRUCTION**

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

#### **SECTION 15. COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

#### **SECTION 16. CAPTIONS**

The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.

#### **SECTION 17. SUCCESSORS AND ASSIGNS**

A. The terms and conditions of this Agreement are binding upon the successors and assigns of all parties hereto. Provided, however, this Agreement shall not be assigned without the prior consent of Pinnacle and the Plano City Council, which approvals shall not be unreasonably withheld.

B. An assignment or delegation of this Agreement to an Affiliate of Pinnacle shall not require City Council approval and shall not result in a breach of the Agreement if the Affiliate of Pinnacle expressly assumes all of the obligations of Pinnacle under this Agreement for the balance of the term of this Agreement and provides evidence establishing the relationship between Pinnacle and an Affiliate. Pinnacle shall notify the City in writing, however, within 30 days of such assignment. "Affiliates", as used herein, includes any parent, sister, partner, joint venturer, equity investor or subsidiary entity of Pinnacle; any entity in which either of Pinnacle, a major shareholder, owns an equity interest or is a joint venturer or partner (whether general or limited).

**SECTION 18. ENTIRE AGREEMENT**

This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in this Agreement, and except as otherwise provided herein cannot be modified without written agreement of the parties to be attached to and made a part of this Agreement.

**SECTION 19. INCORPORATION OF RECITALS**

The recitals set forth herein are intended, and are hereby deemed to be a part of this Agreement.

**EXECUTED** on the \_\_\_\_\_ day of \_\_\_\_\_, 2008, by City, signing by and through its City Manager, duly authorized to execute same by Resolution No. \_\_\_\_\_ approved by the City Council on \_\_\_\_\_, acting through its duly authorized officials.

CITY OF PLANO, TEXAS, a home rule municipal corporation

By: \_\_\_\_\_  
Thomas H. Muehlenbeck, City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, City Attorney

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PINNACLE AMC DEVELOPMENT  
COMPANY LLC, a Texas limited liability company

By: \_\_\_\_\_  
Name: Kent Plemons  
Title: Vice President - Development

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LIST OF EXHIBITS

EXHIBIT A	Property Legal Description
EXHIBIT B	Design and Concept Plan
EXHIBIT C	DART Right-of-Way Legal Description
EXHIBIT D	Project Completion Budget

# EXHIBIT "A"

**BEING** a tract of land situated in the Joseph Klepper Survey, Abstract No. 213, in the City of Plano, Collin County, Texas, and being all of a tract of land described as Lot 1, Block 3 of PLANO JUSTICE CENTER, an addition to the City of Plano, Collin County, Texas, according to the plat thereof recorded under Instrument Number 2003-0077340 of the Land Records of Collin County, Texas, and being more particularly described by metes and bounds as follows:

**BEGINNING** at a 1/2-inch iron rod found in the north right-of-way line of 14th Street (a variable width public right-of-way) for the southwest corner of a called 1.4872 acre tract of land described in deed to J & A Family Partners, LTD, recorded in Volume 3888, Page 374 of the Land Records of Collin County, Texas and the southeast corner of the subject tract and the beginning of a curve to the right;

**THENCE** southwesterly, with the north right-of-way line of 14th Street, with said curve to the right, through a central angle of 16°41'59", having a radius of 370.00 feet, and a chord bearing and distance of South 75°04'29" West, 107.46 feet, an arc distance of 107.84 feet to a 1-inch iron rod found for the end of the curve, same being the southeast corner of a corner clip for the intersection of said 14th Street and Avenue I (a 40-foot wide public right-of-way);

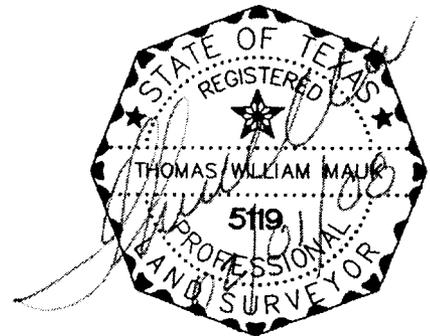
**THENCE** with said corner clip, North 54°02'32" West, a distance of 27.94 feet to a 1-inch iron rod found for the northwest corner of said corner clip;

**THENCE** leaving said corner clip and with the east right-of-way line of Avenue I, North 00°14'30" West, a distance of 519.30 feet to a point for the southwest corner of a corner clip for the intersection of said Avenue I and 15th Street;

**THENCE** with said corner clip, North 44°26'34" East, a distance of 28.44 feet to a point for the northeast corner of said corner clip;

**THENCE** leaving said corner clip and with the south right-of-way line of 15th Street (a 77-foot wide public right-of-way at this location), North 89°07'38" East, a distance of 104.56 feet to a point in the west line of said 1.4872 acre tract;

**THENCE** leaving the south right-of-way line of 15th Street and with the common line of said 1.4872 acre tract and the subject tract, South 00°27'07" East, a distance of 564.99 feet to the **POINT OF BEGINNING** and containing 1.5693 acres of land.



LOT 1, BLOCK 3  
 PLANO JUSTICE CENTER  
 JOSEPH KLEPPER SURVEY,  
 ABSTRACT NO. 213  
 CITY OF PLANO  
 COLLIN COUNTY, TEXAS

Scale:	1" = 100'
Designed by:	KHA
Drawn by:	TTW
Checked by:	TWM
Date:	JANUARY 31, 2008
Project No.	064403800

**Kimley-Horn  
and Associates, Inc.**  
 12700 Park Central Drive, Suite 1800  
 Dallas, Texas 75251  
 Tel. No. (972) 770-1300  
 Fax No. (972) 238-3820

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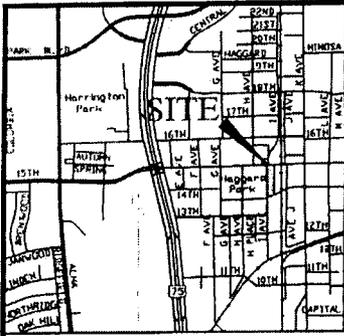
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# EXHIBIT "B"

15th STREET  
77-FOOT WIDE PUBLIC RIGHT-OF-WAY



N 44°26'34" E  
28.44'

N 89°07'38" E  
104.56'

P.K. NAIL  
FOUND

5/8" IRSC

JOSEPH KLEPPER SURVEY  
ABSTRACT NO. 213

519.30'

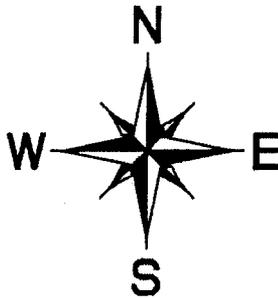
AVENUE I  
48-FOOT WIDE PUBLIC RIGHT-OF-WAY

N 00°14'30" W

1.5693 ACRES  
LOT 1, BLOCK 3  
PLANO JUSTICE CENTER  
INST. NO. 2003-0077340  
L.R.C.C.T.

S 00°27'07" E 564.99'

1.4872 ACRES  
J & A FAMILY  
PARTNERS, LTD  
VOL. 3888, PG. 374  
L.R.C.C.T.



VISIBILITY, ACCESS &  
MAINTENANCE EASEMENT  
INST. NO. 2003-0077340  
L.R.C.C.T.

X-CUT SET

X-CUT SET

N 54°02'32" W  
27.94'

1" IRF  
1" IRF

14th STREET  
VARIABLE WIDTH  
PUBLIC RIGHT-OF-WAY

POINT OF  
BEGINNING

Δ=16°41'59"  
R=370.00'  
L=107.84'  
CB=S75°04'29"W  
CL=107.46'

LOT 1, BLOCK 3  
PLANO JUSTICE CENTER  
JOSEPH KLEPPER SURVEY,  
ABSTRACT NO. 213  
CITY OF PLANO  
COLLIN COUNTY, TEXAS

1 OF 2 SHEET	Scale: 1" = 100'
	Designed by: KHA
	Drawn by: TTW
	Checked by: TWB
	Date: JANUARY 31, 2008
Project No. 064403800	



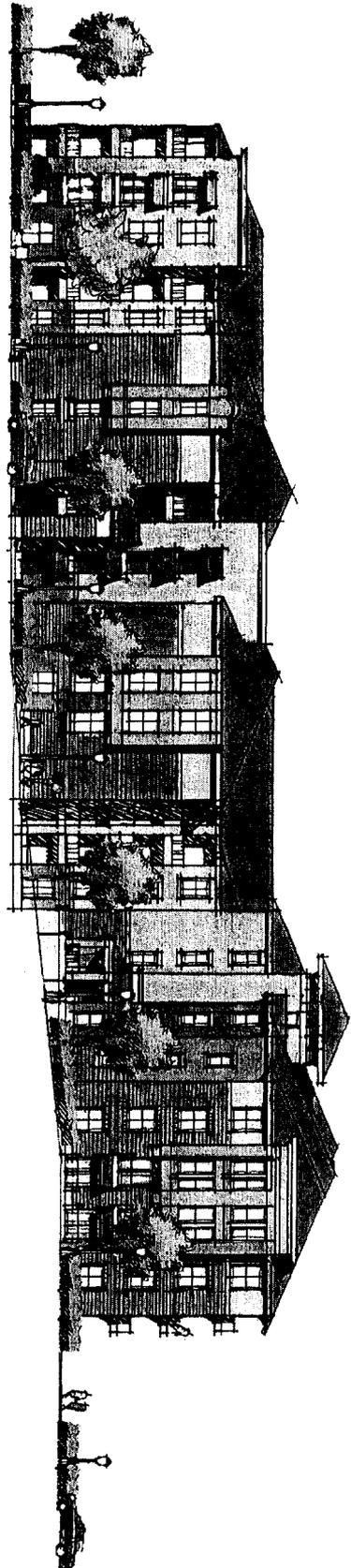
**Kimley-Horn  
and Associates, Inc.**

12700 Park Central Drive, Suite 1800  
Dallas, Texas 75228

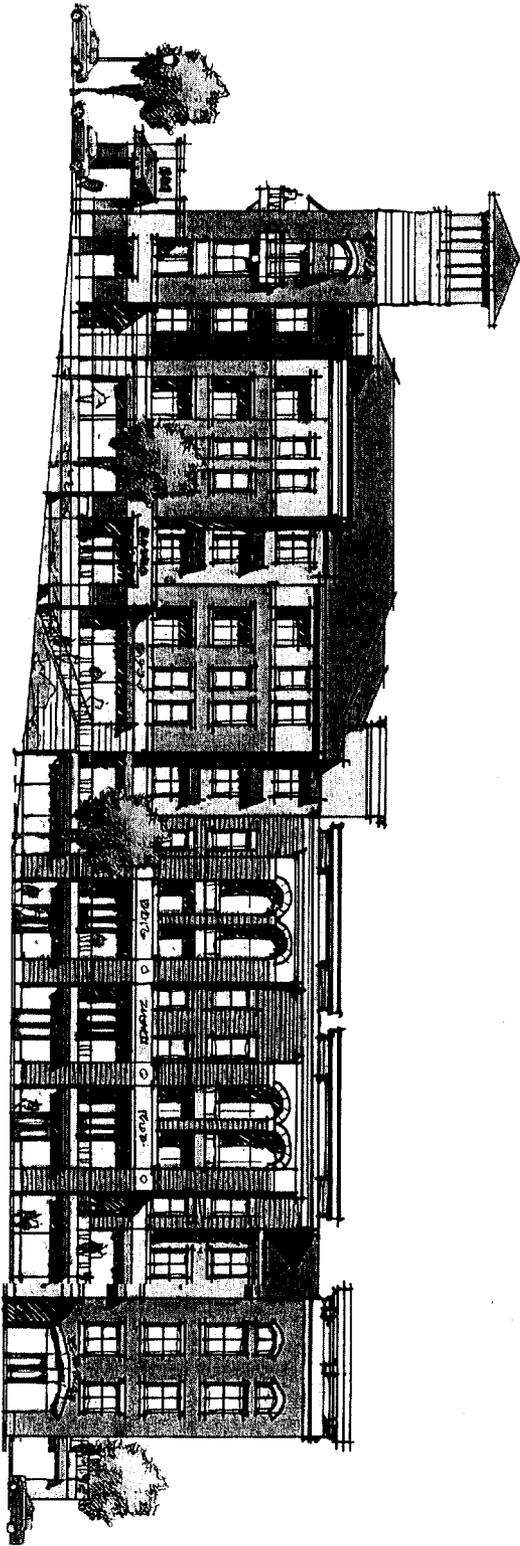
Tel. No. (972) 770-1300  
Fax No. (972) 239-3820

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CONCEPTUAL SOUTH ELEVATION

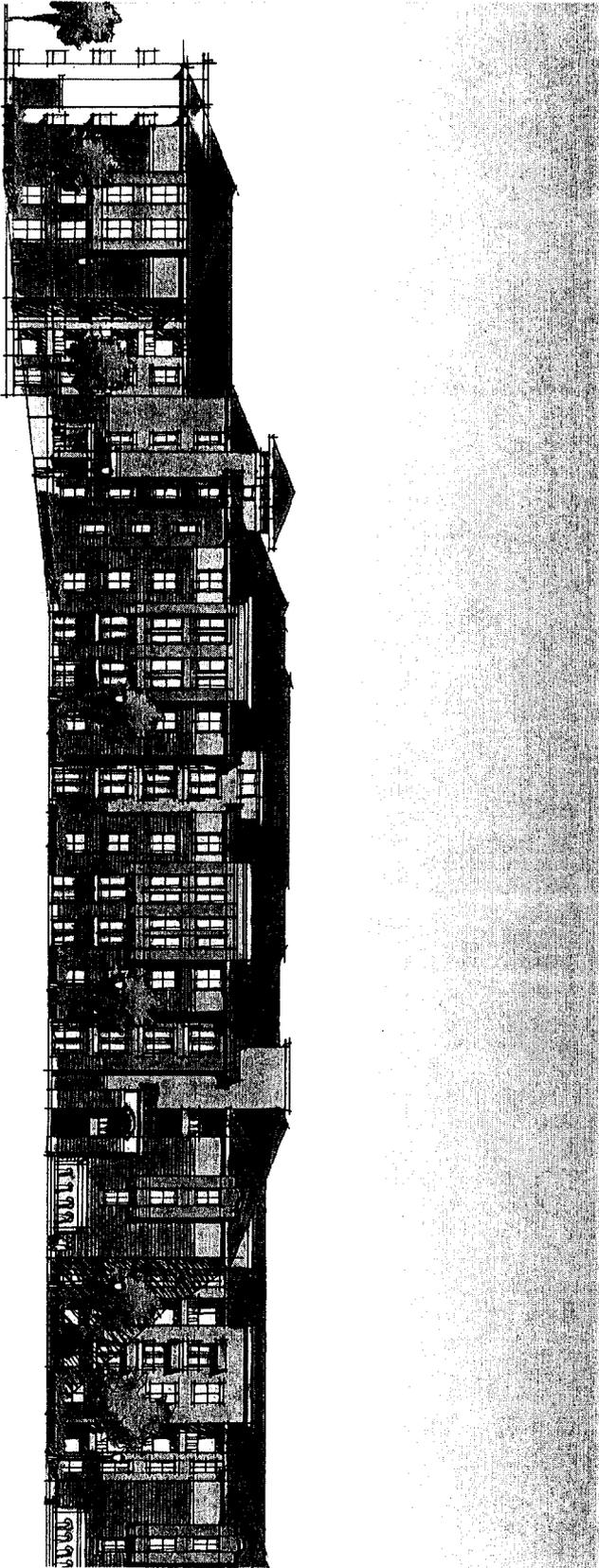


CONCEPTUAL NORTH ELEVATION

04-07-08

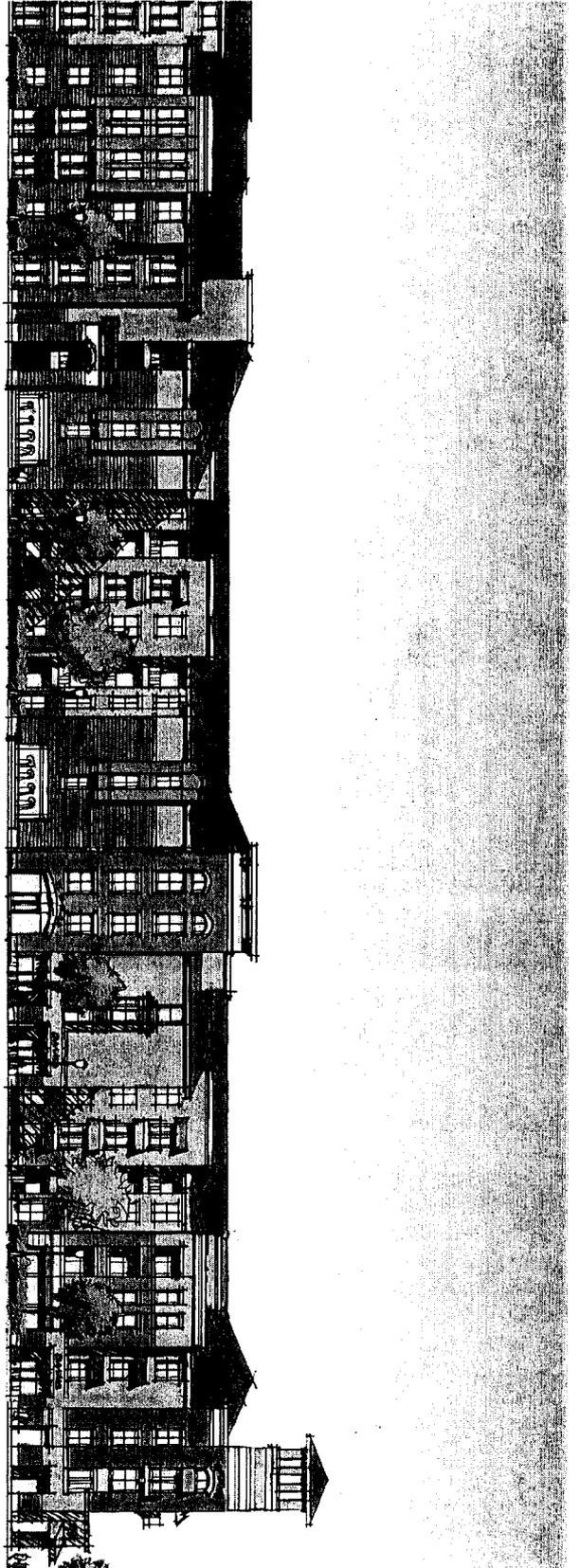


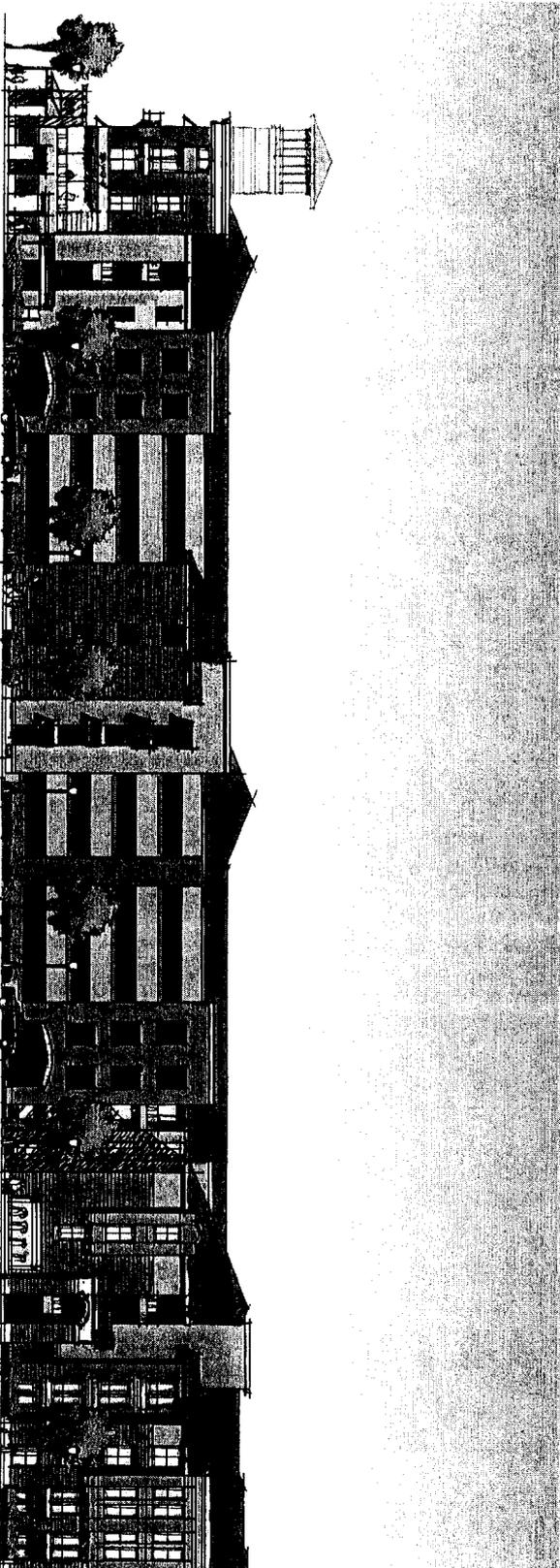
520



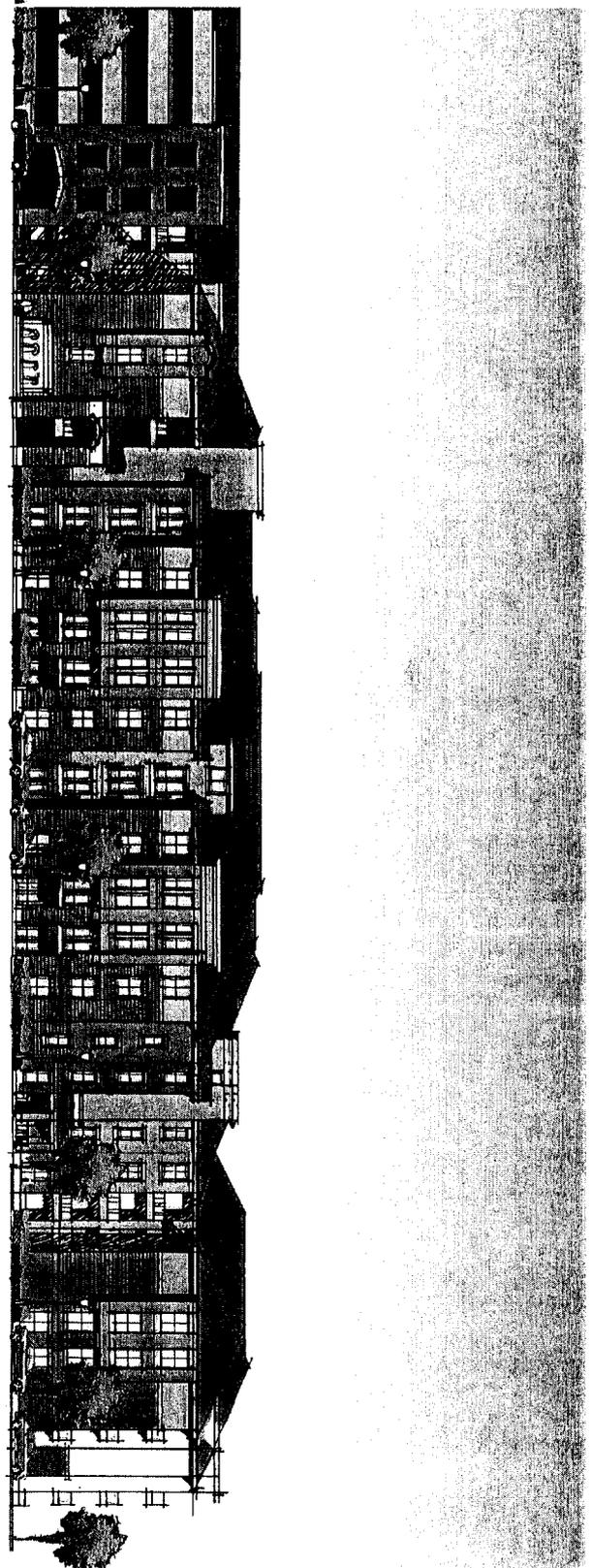
CONCEPTUAL EAST ELEVATION

BG  
O





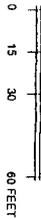
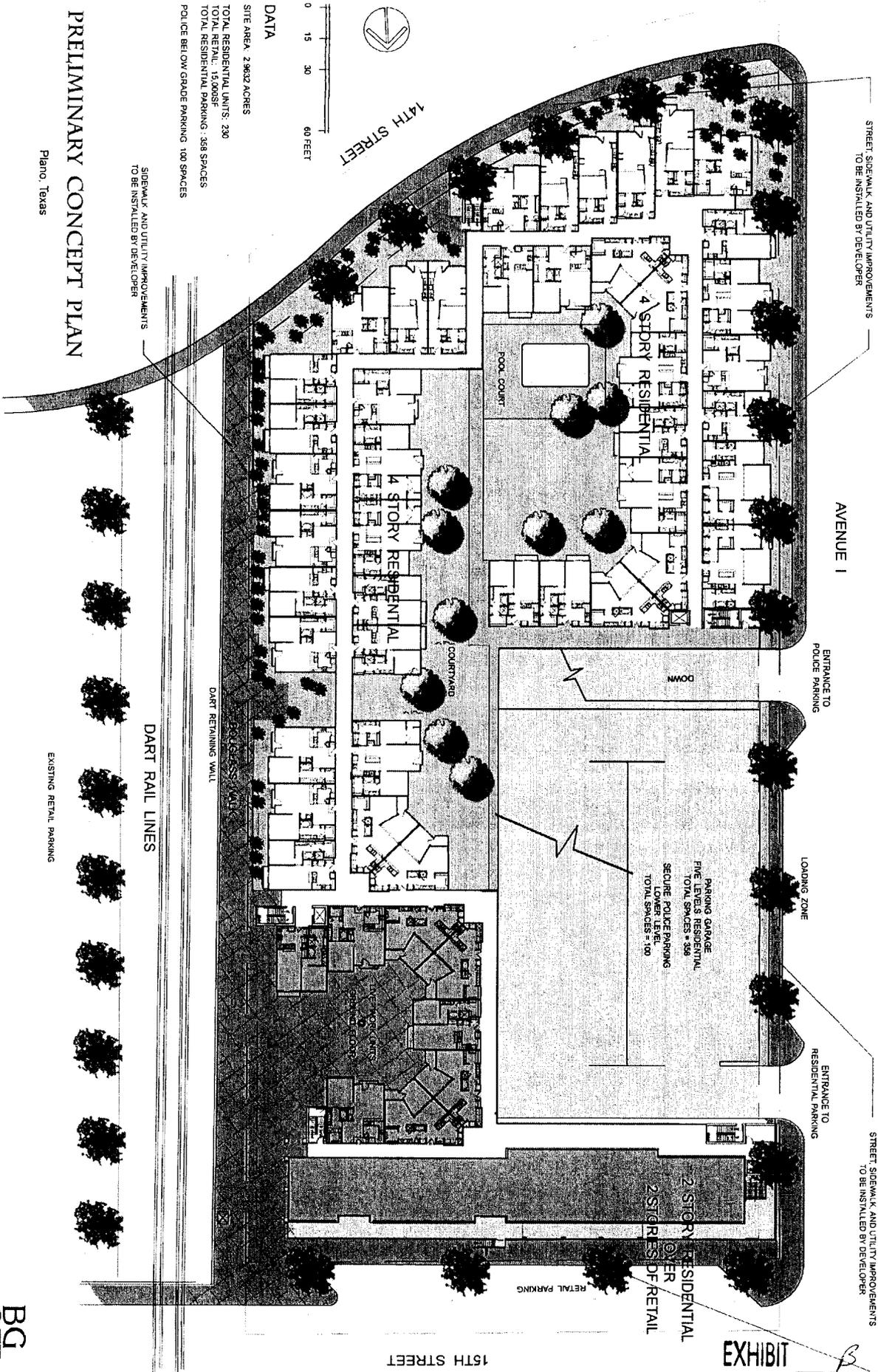
CONCEPTUAL WEST ELEVATION  
PLANO, TEXAS



04-07-08

BQ  
O

522



**DATA**

SITE AREA: 2.9632 ACRES  
 TOTAL RESIDENTIAL UNITS: 230  
 TOTAL RETAIL: 15,000SF  
 TOTAL RESIDENTIAL PARKING: 358 SPACES  
 POLICE BELOW GRADE PARKING: 100 SPACES

SIDEWALK AND UTILITY IMPROVEMENTS  
 TO BE INSTALLED BY DEVELOPER

**PRELIMINARY CONCEPT PLAN**

Plano, Texas

EXISTING RETAIL PARKING

DART RAIL LINES

DART REMAINING WALL

PARKING GARAGE  
 FIVE LEVELS RESIDENTIAL  
 TOTAL SPACES \* 358  
 SECURE POLICE PARKING  
 TOTAL SPACES \* 100

2 STORY RESIDENTIAL  
 COVER  
 2 STORY RESIDENTIAL

RETAIL PARKING

15TH STREET

14TH STREET

AVENUE I

ENTRANCE TO  
 POLICE PARKING

LOADING ZONE

ENTRANCE TO  
 RESIDENTIAL PARKING

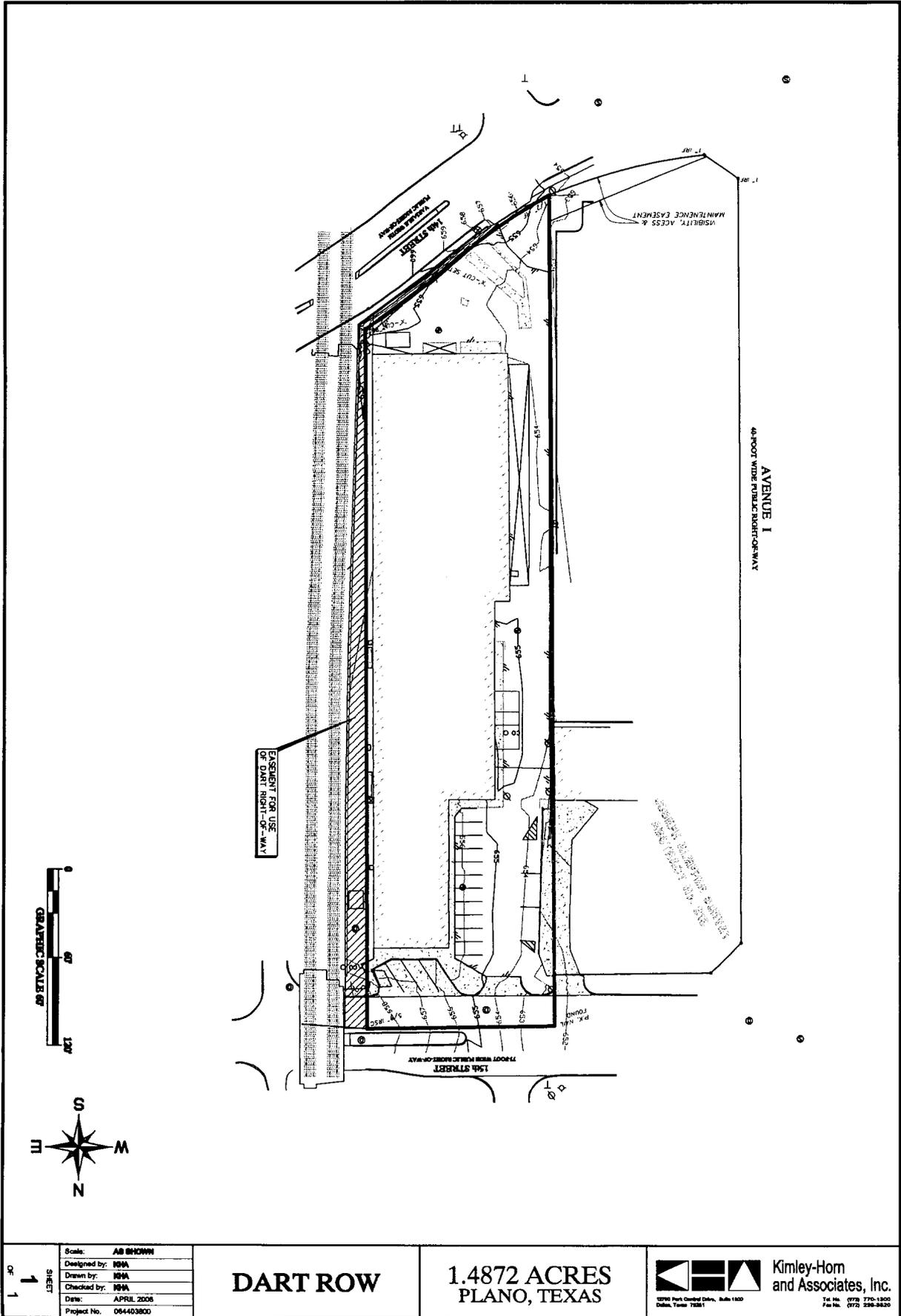
STREET SIDEWALK AND UTILITY IMPROVEMENTS  
 TO BE INSTALLED BY DEVELOPER

STREET SIDEWALK AND UTILITY IMPROVEMENTS  
 TO BE INSTALLED BY DEVELOPER

523

DATE: 05.19.08 JOB # 071132





524

SHEET 1 OF 1	Scale: <b>AS SHOWN</b>
	Designed by: <b>NSA</b>
	Drawn by: <b>NSA</b>
	Checked by: <b>NSA</b>
	Date: <b>APRIL 2008</b>
Project No. <b>094403800</b>	

**DART ROW**

**1.4872 ACRES  
 PLANO, TEXAS**



**Kimley-Horn  
 and Associates, Inc.**

15790 Park Central Drive, Suite 1100  
 Dallas, Texas 75241

Tel. No. 972 770-1800  
 Fax No. 972 250-8820

EXHIBIT C  
 PAGE 1 OF 4

**EXHIBIT "A"**  
**DALLAS AREA RAPID TRANSIT (DART)**  
**RIGHT-OF-WAY EASEMENT**  
**JOSEPH KLEPPER SURVEY, ABSTRACT No. 213**  
**CITY OF PLANO, COLLIN COUNTY, TEXAS**

**BEING** a tract of land situated in the Joseph Klepper Survey, Abstract No. 213, in the City of Plano, Collin County, Texas, and being part of a tract of land described in deed to Texas Central Railway Company, recorded in Book W, Page 244 of the Deed Records of Collin County, Texas, and being more particularly described by metes and bounds as follows:

**BEGINNING** at a 5/8-inch iron rod w/ "KHA" cap found in the intersection of the westerly line of the beforementioned Texas Central Railway Company tract and the south right-of-way line of 15th Street (a 77-foot wide public right-of-way) for the northeast corner of a called 1.6099 acre tract of land described in deed to J & A Family Partners, Ltd., recorded under Instrument Number 97-0028103 of the Land Records of Collin County, Texas;

**THENCE** leaving the east line of the 1.6099 acre tract with the extension of the south right-of-way line of 15th Street and across the Texas Central Railway Company tract, North 89°07'36" East, a distance of 13.37 feet to a point for corner;

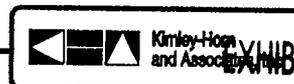
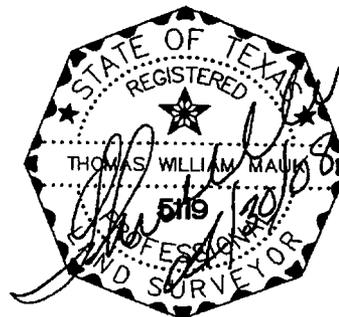
**THENCE** leaving the extension of the south right-of-way line of 15th Street and continuing across the Texas Central Railway Company tract with the westerly face of an existing retaining wall, the following courses and distances to wit:

- South 00°25'35" East, a distance of 49.37 feet to a point for corner;
- South 00°02'05" East, a distance of 51.98 feet to a point for corner;
- South 00°09'27" West, a distance of 50.52 feet to a point for corner;
- South 00°50'50" West, a distance of 49.77 feet to a point for corner;
- South 00°59'05" West, a distance of 50.33 feet to a point for corner;
- South 01°12'57" West, a distance of 49.78 feet to a point for corner;
- South 01°37'41" West, a distance of 49.50 feet to a point for corner;
- South 01°44'08" West, a distance of 50.56 feet to a point for corner;
- South 01°36'50" West, a distance of 49.97 feet to a point for corner;
- South 01°18'57" West, a distance of 10.80 feet to a point for corner;
- South 00°31'11" West, a distance of 10.69 feet to a point for corner in the extension of the curving north right-of-way line of 14th Street (a variable width public right-of-way), recorded in Volume 5159, Page 2694 of the Deed Records of Collin County, Texas, for the beginning of a non-tangent curve to the left;

**THENCE** with the curving extension of the north right-of-way line of 14th Street, Southwesterly, with the curve to the left, through a central angle of 00°36'59", having a radius of 435.00 feet, and a chord bearing and distance of South 57°21'25" West, 4.68 feet, an arc distance of 4.68 feet to an "X" cut in concrete found in the east line of the 1.6099 acre tract;

**THENCE** leaving the north right-of-way line of 14th Street with the common line of the 1.6099 acre tract and the Texas Central Railway Company tract, North 00°16'57" West, a distance of 475.51 feet to the **POINT OF BEGINNING** and containing 0.1112 acres (4868 square feet) of land.

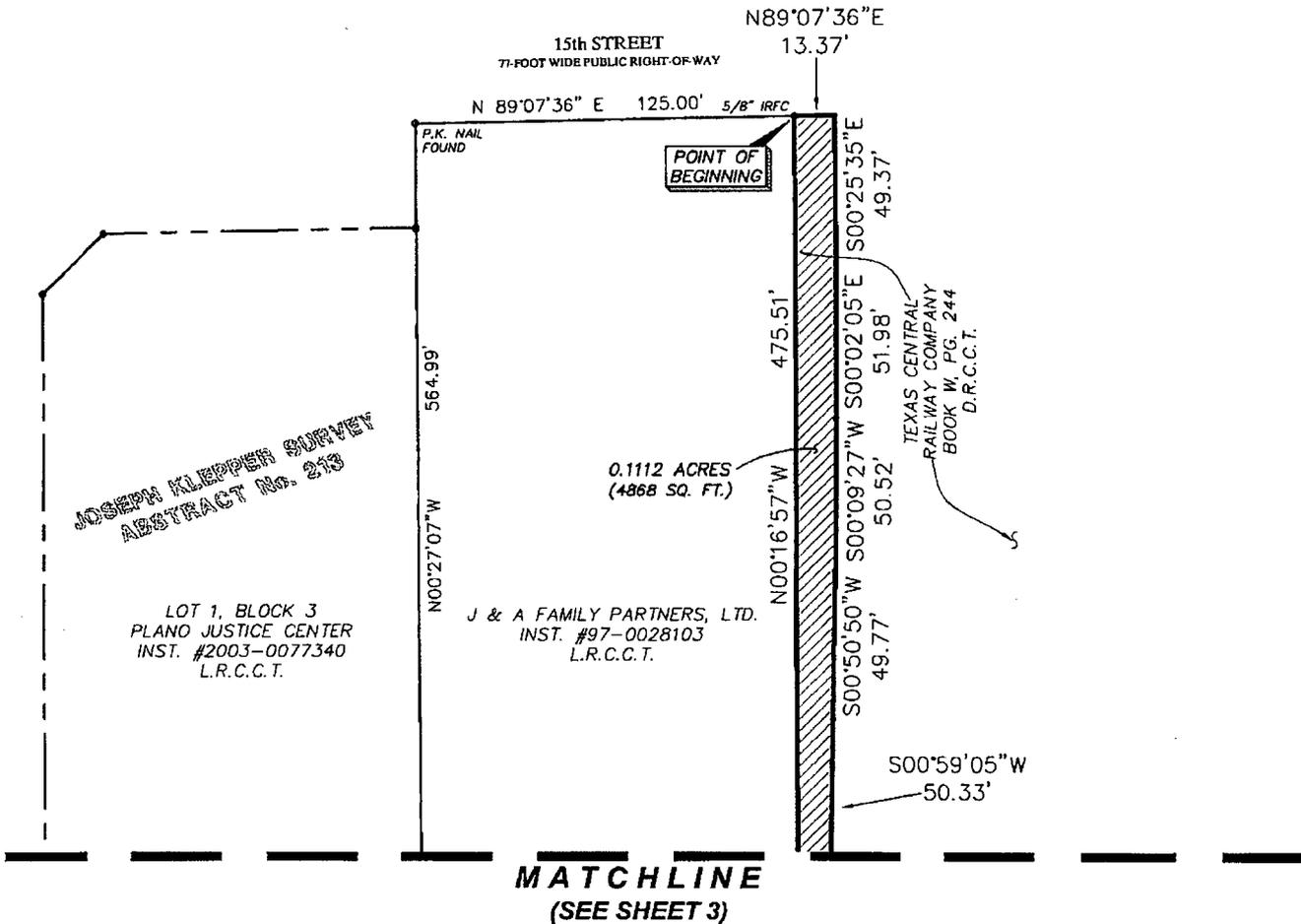
Bearing system based upon the Texas Coordinate System of 1983 North Central Texas Zone (grid Azimuth).



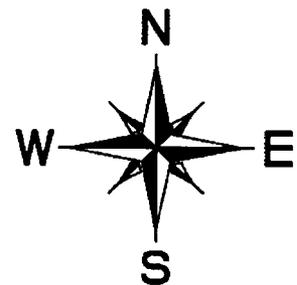
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525

**EXHIBIT "B"**  
**DALLAS AREA RAPID TRANSIT (DART)**  
**RIGHT-OF-WAY EASEMENT**  
**JOSEPH KLEPPER SURVEY, ABSTRACT No. 213**  
**CITY OF PLANO, COLLIN COUNTY, TEXAS**



**MATCHLINE**  
(SEE SHEET 3)



LEGEND:  
 PG. = PAGE  
 INST. = INSTRUMENT  
 L.R.C.C.T. = LAND RECORDS OF  
 COLLIN COUNTY, TEXAS  
 D.R.C.C.T. = DEED RECORDS OF COLLIN  
 COUNTY, TEXAS

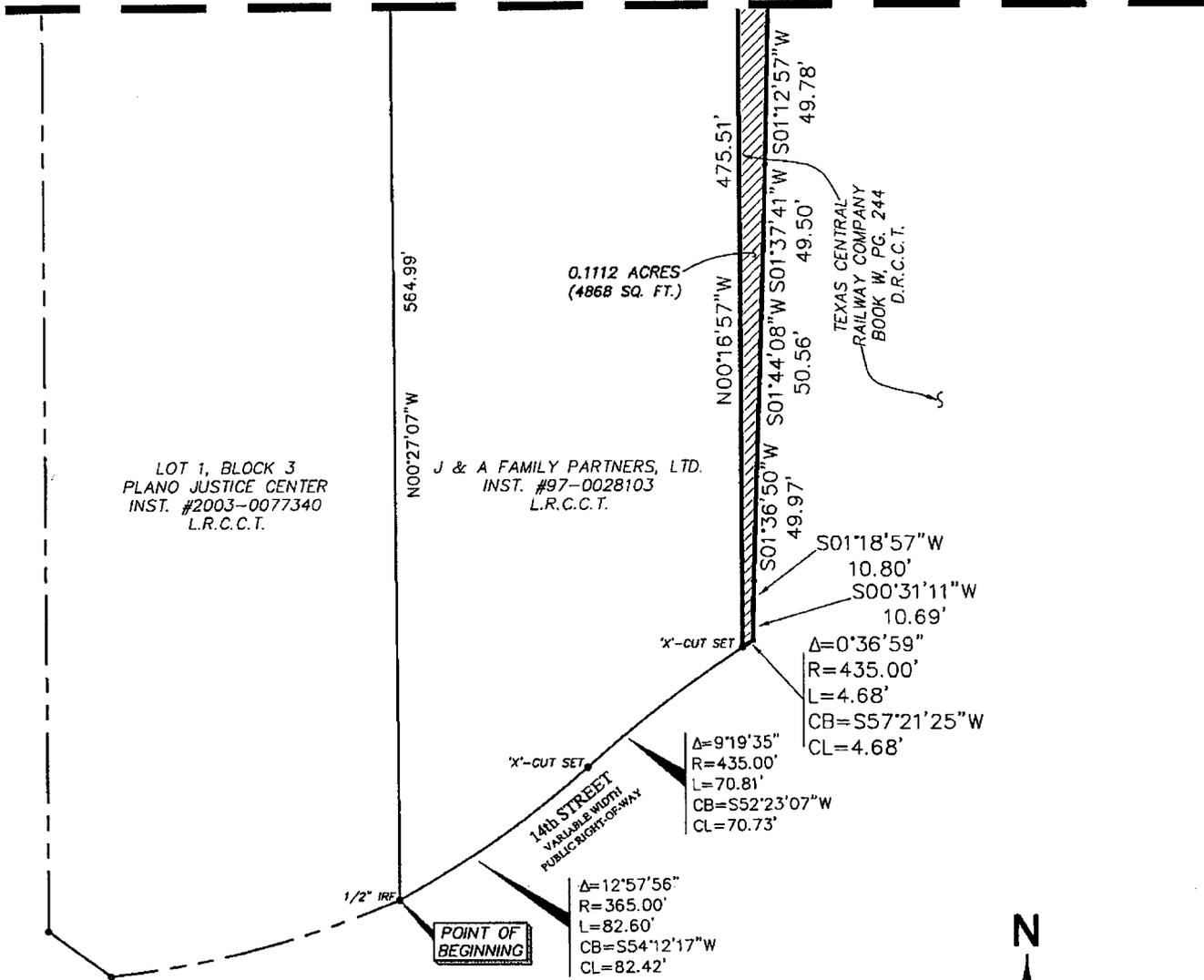


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**EXHIBIT "B"**  
**DALLAS AREA RAPID TRANSIT (DART)**  
**RIGHT-OF-WAY EASEMENT**  
**JOSEPH KLEPPER SURVEY, ABSTRACT No. 213**  
**CITY OF PLANO, COLLIN COUNTY, TEXAS**

(SEE SHEET 2)  
**MATCHLINE**



LEGEND:  
 PG. = PAGE  
 INST. = INSTRUMENT  
 L.R.C.C.T. = LAND RECORDS OF  
 COLLIN COUNTY, TEXAS  
 D.R.C.C.T. = DEED RECORDS OF COLLIN  
 COUNTY, TEXAS

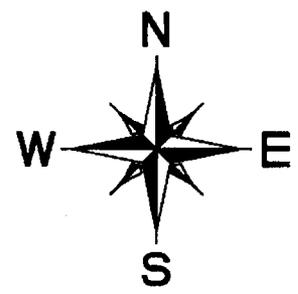


EXHIBIT  
 PAGE 4 OF 4

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 Immsas  
 xrefs



DRAFT

**Project Budget**

Land & Predevelopment	\$	1,882,004
Soft Costs - (design, financing, legal, fees)	\$	6,121,260
<b>Hard Costs</b>		
Public Access Areas *		
- DART Improvements (Douglass Walk)	\$	1,125,000
- City Improvements	\$	240,000
Site Work	\$	484,680
Garage Structure - private (358 spaces)	\$	4,369,390
- City (100 spaces)	\$	1,220,500
Building (units & retail)	\$	13,938,128
<b>Total</b>	<b>\$</b>	<b>29,380,963</b>

\* PRELIMINARY ESTIMATES FOR PUBLIC ACCESS AREAS EXCEED CITY PARTICIPATION COSTS

5-28