

## PLANO CITY COUNCIL

**WILL CONVENE INTO EXECUTIVE SESSION AT 5:00 P.M., FEBRUARY 13, 2006, AND 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 |           |         |
|     | B. TXU Rate Case   | Israelson | 10 min. |
| II. | Real Estate  | Wetherbee | 15 min. |
|     | Recovery of Judgment Lien - 2109 Los Rios Blvd.                  |           |         |

### **PRELIMINARY OPEN MEETING**

- |      |  |         |         |
|------|--|---------|---------|
| I.   | Consideration and action resulting from executive session discussion                 | Council | 5 min.  |
| II.  | Report on Natural Gas Prices   | Mathews | 15 min. |
| III. | Discussion and Direction Re Funding for Construction of Tom Muehlenbeck Center       | Wendell | 15 min. |
| IV.  | Discussion and Direction re Conceptual Design for Oak Point Park and Nature Preserve | Wendell | 20 min. |
| V.   | Personnel  | Council | 10 min. |
|      | A. Civil Service Commission  |         |         |
|      | B. Keep Plano Beautiful Commission   |         |         |
| VI.  | Council items for discussion/action on future agendas                                | Council | 5 min.  |
| VII. | Consent and Regular Agenda   | Council | 5 min.  |

- |       |   |         |        |
|-------|---|---------|--------|
| VIII. | 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: February 13, 2006

CALL TO ORDER: 7:00 p.m.

INVOCATION: Father Garrin Dickinson  
The Episcopal Church of the Holy Nativity

PLEDGE OF ALLEGIANCE: Girl Scout Troop 419

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p>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.</p> <p><b>The City Council may convene into Executive Session to discuss posted items in the regular meeting as allowed by law.</b></p> <p><b><u>PROCLAMATIONS AND SPECIAL RECOGNITION</u></b></p> <p>Special Recognition: American Public Works Association Accreditation of the Public Works and Engineering Departments</p> <p>Proclamation: Engineers Week – 2006</p> <p><b><u>GENERAL DISCUSSION</u></b></p> <p><b>In accordance with the Open Meeting Act, the City Council will hear comments of public interest, but any discussion shall be limited to placing the item on a future agenda for further consideration.</b></p> <p><b>Remarks are limited to five (5) minutes per speaker, with a maximum of 30 total minutes of testimony. Other time restraints may be directed by the Mayor.</b></p> <p><b>Specific factual information or an explanation of current policy may be made in response to an inquiry; but any discussion or decision must be limited to a proposal to place the item on a future agenda. Speakers will be notified when speaking time has expired.</b></p> <p><b><u>BOARD/COMMISSION REPORTS</u></b></p> <p>Heritage Commission, Pat Warren, Chair</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p><b>CONSENT AGENDA</b></p> <p><b><u>The Consent Agenda will be acted upon in one motion and contains items which are routine and typically noncontroversial.</u></b></p> <p><b><u>Items may be removed from this agenda for individual discussion by a Council Member, the City Manager or any citizen. The Council will then take action on the remainder of the Consent Agenda items. Citizens are limited to two (2) items and discussion time of three (3) minutes each.</u></b></p> <p>(a) <b><u>Approval of Minutes</u></b></p> <p>January 23, 2006 January 26, 2006 February 3, 2006</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. 2006-61-B</b> for the Purchase of Six (6) Pick-Up Trucks for various departments from Sam Packs Five Star Ford of Carrollton (Items 1-2 and 4-5) and Tyler Motor Company (Item 3) in the total amount of \$96,012.</p> <p>(c) <b>Bid No. 2006-66-B</b> for the Purchase of One (1) ¾ Ton Extended Cab/Chassis with Animal Control Body from Metro Ford Truck Sales, Inc. in the amount of \$31,089.</p> <p>(d) <b>RFP No. 2005-237-B</b> for Asset Management Tracking System for the Plano Police Department Supply Unit to Advanced Public Safety Inc. in the amount of \$37,045.</p> <p>(e) <b>Bid No. 2006-68-B</b> for the Purchase of Four (4) Heavy Duty Commercial Diesel-Powered Riding Turf Mowers from Luber Bros., Inc. in the amount of \$64,916.</p> <p>(f) <b>Bid No. 2006-39-B</b> for Construction of the Tom Muehlenbeck Center to Core Construction in the amount of \$19,352,000.</p> <p>(g) <b>Bid No. 2006-58-B</b> for Waste Receptacles to Preeminence in the amount of \$27,375. The waste receptacles will be placed at the Amphitheater and various athletic field locations throughout the City.</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>(h) To approve an annual purchase from an existing City of Plano contract (2004-37-C) for Structural Fire Fighting Protective Clothing in the estimated amount of \$125,000 from Quaker Safety Products Corporation for each of the remaining years, and authorizing the City Manager to execute any necessary documents. The existing contract was awarded March 2, 2004, and is for two years with three one-year renewals.</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
(i)	<p>To authorize the purchase of furniture and fixtures for the Cox Building in the amount of \$36,611 from The Spencer Company through Interlocal Agreement I 045-04; and authorizing additional purchases of furniture and fixtures for the Cox Building through TXMAS contracts as follows: \$714 from the Mayline Group (TXMAS-4-7110330); \$1,912 from Fixtures Furniture (TXMAS-3-711080); \$989 from ABCO Office Furniture (TXMAS-4-7110180-1); \$6,312 from David Edward Company (TXMAS-3-7110270-9); and authorizing the City Manager to execute all necessary documents.</p>	
(j)	<p>To authorize the purchase of two (2) Certified Law Enforcement Motorcycles in the amount of \$31,876 from Renegade Harley Davidson through a City of Plano contract, and authorizing the City Manager to execute all necessary documents. (B043-05)</p>	
(k)	<p>To authorize the purchase of ambulance cots in the amount of \$122,368 from 1<sup>st</sup> Mutual Aid Fire and EMS, LLC through a City of Garland, Texas RFP Depot Bid #46-06 and authorizing the City Manager to execute all necessary documents.</p>	
	<p><b>Approval of Contract: (Purchase of products/services exempt from State of Texas Competitive Bid Laws)</b></p>	
(l)	<p>To approve and authorize a contract with Newman, Jackson, Bieberstein, Inc., to provide Landscape Architectural Services in conjunction with construction of parking lots at Parkwood Green Park and Coyote Creek Park in an amount not to exceed \$44,270 and authorizing the City Manager to execute any and all documents necessary to effectuate a contract.</p>	
(m)	<p>To approve the terms and conditions of an engineering services contract by and between the City of Plano and Walter P. Moore &amp; Associates, Inc. in the amount of \$136,270 for Erosion Control-Waasland Drive and Pittman Creek Rehabilitation and authorizing the City Manager to execute all necessary documents.</p>	
	<p><b>Miscellaneous Purchase Authorization:</b></p>	
(n)	<p>To approve and authorize reimbursement to RH of Texas Limited Partnership for oversize participation for water and paving improvements on Gillespie Drive associated with the construction of Ridgeview Villas in the amount of \$82,341.</p>	
(o)	<p>To approve the termination of a contract for Bid No. 2006-52-B for the Purchase of five (5) 12 to 14 Yard Dump Trucks awarded to Southwest International Trucks, Inc. in the amount of \$300,475.</p>	
(p)	<p>To approve a second amendment of a Professional Consultant Services Agreement with Tony Picchioni to provide professional consulting services during the third year of a three (3) year agreement with the option to extend the term for two (2) additional two (2) year periods.</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p><b><u>Adoption of Resolutions</u></b></p> <p>(q) To approve the terms and conditions of an Interlocal Cooperation Agreement for Library Services by and between the City of Plano and Collin County, Texas, providing the terms and conditions for receipt of funding in the amount of \$75,613 from Collin County; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the agreement herein; and providing an effective date.</p> <p>(r) To approve receipt of funds in the amount of \$65,245 from the Texas State Library and Archives Commission – Loan Star Libraries to fund the following for Plano Public Library System; purchase an LED sign for Haggard Library; computer classes in English and Spanish; and supplies for World Language, ESL and literacy materials; and authorizing the City Manager to execute all necessary documents for receipt of the funding.</p> <p>(s) To approve the submission of a grant application to the Texas Department of Transportation for funding assistance through the Statewide Transportation Enhancement Program; certifying that the City is eligible to receive financial assistance under the program; certifying that the City’s matching share is readily available; designating the Director of Parks and Recreation as being responsible for acting for, and on behalf of the City of Plano in dealing with the Texas Department of Transportation for the purpose of participating in the Statewide Transportation Enhancement Program and providing an effective date.</p> <p>(t) To approve the terms and conditions of the funding agreement between the City of Plano, Texas, and Dallas Chinese Choral Society, Inc., which renders services that are beneficial to the public and serve a valid public purpose; authorizing the City Manager to execute such agreements with this organization for provision of support of the arts; and providing an effective date.</p> <p>(u) To authorize the City Manager to enter into an agreement with the Plano Independent School District, Frisco Independent School District and Collin County Community College District for the purpose of conducting a Joint General Election and City of Plano Special Election on May 13, 2006; and providing an effective date.</p> <p><b><u>Adoption of Ordinances</u></b></p> <p>(v) To amend Ordinance No. 2004-8-16, codified as Article 11, Fire Code, of Chapter 8 of the Code of Ordinances of the City of Plano; providing a repealer clause, a severability clause, a savings clause, a penalty clause and an effective date.</p> <p>(w) To order an election to be held on May 13, 2006 for the purpose of electing four (4) members of Council, Place No. 2 (District 2), Place No. 4 (District 4), Place No. 6 (Mayor), and Place No. 8, to the City Council to hold office for a period of three years; designating locations of polling places; ordering notices of election to be given as prescribed by law in connection with such election; and providing an effective date.</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
(x)	<p>To adopt and enact Supplement Number 72 Rev. to the Code of Ordinances for the City of Plano; providing for amendment to certain sections of the Code; and providing an effective date.</p> <p><b><u>ITEMS FOR INDIVIDUAL CONSIDERATION:</u></b></p> <p><b><u>The purpose of a Public Hearing is to receive input and information with the clarification that the focus of the City Council is on the singularly presented position, and not on repetition. To more effectively consider all presentations, applicants will limit their presentations to 15 minutes with a five (5) minute rebuttal time, if needed. All other speakers will be limited to a maximum of 30 total minutes of testimony, and three minutes per individual on any single issue. Other time restraints may be imposed at the discretion of the Mayor.</u></b></p>	
(1)	<p><b>An ordinance</b> to provide for the issuance and sale of City of Plano, Texas, General Obligation Bonds, Series 2006; levying a tax in payment thereof; awarding the sale thereof; approving the official statement; and enacting other provisions relating thereto.</p>	
(2)	<p><b>An ordinance</b> to provide for the issuance and sale of City of Plano, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2006; levying a tax in payment thereof and pledging surplus municipal drainage system revenues in payment thereof; awarding the sale thereof; approving the official statement; and enacting other provisions relating thereto.</p>	
(3)	<p><b>An ordinance</b> to provide for the issuance and sale of City of Plano, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2006 in the aggregate principal amount of \$1,395,000; awarding the sale thereof; approving the official statement; and enacting other provisions relating thereto.</p>	
(4)	<p><b>Public Hearing</b> for the City Council of the City of Plano, Texas, pursuant to Chapter 26 of the Texas Parks and Wildlife Code pertaining to use or taking of a portion of City of Plano park known as Jack Carter Park, for fiber optic easement facilities for the Plano Independent School District.</p>	
(5)	<p><b>An ordinance</b> to approve a fiber optic easement to Plano Independent School District, requiring the use or taking of a portion of City of Plano Public Park Land, known as Jack Carter Park; providing for a determination that there is no feasible and prudent alternative to the proposed use or taking of the park land; and that the proposed project includes all reasonable planning to minimize harm to the land and the park and recreation area resulting from the use; and providing an effective date.</p>	
(6)	<p><b>A resolution</b> to approve a fiber optic easement to Plano Independent School District being in the Alfred Harrington Survey, Abstract No. 420, Collin County, Texas and being part of Lot 2, Block 7 of Hunters Glen 5-A, an addition to the City of Plano, Texas according to the plat recorded in Cabinet B, Slide 96, Map Records, Collin County, Texas, across a portion of City of Plano park known as Jack Carter Park and authorizing the execution of the easement by the City Manager; and providing an effective date.</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
(7)	<p><b>Public Hearing and an ordinance as requested in Zoning Case 2005-51</b> – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, granting Specific Use Permit No. 573 so as to allow the additional use of Day Care Center on 1.3± acres of land located on the north side of Plano Parkway, 700± feet west of Chapel Hill Boulevard in the City of Plano, Collin County, Texas, presently zoned Planned Development-112-Retail; 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: Midway/Parkway Investment, Ltd.</p>	
(8)	<p><b>Public Hearing and an ordinance as requested in Zoning Case 2005-52</b> – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2004-9-37, as heretofore amended, so as to rezone 2.1± acres located on the south side of State Highway 121, 1,950± feet west of Legacy Drive in the City of Plano, Denton County, Texas, from Agricultural to Commercial 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. Applicant: Epic 121 Commercial, Ltd.</p> <p><b><u>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.</u></b></p>	



February 8, 2006

**Pat Evans**  
Mayor

**Scott Johnson**  
Mayor Pro Tem

**Sally Magnuson**  
Deputy Mayor Pro Tem

**Shep Stahel**  
Place 1

**Loretta Ellerbe**  
Place 3

**Harry LaRosiliere**  
Place 5

**Jean Callison**  
Place 7

**Thomas H. Muehlenbeck**  
City Manager

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

Honorable Mayor and City Council:

We will begin our meeting Monday in Executive Session with Legal Advice and Real Estate.

The Preliminary Open Meeting agenda consists to a report on natural gas prices by Steve Mathews, Atmos Energy. Don Wendell will present two discussion and direction items. The first is regarding funding for construction of the Tom Muehlenbeck Recreation Center and the second is regarding the conceptual design for Oak Point Park and Nature Preserve. You also have two personnel appointments.

I look forward to seeing you Monday evening.

Sincerely yours,

Thomas H. Muehlenbeck  
City Manager

THM/bn

Preliminary Open Meeting Item II.

Report on Natural Gas Prices  
Steve Mathews

# Memorandum

Date: February 8, 2006

To: Thomas H. Muehlenbeck, City Manager

From: Don Wendell, Director of Parks and Recreation *DW*

**Subject: Tom Muehlenbeck Center Construction Contract Award**

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Bids were opened on December 15, 2005 for construction of the Tom Muehlenbeck Center. Seven bids were received, with the low bid being submitted by Core Construction. A copy of the bid tabulation is attached.

Core Construction's bid is as follows:

Bid Items	Bid Amount	Running Total
<b>Base Bid</b> Includes all planned improvements except the outdoor pool, outdoor water slides, and outdoor amphitheater.	\$16,930,000	\$16,930,000
<b>Alternate 1</b> Includes the outdoor pool and one water slide.	\$2,250,000	\$19,180,000
<b>Alternate 2</b> A second water slide for the outdoor pool.	\$92,000	\$19,272,000
<b>Alternate 3</b> A third water slide for the outdoor pool.	\$80,000	\$19,352,000
<b>Alternate 4</b> Addition of a small outdoor amphitheater outside of the multipurpose meeting rooms.	\$210,000	\$19,562,000

The total funding available for construction is \$17,652,000. This figure takes into account all other project expenditures such as design, testing, furniture, equipment, and all project contingencies. The total project budget is \$21,000,000, with the funding coming from the 2001 City Bond Program.

Prior to bidding, Brinkley Sargent Architects indicated that the construction industry was experiencing significant cost increases that could not have been foreseen earlier in the design of the project. Staff and the consultant anticipated that bids could exceed the project budget, and an updated cost estimate was prepared. The final construction cost estimate revealed that we could expect bids significantly higher than previous estimates indicated. Based on this information, the outdoor pool and other items were bid as alternates to insure that the base bid would be within the allotted funding.

Attached are two letters from Brinkley Sargent Architects. One discusses the reasons for the cost increases. The second letter provides a comparison of the cost, in today's dollars, of the Tom Muehlenbeck and Oak Point Center. Also attached are several articles related to rising construction costs.

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There are several options that can be considered regarding the construction contract for the center.

1. Award a contract for the base bid only in the amount of \$16,930,000. This amount is well within the allotted funding for construction. The outdoor pool and related items could be included in a future bond program and constructed at a later date.
2. Use a portion of the \$2,000,000 included in the 2005 Bond Program that is allotted to the Aquatic Center renovation. Approximately \$175,000 of this funding has been spent. We anticipate the need for an additional \$125,000 to address immediate needs at the Aquatic Center. This leaves a balance of \$1,700,000. The remaining renovation at the Aquatic Center is planned to begin in 2008. The balance of funding needed to complete the Aquatic Center renovation could be included in the Capital Reserve Fund in the appropriate budget year. The Budget Department has indicated that unused escrow funds in the amount of \$2,800,000 will be transferred to the Capital Reserve Fund in the near future and that these funds would offset the addition funding needs for the Aquatic Center renovation.

Using these funds will allow us to award one or more alternates as shown below:

- a. Award alternate 1, requiring \$1,528,000 of the Aquatic Center funding.
- b. Award alternates 1 and 2, requiring \$1,620,000 of Aquatic Center funding.
- c. Award alternates 1, 2 and 3, requiring \$1,700,000 of Aquatic Center funding.

Awarding alternates 1, 2, 3 and 4 requires \$1,910,000 in additional funds, which exceeds what is available from the Aquatic Center renovation project.

There are several advantages to building the outdoor pool at this time. They are:

1. Building the pool now will complete the facility at the time of its initial opening and provide a much needed outdoor leisure pool component.
2. The pool will be complete without future disruption to the facility after it is already opened.
3. Turf and irrigation in the pool area will not need to be put in now and then removed later when the pool is added.
4. Adding the pool as part of the overall recreation center construction is more cost efficient than it will be to add the pool as a separate project at a later date.
5. Construction costs in general are likely to continue to go up and thus result in higher cost to construct the pool in the future.

**Staff recommends that \$1,700,000 be transferred from the Aquatic Center renovation account to the Tom Muehlenbeck Center project account and that a contract be awarded for the base bid plus alternates 1, 2, and 3 in the total amount of \$19,352,000.** Assuming that the contract is awarded at the February 13, 2006 City Council meeting, construction could begin a few weeks thereafter, with project completion in the summer of 2007.



January 17, 2006

Mr. Bill Morris  
City of Plano Engineering Department  
P.O. Box 860358  
Plano, Texas 75086-0358

RE: Bid for Tom Muehlenbeck Recreation Center

Dear Mr. Morris:

We are pleased to report that we received seven bids for the Tom Muehlenbeck Center (TMC) on December 15, 2005. The construction estimate that was last updated showed the building and site cost to be valued at \$16,985,733 and the cost estimate for the outdoor pool, bathhouse and site improvements to be \$2,727,511.

The bid tally sheet is attached for your review. Core Construction possessed the low base bid of \$16,930,000, which was \$55,733 below estimated costs. Core's base bid plus any combination of add alternates still places them as the low bidder. Core's base bid plus add alternate #1, 2 or 3 equals \$19,352, 000 and is the basis of this contract. The qualifications of Core Construction were confirmed with telephone calls to references and no reason was found to reject their bid as qualified.

Below details some history on the development of the estimated pricing to understand why the project bid was \$55,000 plus below estimate yet the funds were not sufficient to build the outdoor pool.

To manage this part of the project, estimates were prepared at the end of each phase of the project (schematic, design development and construction documents). The estimate following the design development phase was on budget for the entire project. Between that time and the development of construction documents the two well-chronicled major hurricanes hit the gulf coast.

Since the time of these hurricanes, we knew price spikes were occurring. Our final construction document estimate bore what we had been reading. Our construction cost estimate increased by approximately 9-10% in a four month period. Based upon this news, the base building and site work was defined as base bid and an add-alternate number 1 was developed. This add alternate included the outdoor pools, bathhouse and site development around the pool area. This strategy was chosen since there was so much uncertainty in the construction industry at that time and any other option would have meant delays and/or higher costs. With bids now in hand, we can see that the impact was 7.77% since our June design development estimate. This increase is somewhat less than we had estimated.

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We have attached articles for your review that speak to the price increases that have occurred. The main areas of increase have been fuel, concrete, rebar steel, copper, PVC piping (50%), gypsum board, wood, and labor. Based upon the articles, the increase experienced on this project was at or below most preliminary estimates.

Bill, we hope this summary of the history allows all to understand the difficulties encountered over the last half of 2005 and how these circumstances were managed for the benefit of the City. Please call if you have any questions regarding the bids received.

Sincerely,



Dwayne M. Brinkley, AIA

Enclosure

CC: File Copy Robin Reeves, COP

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**Bid Tabulation Sheet**

**Tom Muehlenbeck Center  
Project #5526**

**December 15, 2005**

<b>Bidders</b>	<b>Bid Bond</b>	<b>Add. 1, 2</b>	<b>Unit Prices</b>	<b>Completed Forms</b>	<b>Base Bid</b>	<b>Alternate #1 Outdoor Pool</b>	<b>Alternate #2 Outdoor Flume B</b>	<b>Alternate #3 Outdoor Flume C</b>	<b>Alternate #4 Amphitheater</b>
Core Construction	Y	Y	Y	Y	16,930,000	2,250,000	92,000	80,000	210,000
Skanska	Y	Y	Y	Y	17,423,000	2,322,000	97,000	80,000	264,000
Ratcliff Constructors	Y	Y			17,550,000	2,300,000	120,000	103,000	265,000
Cadence McShane	Y	Y			17,782,000	2,200,000	115,000	94,000	243,000
Lee Lewis Construction	Y	Y			18,400,000	2,317,000	98,000	81,000	210,000
Alshall Construction	Y	Y			18,489,786	2,194,262	175,455	109,390	244,904
Hisaw & Associates	Y	Y			22,497,000	2,200,000	95,000	79,000	275,000

1112

February 7, 2006

Mr. Robin Reeves  
 City of Plano  
 P.O. Box 860358  
 Plano, Texas 75086

RE: Recreation Center Comparisons

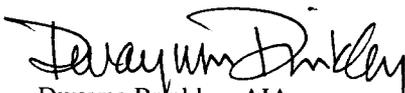
Dear Mr. Reeves:

In response to your question regarding comparisons of Oak Point Center and The Muehlenbeck Center, we have researched the history of Oak Point and provide the following preliminary analysis. The total budget of \$21,000,000 for Muehlenbeck Center is composed of construction costs, furniture, fixtures, and equipment, IT and security, professional services and contingencies. In an attempt to create a close comparison, we escalated the cost of Oak Point to simulate current pricing structures. The recent events fo Katrina has also been factored into both facilities to provide accurate estimates for both. Below are the size and building system comparisons. We have also tabulated the estimated additional costs for the Muehlenbeck Center that was not a part of the Oak Point Center (see attached).

	<u>Oak Point</u>	<u>Muehlenbeck</u>
Year Completed	2000	2007
Building Size	85,464 SF	83,845 SF
Outdoor Pool Area	4,600 SF	8,128 SF
Parking	280	300
Construction Materials	<ul style="list-style-type: none"> <li>• Pier, slab on grade</li> <li>• Load bearing masonry</li> <li>• Structural steel frame and roof</li> </ul>	<ul style="list-style-type: none"> <li>• Pier, slab on grade</li> <li>• Load bearing masonry</li> <li>• Structural steel frame and roof</li> </ul>

The quality of both facilities is comparable as is the size and therefore it is not surprising that the comparison of the two are within 3-4% when adjustments are factored into the comparisons. Please remember the Oak Point numbers are our best estimate in taking numbers from 5-6 years ago and bringing them forward and could easily have this much variance. Please let me know if this response is of sufficient detail.

Sincerely,

  
 Dwayne Brinkley, AIA

cc: Stephen Springs – BSA 20408 C2

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**Comparative Data - Oak Point Center vs. Muehlenbeck Center  
Revised February 7, 2006**

	<u>Oak Point (in today's dollars)</u>	<u>Muehlenbeck Center</u>
Construction Costs (includes recent impact of Katrina)	\$ 17,521,247	\$ 19,352,000
Testing	\$ 66,000	\$ 99,000
FF&E (escalated to present)	\$ 291,000	\$ 700,000
Arts	\$ -	\$ 100,000
Traffic Study	\$ -	\$ 21,495
Telephone and AV Systems ( Included in FF&E costs for Oak Point)	\$ -	\$ 124,000
Design Fees (reflect escalated prices)	\$ 1,596,000	\$ 1,676,000
Reimbursables ( Included in design fees for Oak Point)		<u>\$ 92,200</u>
<b>Total Adjusted Budget</b>	<b>\$ 19,474,247</b>	<b>\$ 22,164,695</b>

**Some Additional Costs Factors Relating to Tom Muehlenbeck Center**

	<u>Estimated Costs</u>
Site Survey	\$ 36,000
4' extra fill depth under bldg due to soils engineer	\$ 377,495
3,528 extra SF in outdoor pool and separate bathhouse (Oak Point shares indoor lockers)	\$ 441,000
Two bodies of indoor water (two sets of filters / pumps vs. one at Oak Point)	\$ 100,000
Three bridges over creek and creek study (two pedestrian and one vehicular)	\$ 290,000
One smaller competitive pool and one indoor leisure water at Muehlenbeck vs. one indoor competitive pool w/ leisure at end at Oak Point	\$ 200,000
Roadways and landscape to accommodate deeper setbacks from Parker Road	\$ 78,000
Arts Allowance	\$ 100,000

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Additional landscape budget because of creek and site size	\$	175,000		
FF&E (different program emphasis on fitness areas)	\$	409,000		
Additional parking	\$	<u>28,000</u>		
<b>Total</b>	\$	<b>2,234,495</b>		
<b>Comparison of Project Budgets</b>	\$	<b>21,708,742</b>	\$	<b>22,164,695</b>

**Comparison Notes**

1. The soils at the Muehlenbeck Center are more challenging and require 7' of treated soil vs. 3' of fill at Oak Point below building slab.
2. The Muehlenbeck Center site development cost is higher because of the setback from the neighbors. The creek that requires one vehicle bridge and two pedestrian bridges, and supplemental landscape along the entire creek area.
3. Program areas are somewhat different to reflect changing demands for recreation centers.
  - 3 bodies of water at Muehlenbeck Center vs. 2 bodies of water at Oak Point.
  - Large cardio workout area at Muehlenbeck vs. gymnastics area and 4 racquetball courts at Oak Point.
  - Larger outdoor water at Muehlenbeck Center.

*nik*

# *The Hurricane Katrina Impact on US Construction Costs*

*By NAVFAC MIDLANT's John Nehring, P.E.  
20 September 2005*

The following notes, hurriedly researched and crafted today, attempt to address, in the wake of Hurricane Katrina, the impact that the Gulf Coast cleanup and restoration efforts will have on major construction projects in our arena of responsibility.

- **Key People Contacts Made In This Preparation**

- Tim Grogan, Senior Editor, Engineering News Record, New York
- John Dunkerley, Director of Cost Management Services, PinnacleOne (a national construction consulting firm)
- Warren Smith of Warren Smith & Sons, Construction Cost Estimators, Norfolk

- **Notes and Discussion**

- Pre-Katrina: Except for dramatic fuel price increases seen over the past several months, construction prices had begun to stabilize relative to what had been experienced in 2004.

11/2'

➤ Post Katrina: The cleanup and restoration efforts now in motion are going to be quite extensive, and as such they will draw to the Gulf Coast a considerable amount of material, labor and equipment from many other areas of the country. The following notes address a few of the implications of this situation:

- ◆ One major supplier of materials in the United States, wishing to remain anonymous for now, is saying that key building materials are already in short supply, and some are now non-existent. These include steel, concrete, lumber, and electrical materials and products. And the prices for many of them, when and if available, will increase by double-digit amounts.
- ◆ Contractors, in Tidewater Virginia and elsewhere, are forming up construction teams to relocate to the Gulf Region for the next several years. This will make skilled labor scarce, and for the immediate future premium prices will have to be paid to keep or attract labor to perform work in this and other parts of the country. This will also have the effect of pressuring labor prices upwards by double-digit amounts.
- ◆ Associated with the Gulf Coast work will be a heavy utilization of equipment from many parts of the country. This also will drive up equipment prices.

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• **Specific Projected Construction Cost Impacts**

➤ In alignment with the above discussion, the following chart is my best take on what is now unfolding cost-wise in the construction industry. I have generated this based on my own professional experience and also the best read that other cost professional can make, albeit hesitantly given the speed at which things are occurring. The Material, Labor, & Equipment proportions vary from kind of work and job to job – but these proportions are on the order of what is often seen in Navy military construction projects.

***The Katrina Impact on US Construction Costs***

**Material, Labor, & Equipment Average Cost Proportions Per \$100**

\$ 55 = Material  
 \$ 35 = Labor  
 \$ 10 = Equipment

**Material, Labor, & Equipment Katrina-Driven Cost Spike %s (on top of pre-Katrina fuel & other spikes)**

25.0% = Material  
 15.0% = Labor  
 10.0% = Equipment

Includes higher costs driven by equipment fuel demand

\$ 69 = \$ 55 \* 1.250 Material  
 \$ 40 = \$ 35 \* 1.150 Labor  
 \$ 11 = \$ 10 \* 1.100 Equipment

-----  
 \$ 120 Post-Katrina Price Spikes: 4th Quarter 05?

-----  
 \$ 100 A Pre-Katrina Index Cost: ~9/1/05

1.20  
 20%

→ A Plausible Overall Construction Cost Impact % Increase

***Note:*** The point in time that this projected overall price spike becomes reality will remain to be seen – as well as its duration. Nonetheless, the intense Gulf Coast cleanup and restoration effort is driving dramatic and rapid cost escalations.

**John Nehring, P.E.**

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## Impact of Katrina on the Construction Market

As the Gulf Coast region slowly recovers from the devastation of Hurricane Katrina, the question of how this will impact construction prices has been raised. While it is extremely difficult to estimate the true impact on cost until the full extent of damage to the region is known, initial research suggests that there will be an impact to construction cost, both in the short term, and over the next several years. These impacts come at a time when the construction industry is already stretched tight due to the unprecedented spike in prices seen for steel, wood products, and concrete, as well as in the demand for skilled laborers.

There are four main areas of impact, three of which tend to increase construction cost, and one that tends to depress construction costs. These are:

- The short-term disruption of the supply chain
- The short-term demand for emergency repair and accommodation
- The long-term reconstruction process
- The disruption to the regional economy

The total impact of the hurricane will depend greatly on the interplay of all four of these factors, and, perhaps to a greater extent, the way in which the markets manage the risk and uncertainty over prices.

### Overview

Overall we expect that the hurricane will have a substantial impact on the residential construction market and a moderate impact on the non-residential and infrastructure market, both within the region and nationally. The impact will be felt most in the availability of contractors and laborers to undertake the massive amount of reconstruction that will be required in the years to come. In addition, it is important to note that, due to the sheer number of persons displaced as well as the length of time necessary to rebuild some of the most damaged areas, much of the reconstruction – especially in the residential construction markets – is likely to be spread out beyond those areas actually hit by the hurricane as some of the displaced population settles elsewhere.

We anticipate that there will be an overall increase in cost for residential construction in the region in the range of 10 – 15%, and 5 – 10% nationally over the next two years. We expect non-residential construction to experience a smaller cost rise overall, with increases in the 5 – 10% range locally and less than 5% nationally.

Individual materials and trades will see cost increases, with rises of 10 – 20% in key materials such as wood, gypsum board and concrete. The effect will be felt nationally, since most materials are part of a national market, but the supply and cost problems will be most acute in the gulf region

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The increases could be exacerbated by the uncertainty over prices. We would expect that contractors will be very wary of committing to projects if they believe they could experience sharp price increases. For this reason, we expect that projects bidding in the next two months could see much higher bids, simply as a reaction by the markets to risk and uncertainty. In such cases, we would recommend considering risk management strategies, such as escalation clauses, and dedicated schedule float.

### Short Term Disruption of the Supply Chain

Short-term impacts are expected due to the effect of Katrina on supplies of certain key construction materials, most notably forest products, the energy sector, and shipping capacity. While other construction related businesses were damaged or destroyed by the hurricane and flooding, these are not expected to pose any significant impact to the cost of construction for the rest of the country, due mainly to the fact that other suppliers are more than capable of picking up any slack, and that much of the infrastructure that was damaged or destroyed served regional demand, which will be depressed in the short term.

### Forest Products

Louisiana, Mississippi and Alabama are major forest product producers, and there is extensive damage in the forests of all three states. The Mississippi Forestry Commission<sup>1</sup> estimates that trees equivalent to over 3 billion board feet of lumber have been destroyed in that state alone. This, added to the damage to production and distribution facilities, means that there will be significant reduction in the amount of forest products coming from the region for the next one to two years. An additional fear is that all of the fallen timber is now creating a major fire hazard, since it will both act as fuel, and hamper any future fire fighting efforts. A number of lumber mills in the Gulf Coast were shut down in the wake of the hurricane, nearly shutting down the supply of Southern Yellow Pine, and consequently driving up demand for alternative woods from other mills around the country, many of which were not prepared for the additional demand<sup>2</sup>.

Overall there is likely to be a short-term imbalance in supply and demand, leading to increases in material prices of up to 20% for the main forest products, such as dimensional lumber and panel products. It should be noted, however, that prices have been lower this year than last, and these increases should be within the normal range of movement of price for these products. For a wood-framed building, this would translate into an increase in the range of \$1.00 - \$2.00/SF. The impact on concrete and steel-framed buildings should be significantly less.

<sup>1</sup> Mississippi Forestry Commission: Assessment of Damage to Stewardship Forests of Mississippi <http://www.mfc.state.ms.us/pdf/katrina/assessmentsstewardship.pdf>

<sup>2</sup> "Building industry squeezed by Katrina" M. Bazeley, K.G. Hall, Mercury News 9/2/2005 <http://www.siliconvalley.com/ml/siliconvalley/news/local/12548985.htm>

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## Energy

The Gulf Coast is home to a number of large drilling wells and oil refineries, and the full extent of damage to those facilities – and thus the long term potential impact on the country's oil and refined oil product supplies – is as yet unknown. It would appear, however, that the impact on oil, gasoline and gas prices will be relatively moderate after the initial shock is absorbed. Overall, energy is unlikely to increase in cost by much more than 10% in the mid-term as a result of the hurricane.

Energy is a key component in many building materials, from production to transportation to installation. Increases in energy costs will therefore tend to increase the cost of construction. The total energy component of a building is typically in the range of \$2.00 to \$4.00/SF. This would translate into a cost increase for construction in the range of \$.20 - \$.40.

## Shipping

The area impacted by the hurricane is home to some of the country's largest ports, including the Port of New Orleans, which is the fourth largest port in the world. Major U.S. imports to this port include iron and steel products, forestry products such as logs, lumber, boards and plywood, aluminum, and natural rubber and coffee from Latin America<sup>3</sup>. In the wake of the hurricane, thousands of tons of goods waiting at the docks for processing were damaged or destroyed. Ships carrying goods from other countries have been forced to seek alternate ports, which is expected to increase transportation costs and possibly result in some time delays for materials to reach their intended destinations. In addition, damage to the major transportation routes, including roads and train lines, means possible delays in the shipment of materials and goods to the entire region<sup>4</sup>.

The port disruption will have a marked effect on the availability and cost of materials that would normally pass through the port, and the shipping costs for materials can certainly be expected to climb for the near future. It is likely that this effect will be relatively moderate and short lived, however.

## Panic Buying

One further short term disruption is panic buying. There have been indications of this in many of the construction materials, including wood, and steel. This leads to rapid increases in cost and shortages of supply, which can become self feeding, as the price increases and shortages draw in even more buyers seeking to hedge future risks. These panics have already led to increases in some materials of 20 – 30%. As confidence returns to the market, we would expect these premiums to dissipate, but it is likely that some degree of panic buying will remain in the market through at least the early part of next year.

<sup>3</sup> Port of New Orleans Statistical Profile (<http://www.portno.com/PDF/cargo%20stats%20cy04.pdf>)

<sup>4</sup> "Will an Already-Questionable Economy be Damaged or Helped by Hurricane Katrina?" M. Devlin, 8/31/2005, Industrial Market Trends ([http://news.thomasnet.com/IMT/archives/2005/08/will\\_an\\_already.html?WT.mc\\_t=imt&WT.mc\\_n=site\\_entry](http://news.thomasnet.com/IMT/archives/2005/08/will_an_already.html?WT.mc_t=imt&WT.mc_n=site_entry))

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### Short Term Demand for Emergency Repair and Accommodation

In the short term, some areas are already noting an increased demand for heavy construction machinery and emergency materials. The stock market has responded with a sharp increase in stock prices for companies that produce construction materials and industry supplies, as the business community anticipates a steep increase in demand for those products<sup>5</sup>. Short-term spikes in the demand for materials and equipment necessary for salvage operations, as well as for the creation of temporary shelter facilities for the tens of thousands of refugees, are already underway. However, any short-term impact should stabilize relatively quickly, and the initial impact to the system should die down over the next few weeks. Additionally, any significant reconstruction is not likely to begin for several months, especially in the New Orleans area where even basic repairs to rebuild necessary infrastructure cannot begin until the city is completely drained.

### Long Term Reconstruction Process

#### Housing

The long-term impact will have much to do with the full extent of reconstruction, repair, and rebuilding that will be required to return those areas to normal functionality. Current estimates by the National Association of Home Builders<sup>6</sup> suggest that around 200,000 homes in the New Orleans area alone have been destroyed, with possibly another 50,000 homes in the other areas hardest hit by the hurricane. We can expect that at least twice this many homes, while not total losses, will need significant repairs. To contrast the impact of Katrina to earlier disasters, Hurricanes Andrew and Ivan destroyed only about 20,000 homes each.

Due to the housing boom being experienced in the United States, we have been running at about 2 million housing units constructed each year. The total number of homes severely damaged or destroyed thus represents 10-15% of the total annual new home construction market in the country, which is a significant amount. Experience from previous disasters, however, indicates that the rebuilding process usually takes 2 to 3 years to complete, spreading that impact out over a longer period of time. The extent of damage experienced in the region is likely to actually spread the length of reconstruction out even further – due not just to the sheer volume of work required, but also to home owners unable, or unwilling to rebuild on their property for longer periods of time. Additionally, there is the possibility that local governments may exert eminent domain to control or prevent reconstruction in some of the areas most vulnerable to repeat flooding in the event of future hurricanes of this magnitude.

<sup>1</sup> "US construction companies gain on Katrina impact", 8/31/2005 ([http://yahoo.reuters.com/financeQuoteCompanyNewsArticle.jhtml?duid=mfh20737\\_2005-08-31\\_20-44-08\\_n31391371\\_newsml](http://yahoo.reuters.com/financeQuoteCompanyNewsArticle.jhtml?duid=mfh20737_2005-08-31_20-44-08_n31391371_newsml))

<sup>2</sup> NAHB: impact of hurricane Katrina on building materials and prices [http://www.nahb.org/news\\_details.aspx?newsID=1572](http://www.nahb.org/news_details.aspx?newsID=1572)

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### **Non-Residential Construction**

Non-residential construction is likely to have experienced significantly less total loss, but will, nonetheless, need extensive repair to non-structural elements. This will include both wind and water damage. There are no published estimates of the extent of the damage, but based on the areas affected, we would expect that the area of buildings seriously affected could be in the range of 15 - 20 million square feet. The overall repair cost is therefore likely to be in the \$2 billion to \$4 billion range, which is in the range of 5% - 10% of the average annual construction volume in the three states, but only about ½% - 1% of the total U.S. non-residential market.

### **Infrastructure**

Infrastructure will need major reconstruction, particularly in the flood-damaged areas. Much infrastructure will have been totally destroyed, or damaged beyond repair. Again, estimates are very sketchy as damage is still being assessed, but the maximum likely exposure is in the \$2 billion to \$4 billion range.

### **Cost impact of damage repair**

#### Contractor Availability

One of the most significant cost drivers will be the availability of contractors to perform the reconstruction work, and the premiums they will command for absorbing the risk associated with the work. Even in the market prior to the hurricane, projects were experiencing difficulties in obtaining adequate bid coverage. With the substantial increase in demand, particularly for wood framed and residential work, there will be a very high excess demand for contractors. This demand will allow contractors to command higher profit margins.

In addition, contractors will be more cautious of the pricing and delivery risk for materials and labor. Over the past two years, contractors have been severely impacted by unprecedented price rises of key building materials and unavailability of materials or adequate skilled labor. They are now unwilling to absorb these risks to the same degree, and as a result are including greater risk premiums in their bids.

In certain areas, we have seen bid increases in the 10 – 20% range beyond that which can be explained by direct increases in the cost of labor and material. We would expect that these types of increase could be common in the region, and in the wider markets.

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Labor

In a time when the construction industry is already stretched thin by the housing boom that has swept the country, as well as the high demand for new construction in numerous regions, a massive reconstruction and recovery effort is expected to only make things worse. One of the critical shortages expected to result from Katrina is in skilled construction workers, a group already in short supply even before the onslaught of two major hurricanes in the Florida area in previous years, and now from Katrina. Finding enough skilled workers willing to come to the area to participate in reconstruction efforts will be compounded by the fact that the areas hardest hit by the hurricane and flooding – and thus in greatest need for construction workers – historically pay less than the surrounding regions, meaning that competition for an ever decreasing pool of laborers is likely to result in significant increases in construction wages in order to lure workers away from more lucrative areas<sup>7</sup>.

Wood Products

By far the most heavily impacted material is lumber. The total amount of wood products required for repair of the hurricane damage is in the range of 4 – 6 billion board feet of dimensional lumber and 1 – 2 billion square feet of panel products. These quantities represent a significant portion of the wood and plywood consumption in the United States, in the range of 5% - 7% of the total annual market. As a result, there is likely to be sustained long-term pressure on wood product supplies, and consequently on prices. We would expect to see long-term price increases for dimensional lumber in the range of 20%, and for panel products in the range of 30%.

Gypsum Board

Gypsum board will also be heavily impacted by the hurricane, with repair demand in the range of 5% - 7% of the total annual market. Gypsum board has experienced regional shortages and price spikes in the past two years, and we would expect that to continue as a result of the reconstruction work, with price increases in the range of 15% – 20%.

Concrete

The added concrete demand should be relatively small in comparison to that of wood and gypsum board, but the market for concrete has been very constrained for some time, particularly in the southeastern quadrant of the United States. It is likely that the rebuilding work will extend the duration of the short supply and high prices in the region.

<sup>7</sup> "Katrina could have major effect on building", G Talbot, Mobile Register 9/1/2005 (<http://www.al.com/business/mobileregister/index.ssf?/base/business/112556644147410.xml&coll=3>)

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Steel

The rebuilding work should have little impact on the demand for steel in construction. There have been some reports of anticipated increases in cost of steel, possibly as high as 20%. These increases are primarily being driven by shortages of imports of scrap metal and liquid hydrogen used in production of high quality steels; however, since the shortages are more a result of infrastructure disruption, they should be relatively short lived. It is worth noting that steel prices had fallen back from last year's highs by about 25%, and there was an expectation that prices would increase 10% – 15% over the next few months simply as the result of general price movements in the global market. Any short-term supply adjustments are likely to be within the normal range of fluctuations in the material price market.

**Disruption to the Regional Economy**

There is a strong likelihood that the regional market will remain depressed for some time. Many jobs have been destroyed, and the tourism industry, which has been a mainstay of much of the most severely damaged areas, will take time to recover. Also, much of the loss was uninsured, or underinsured. As a result, the demand for reconstruction will be reduced. Some of this demand will shift to other areas, as those dislocated by the hurricane choose to relocate in the longer term to other parts of the country, but some of the demand will be removed or deferred. Experience from other large scale disasters indicates that as much as 20% of the reconstruction can be delayed by years, even decades. Given the infrastructure damage, and the possible changes in codes or flood management practices, it is possible that a larger portion of the reconstruction will be delayed by several years.

The economic disruption will act as a drag on demand, and so reduce the amount of added construction that the market will have to absorb in the short term. We would expect that this will be most pronounced in the non-residential sector, where it is likely that the reconstruction and repair work will merely replace other work which would otherwise be occurring in that region.

Contact:

Peter Morris at [pmorris@davislangdon.us](mailto:pmorris@davislangdon.us)

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# Higher building costs hurt DISD

## Soaring demand for construction materials problem for schools

By Ava Thomas Benson  
Staff Writer

North Texas school districts immediately felt the impact of Hurricane Katrina as new students enrolled in schools, but the

effects of Katrina, and now hurricanes Rita and Wilma, are catching up to districts as construction costs rise.

Commonly used construction materials for roofing, piping and wiring jobs are in high demand in Florida and Louisiana, where rebuilding is in full swing. That demand drives up the price of those materials, Denton's executive director of operations Norm Sisk told board members Tuesday.

"Basically, districts right now are faced with the dilemma of having projects that were put together in 2004 with a 5 percent inflation rate, and they're having to build those projects today with prices for some materials that have escalated 8 to 10 percent," Sisk said. "There was argument back in 2004 [when the district planned its bond election] about 5 percent being too much."

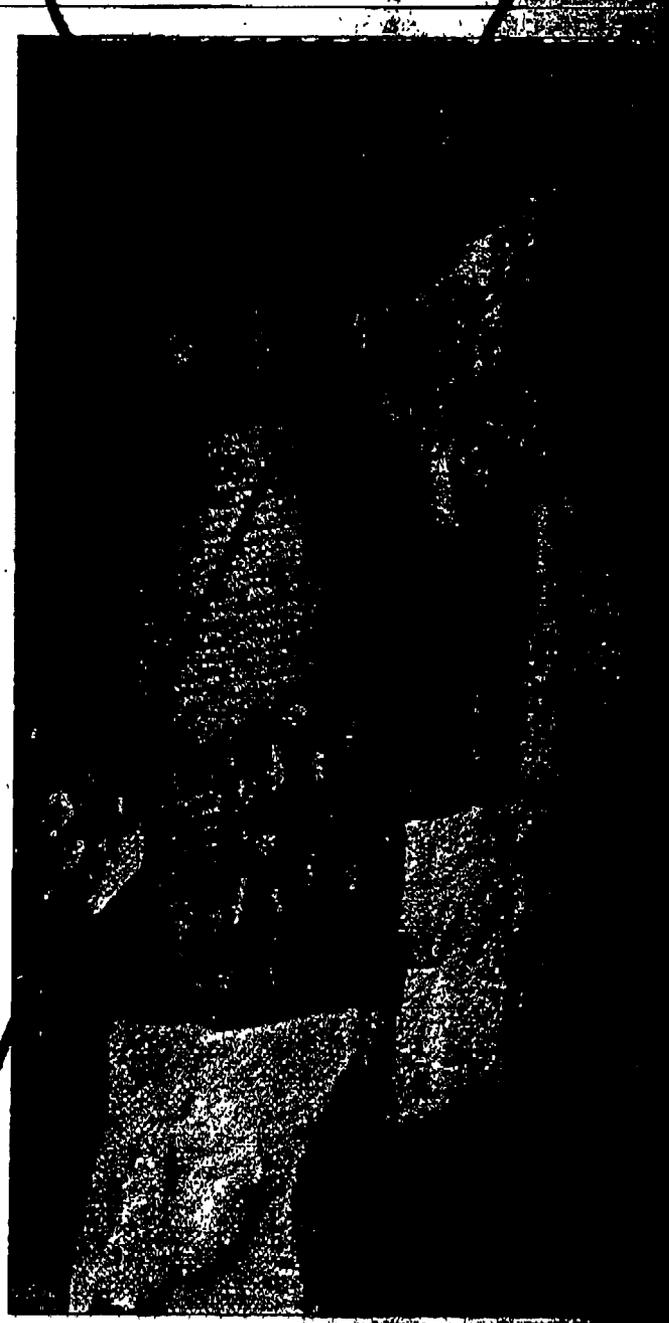
Sisk said the district planned its projects

with a 5 percent inflation rate, but rising costs may put the district as much as \$3.7 million over budget on bond projects, a number he says is the "worst-case scenario."

Even if projects wind up costing the district an additional \$3.7 million, the district has at least that much money saved from previous bond projects that can be used to

See CONSTRUCTION on 9A

## Making do with what they salvaged



# Chamber VP has big-city resume

## New vice president of economic development worked in Houston area

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**From Page 1A**  
**Isaacks**

in his son's case. Retired district court Judge Phillip Vick, who appointed Jarvis, could not be reached for comment.

According to police records, the younger Isaacks, who was 17 at the time, fired a pellet gun from a car at three 12-year-old girls and hit one in the knee, one in the shoulder and one in the thigh. Eric Louis Carrillo of Carrollton, who was also 17 at the time, is accused of driving the car and slowing down to give Isaacks a stable platform from which to fire. Jarvis also is prosecuting Carrillo's case.

Jarvis said he didn't know how Vick selected him. He said it's not unusual for a prosecutor to still be investigating several months after an incident.

Sgt. Dave Sponhour, spokesman for the Carrollton Police Department, said it's typical for cases to span a year or longer from arrest to disposition.

Rachel Horton, a spokeswoman for the Dallas County district attorney's office, said investigations vary in length.

"Each individual investigation is separate unto itself," she said. "Potentially, the investigation can take up to however long the statute of limitations is."

Jarvis and the senior Isaacks, who worked in the Dallas County district attorney's office in the 1980s, said they didn't know each other well and did not work closely together.

"I don't think we've ever been in a courtroom together," Jarvis said.

Bruce Isaacks said: "We're not friends. We don't associate together. We don't eat dinner together."

The younger Isaacks and Carrillo were arrested Feb. 2 after

the victims identified them. Adam Isaacks was released from the Carrollton jail the next day on \$3,000 bail set by state District Judge L. Dee Shipman, a lifelong friend of the district attorney. Carrillo's bail was set at \$4,000 by a Carrollton municipal judge. He was transferred to Denton County Jail on Feb. 4 and released on bond later that day.

Bruce Isaacks has said the defendants' bail differed because he hired a lawyer for his son who took documents to the court the day after the shooting and Shipman just happened to be the judge who signed it.

The district attorney, who is up for a fifth term next year, said his office has fielded phone calls from county residents since his son's arrest. Most of those, he said, are from people seeking updates about the case, since there have been no developments.

"I'm running for re-election and I would just as soon have this thing wrapped up, but like I said, I'm not in control of the case or in control of the pace of the case," he said.

He also said he's not surprised at rumors of favoritism over the how the case is being handled.

"As the election day gets closer and closer, I'm sure we'll hear more and more accusations," he said. "The only point I want to make is I'm just a father of the accused. I'm not in charge, and I don't have anything to do with the case."

The district attorney's wife is state District Judge Vicki Isaacks. The family lives in Carrollton. Bruce Isaacks said his son is being represented by Dallas attorney Doug Mulder, who could not be reached for comment.

**From Page 1A**  
**Construction**

finish projects in the 2004 bond package, Sisk said. Because the extra money was from a previous bond package, it can only be used to fund construction, so dipping into that pool wouldn't hurt the district financially, he said.

"We've been so frugal and the fact that we're here today and have \$3 million still in the till and that we did all the projects that we told the taxpayers we would accomplish, speaks well," Sisk said.

Shortages of materials such as steel, concrete and roofing materials mean that the items are more difficult to acquire, Leesa Vardeman from VLK Architects told board members. Inability to find necessary supplies, high gas costs, the increasing cost of propane and other factors increases the overall cost of construction, she said.

Prices were on the rise before Katrina hit the Gulf Coast, Vardeman said, but after Katrina and Rita, prices spiked partially because the industry was uncertain about the effects of the storms. She said less-experienced subcontractors were also a concern because of the increased risk of bankruptcies with those companies.

Vardeman said the situation is beginning to improve slightly, but that there's no way to determine where prices will be in the next several months.

"We've already seen gas prices

and materials prices start to stabilize a little bit," she said.

Bruce Helm with Charter Builders told school board members that it was possible for things to improve further, and said the projections reflected the possibilities the district should prepare for.

"Some of this could be a spike of the fear of not knowing," Helm said. "I think as time goes by, it'll settle down some."

The Denton school district has four elementary schools, one middle school, an early childhood development center and some renovations left in planned bond packages, all of which could be affected by the rising cost of construction.

District officials will consider coupling projects to get lower prices, which should help save some money, Sisk said.

"I think we'll have to use some ingenious planning on the projects we've got going," Sisk said. "If we keep thinking in terms of, 'How can we do this in the most efficient manner?' and, 'How can we put these packages together so we get the most for our dollar?' we'll be OK. We're running out of wiggle room on some of these projects, but that doesn't mean we won't keep trying."

*AVA THOMAS BENSON can be reached at 940-566-6875. Her e-mail address is abenson@dentonrr.com.*

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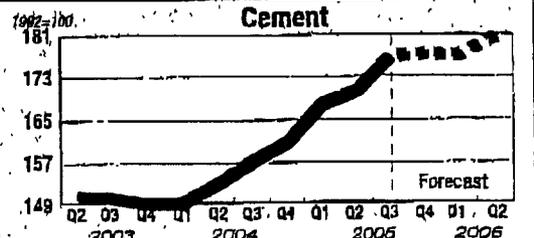
# Katrina Keeps Inflation Roaring

Hurricane Katrina is expected to give inflation in the construction industry a second wind. Prior to the storm, the industry gradually was recovering from last year's resurgence of inflation. While it is too early to determine the full impact of the storm on construction costs, the uncertainty it has stirred up undoubtedly will lead to higher bids for projects just to cover the new level of risk.

Katrina initially shut down projects in the area and put many others on hold. But that will not dent the tremendous demand for labor and materials being generated by the construction industry, which is on course for another record year.

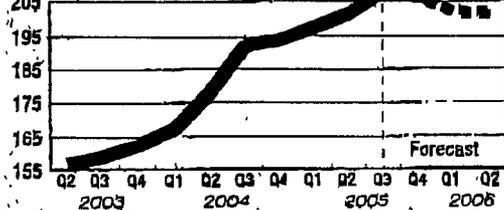
"Total construction starts for the U.S. are still expected to rise about 6% in 2005, even with the loss of new construction activity in the Gulf region," says Robert Murray, chief economist for McGraw-Hill Construction of which

**Katrina will aggravate existing tight markets and spot shortages**



SOURCE: HISTORICAL DATA BUREAU OF LABOR STATISTICS PRODUCER PRICE INDEX, FORECAST GLOBAL INSIGHT, AVERAGE QUARTERLY INDEX.

**Gypsum Products**



SOURCE: HISTORICAL DATA BUREAU OF LABOR STATISTICS PRODUCER PRICE INDEX, FORECAST GLOBAL INSIGHT, AVERAGE QUARTERLY INDEX.

**Wallboard prices already were soaring before the hurricane hit**

ENR is part. "The major uncertainty relates to the price and availability of building materials, which means in the near-term that the construction industry will continue to adjust to a higher cost structure," he adds.

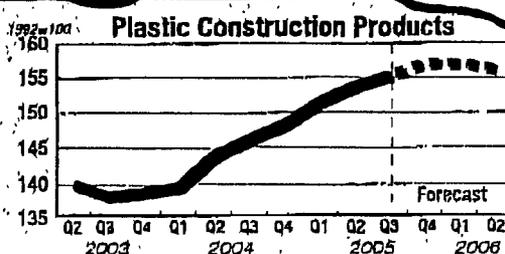
"We were seeing price increases and Katrina will push them even higher," says Karl Almstead, a vice president of Turner Construction Co., New York City. Almstead was using an annual escalation

of 7 to 8% in his estimates, but now expects 10 to 12%. "Delivery times will start to stretch out as resources are redirected to the rebuilding effort," he says. "That affects schedules and eventually prices as some people are willing to pay a premium to get delivery on time."

A recent pre-Katrina survey of 167 public owners found that 92% of the owners experienced an average increase in their project costs of 13.2% in 2004,

says John Dunkerley, chief estimator for PinnacleOne, Phoenix, which commissioned the survey. "Katrina will only aggravate those conditions," he says. "I had expected industry escalation to slip back to 5% this year. But now I'm expecting Katrina to spike it up over the next 12 to 24 months by 10 to 20% a year."

**Higher oil prices will help to prop up the cost of PVC water and sewer pipe**



SOURCE: HISTORICAL DATA BUREAU OF LABOR STATISTICS PRODUCER PRICE INDEX, FORECAST GLOBAL INSIGHT, AVERAGE QUARTERLY INDEX.

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Two other studies completed since the storm struck also see Katrina as having a major impact on construction costs. Davis Langdon, the Sacramento-based cost consultant, thinks the storm will increase overall costs for residential work 10 to 15% in the impacted region and 5 to 10% nationally over the next two years. Nonresidential building costs are expected to rise 5 to 10% locally and less than 5% nationally, says Peter Morris, principal. Specifically, Morris expects to see annual price increases in the range of 20% for lumber, 30% for panel products and 15 to 20% for gypsum wall board.

Atlanta-based program manager Boyken International Inc. says that estimates it is using over the next six months include 10 to 15% increases in home-related materials and 8 to 10% for commercial building materials.

Labor costs also will increase significantly, especially in the areas being rebuilt, according to Boyken. It expects premiums of about 20% to lure workers and management to the area. The combined higher labor and materials cost will result in a 15% rise in the cost of construction on all projects, the firm says.

#### Silver Lining

Not all industry experts agree that the cost consequences of Katrina will be so dire, at least not for some products. Before the storm, tight markets and widespread regional shortages had pushed cement prices up 14.5% for the year, according to the Bureau of Labor Statistics' July producer price index. Some fear the stress from Katrina would worsen this situation. But Ed Sullivan, the chief economist of the Portland Cement Association, Skokie, Ill., thinks the affect of Katrina on the national market will be minimal.

Two cement plants in the area were shut down for 14 days as a precaution, temporarily taking 80,000 tonnes off the market. In addition, disruptions to the port of New Orleans and barge traffic on the Mississippi River disrupted another 600,000 tonnes, says Sullivan. PCA estimates that translates into 1% disruption

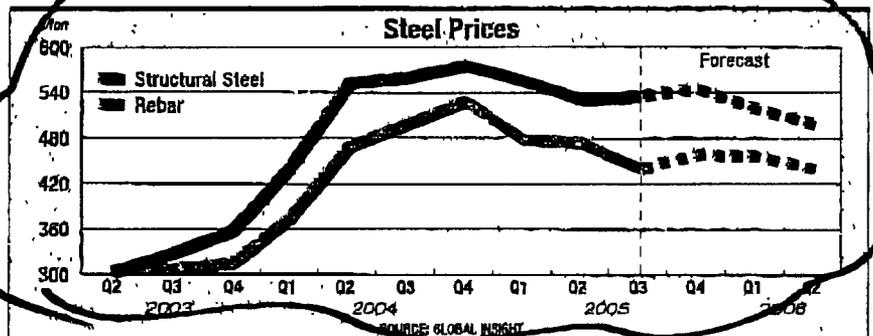
of the supply for the Northern Mississippi River region and 4% for the lower and mid-river area. "This disruption is relatively small and will be dispersed over a large area," says Sullivan.

The rebuilding of New Orleans, which was almost exclusively supplied by imports, is of greater concern, says Sullivan. There are structural limits to the amount of imports that can be brought in and imports already are maxing out at 35 million tonnes a year, he says.

The massive destruction of homes also has raised concerns about lumber and plywood prices, which reacted quickly to the crisis. Prices for 2x4 western spruce had fallen from \$460 per thousand bd ft in 2004 to \$286 by last August and

then jumped back to \$321 when the storm hit, according to Resource Information Systems Inc., a Bedford, Mass.-based forecasting firm. Likewise, prices for 7/16-in. Northeast oriented-strand board fell from \$405 per thousand sq ft in 2004 to \$245 in August before bouncing back to \$325 in reaction to Katrina.

Nashville-based Louisiana-Pacific Corp. responded by switching production at one key plant in Silsbee, Texas, from siding to OSB to produce about 7 million sq ft quickly. "We're just watching the market because we find the need for product is usually felt several weeks to months after the storm in the affected areas. We have a new OSB plant coming on line in British Columbia so we are



### Builders' Construction Cost Indexes

NAME, AREA AND TYPE	JULY 2004	OCT. 2004	JAN. 2005	APRIL 2005	JULY 2005	PERCENT CHANGE QUARTER	PERCENT CHANGE YEAR
<b>GENERAL-PURPOSE COST INDEXES</b>							
ENR 20-City: Construction Cost <sup>1</sup>	863.40	880.89	879.34	884.75	890.92	+0.9	+4.1
ENR 20-City: Building Cost <sup>1</sup>	594.02	611.14	608.70	618.07	621.21	-0.7	+4.8
BURec: General Buildings <sup>2</sup>	261.00	256.00	267.00	270.00	NA	NA	NA
Factory Mutual Industrial <sup>3</sup>	216.00	NA	222.00	NA	232.00	+2.3	+7.4
Lee Saylor Inc.: Material/Labor <sup>4</sup>	662.89	674.06	685.65	688.06	690.10p	+0.4	+4.2
Means: Construction Cost <sup>5</sup>	143.70	145.30	148.70	149.30	151.60	+1.5	+6.5
SmithGroup <sup>6</sup>	135.66	137.80	138.18	138.73	139.98	+0.7	+2.7
<b>SELLING PRICE INDEXES—BUILDING</b>							
The Austin Co.: Industrial <sup>1</sup>	566.29	577.90	NA	NA	NA	NA	NA
Lee Saylor Inc.: Subcontractor <sup>4</sup>	694.99	710.58	742.18	759.54	771.51p	+1.8	+14.0
Turner: General Building <sup>1</sup>	682.00	680.00	691.00	704.00	726.00	+3.1	+9.7
Rider Hunt Levett & Dalley <sup>7</sup>	110.42	112.64	114.20	115.81	117.50	+1.5	+6.4
<b>VALUATION INDEXES</b>							
Boedler: Commercial/Manufacturing <sup>1</sup>	616.91	640.50	650.40	656.03	662.67	+1.0	+7.4
Marshall & Swift Industrial <sup>2</sup>	147.50	151.00	153.90	154.70	156.10	+0.9	+5.8
M&S Eastern Region	148.40	151.90	154.50	155.60	157.50	+1.2	+6.1
M&S Central Region	150.20	153.60	156.60	157.20	158.60	+0.9	+5.0
M&S Western Region	143.60	147.60	150.30	151.10	151.00	+0.5	+5.8
<b>COMMERCE RESIDENTIAL BUILDING COST INDEXES</b>							
New Single-Family <sup>3</sup>	141.40	143.30	144.50	143.90	146.90	+2.1	+3.9
New Single-Family Price Deflator <sup>4</sup>	142.70	144.80	145.60	145.70	148.50	+1.9	+4.1

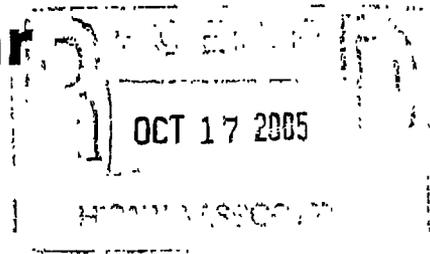
<sup>1</sup>BASE: 1987=100; <sup>2</sup>BASE: 1977=100; <sup>3</sup>BASE: 1980=100; <sup>4</sup>BASE: 1993=100; <sup>5</sup>BASE: 1992=100; <sup>6</sup>BASE: 1996=100; <sup>7</sup>BASE: APRIL 2001=100. P=PRELIMINARY. JULY REPRESENTS JUNE DATA.



# Southern Star

## NOTICE OF PRICE CHANGE

October 1, 2005



Dear Valued Customers:

As you are no doubt aware, 2005 has been a very turbulent year in our industry - raw materials and transportation have been in short supply and prices have been escalating rapidly, and the cost of diesel fuel has sky-rocketed with no end in sight.

Despite these problems, we expect 2006 to be a banner year for our industry, and we anticipate construction activity to near all-time highs.

Unfortunately, our costs will continue to escalate at an unprecedented rate. Southern Star Concrete is committed to taking every action possible to satisfy our customers' needs, even if that requires us to purchase from alternative sources at much higher material prices and premium transportation rates.

However, major increases have already been announced in the price of cement, coarse and fine aggregate, and all forms of transportation between now and January 1, 2006. These increases will immediately impact our mix cost by an unprecedented amount, before taking into account the increased cost of fuel, energy or wages.

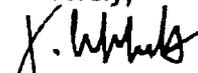
The magnitude of these increases, coupled with our determination to avoid any interruption of service for our customers, force us to implement the following price increase.

Effective immediately, the price of all concrete mixes for new work in the DFW market will be increased by \$8.00 / cubic yard. In addition, effective November 1, 2005, our freight surcharge will increase from 3% to 4%.

We will protect pricing on current projects that are already under construction. However, it is imperative that all future work with concrete to be placed after January 1, 2006 be bid with the new price.

If you have questions concerning the status of one of your projects, please contact your Southern Star Concrete representative immediately.

Sincerely,

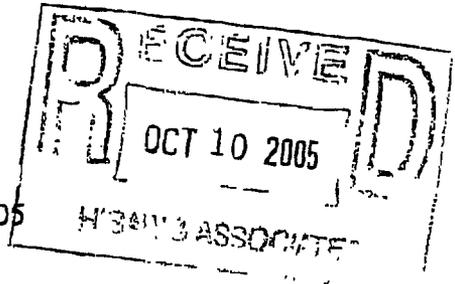
  
Tommy Abbott  
Regional Manager  
DFW Division

Southern Star Concrete, Inc.  
8500 Freeport Pkwy #200 Irving, Texas 75063  
Main: 972-621-0999 [www.southernstarconcrete.com](http://www.southernstarconcrete.com)

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**EASTER & SONS SUPPLY**  
DIVISION OF HAJOCA CORPORATION  
10431 MILLER ROAD  
DALLAS, TEXAS 75238  
(214) 343-1888 FAX (214) 343-3607



October 5, 2005

Dear Friends:

The plastic pipe and fittings market has changed dramatically in the last several weeks. ~~The attached information from two of our key vendors~~ details the situation and the subsequent impact on both availability and pricing. Please know we are doing everything we can to maintain sufficient inventories for you, our loyal customers, at the best pricing available.

We suggest you make the necessary adjustments to your estimating programs and with your customers to minimize the impact of these market changes. We will continue to provide you with any relevant information we receive until the market stabilizes.

We appreciate your business and are working hard to earn even more of your trust.

Sincerely,

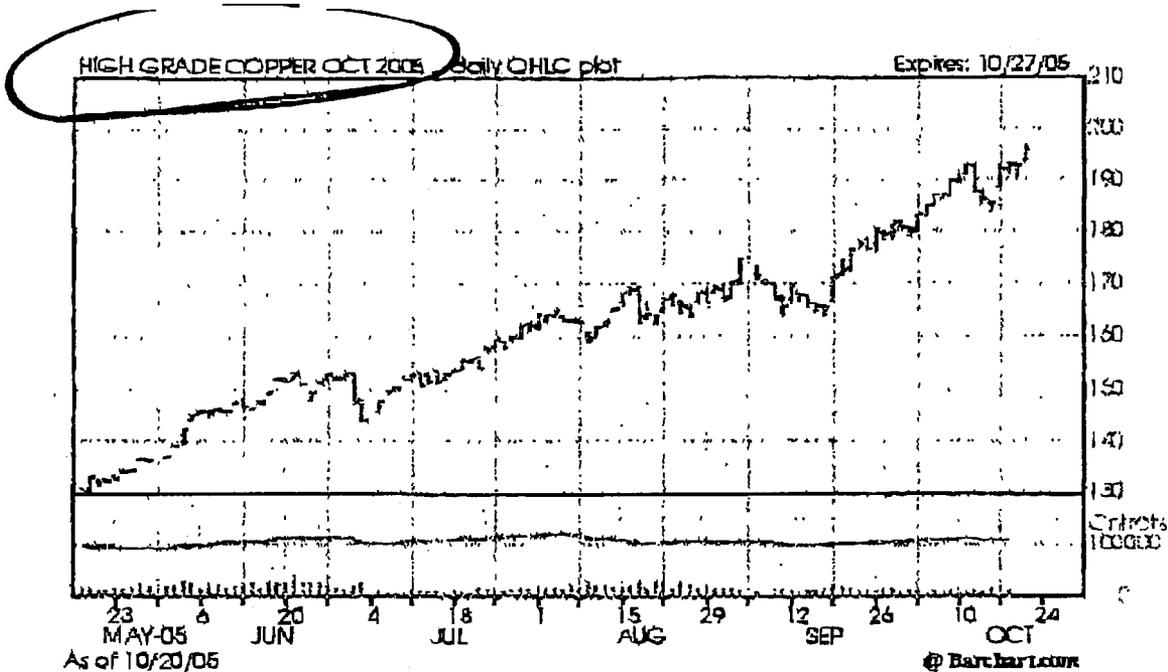
Eddie G. Rhoads  
North Texas Region Manager

EGR/ikt

Enclosures

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As of 10/20/05

@ Barchart.com

Today 10/20/05 196.00  
 Sept 26 close 172.00  
 Aug 19 close 164.05  
 July 25 close 152.00  
 June 20 close 144.00

One month 7.166% INCREASE

\$81.45 } COPPER  
 71.90 }  
~~100.00~~

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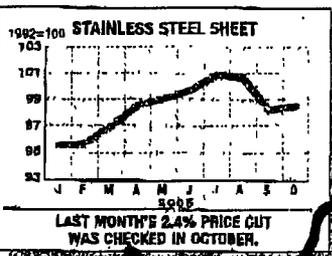
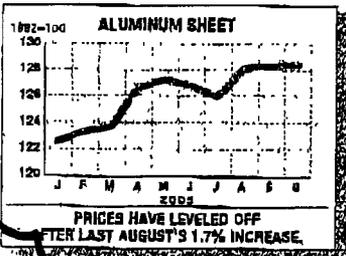
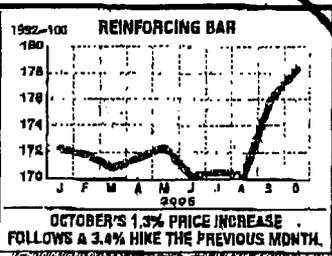
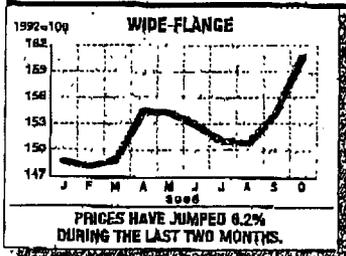
# Steel Prices Rebound After Summer Declines

Steel prices are increasing after falling for most of the summer. In October, ENR's average price for channel, wide-flange and I-beams rose 4%, following a 3% increase in September. The combined hikes pushed prices 9% above a year ago and 42% above October

2003's level. Prices for reinforcing bar also are on their way back up. ENR's 20-city average price for grade-60 rebar jumped 5% during the last two months. The rebound lifted prices 2% above October 2004 when they posted a year-to-year increase of 43%.



## ENR's Materials Price Indexes



SOURCE: ENR CONSTRUCTION ECONOMICS DEPT.

## 20-City Average

ITEM	UNIT	PRICE	% CHG. MO.	% CHG. YEAR
<b>STANDARD STRUCTURAL SHAPES: AVERAGE</b>				
Channel beams, 8" DEEP, 8.2 LB/LF	cwt	34.88	+2.0	+9.7
I-beams, 8" DEEP, 12.5 LB/LF	cwt	37.86	+3.9	+10.1
Wide-flange, 8" DEEP, 31 LB/LF	cwt	38.18	+4.2	+8.0
<b>REINFORCING BARS:</b>				
Grade 60, #4	cwt	35.80	+1.3	+2.1
Epoxy-coated	cwt	52.46	+2.0	+1.7
<b>HOT-ROLLED CARBON STEEL PLATE:</b>				
12 gauge, 48" X 10'				
Std diamond mesh, 3.4 LB/SY, GALVANIZED	cwt	197.25	+1.3	+5.2
Flat-ribbed, 3.4 LB/SY	cwt	214.13	+0.1	+0.7
<b>BUILDING SHEET &amp; PLATE:</b>				
Aluminum sheet, 3003H14, 36" X 96"	cwt	160.70	+0.1	+5.4
<b>STAINLESS STEEL SHEET:</b>				
14 gauge				
16 gauge	cwt	138.37	+0.3	+2.6
20 gauge	cwt	142.05	+0.4	+2.6
<b>STAINLESS STEEL PLATE:</b>				
304, 1/4", 72" X 240"				
316, 1/4", 96" X 140"	cwt	215.27	+1.1	+12.1
<b>STEEL PILING: H-PILE</b>				
HP10 x 42	cwt	26.32	+2.3	+6.3

## Canada

ITEM	UNIT	LOS ANGELES	MINNEAPOLIS	NEW ORLEANS	NEW YORK	PHILADELPHIA	PITTSBURGH	ST. LOUIS	SAN FRANCISCO	SEATTLE	MONTREAL	TORONTO
<b>STANDARD STRUCTURAL SHAPES: AVERAGE</b>												
Channel beams, 8" DEEP, 8.2 LB/LF	cwt	34.19	35.00	33.02	43.93	43.93	30.67	37.69	34.49	33.89	58.67	57.95
I-beams, 8" DEEP, 12.5 LB/LF	cwt	35.85	39.77	32.05	38.70	38.70	30.00	37.66	33.08	27.52	59.00	55.95
Wide-flange, 8" DEEP, 31 LB/LF	cwt	34.01	32.42	35.20	41.59	41.59	30.00	36.85	34.28	33.40	60.00	57.95
<b>REINFORCING BARS:</b>												
Grade 60, #4	cwt	35.10	46.50	34.00	45.00	32.25	38.00	42.50	35.46	34.00	70.00	-
Epoxy-coated	cwt	51.08	51.50	-	54.00	49.75	48.00	55.50	51.28	-	120.00	-
<b>HOT-ROLLED CARBON STEEL PLATE:</b>												
12 gauge, 48" X 10'												
<b>EXPANDED METAL LATH:</b>												
Std diamond mesh, 3.4 LB/SY, GALVANIZED												
Flat-ribbed, 3.4 LB/SY	cwt	212.94	165.00	207.40	294.25	291.50	-	-	193.72	+170.00	-	-
<b>BUILDING SHEET &amp; PLATE:</b>												
Aluminum sheet, 3003H14, 36" X 96"												
STAINLESS STEEL SHEET:	cwt	157.49	149.00	163.88	133.10	133.10	149.00	-155.71	158.42	+174.00	+275.00	209.00
14 gauge												
16 gauge	cwt	136.79	142.00	157.20	127.30	127.30	137.00	+132.31	138.11	144.42	-120.88	290.78
20 gauge	cwt	140.58	143.00	162.00	128.10	128.10	138.00	+133.06	140.94	157.74	-120.88	290.78
<b>STAINLESS STEEL PLATE:</b>												
304, 1/4", 72" X 240"												
316, 1/4", 96" X 140"	cwt	141.01	150.00	165.00	132.75	132.75	141.00	+139.61	141.66	145.04	-140.86	290.78
<b>STEEL PILING: H-PILE</b>												
HP10 x 42	cwt	24.11	-	25.00	20.00	20.00	-	-	24.35	26.50	-60.00	40.00

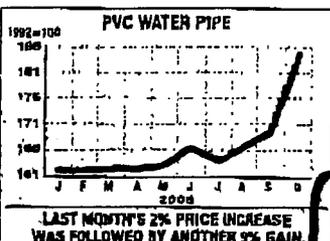
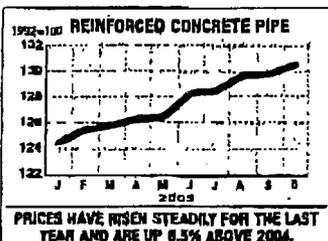
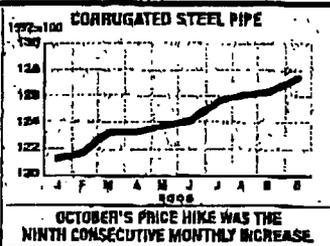
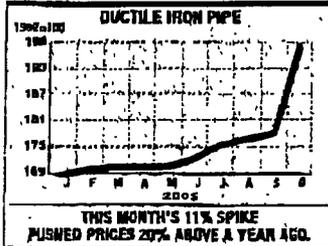
Prices listed are most accessible in a city. All quantities are truckloads unless noted. Quotes for Montreal and Toronto are in Canadian dollars and metric units. The above prices are not intended to represent the prevailing or average price in a city but are designed to track price movement from a single source for a given quantity and specification over time.

# Plastic, Iron and Copper Pipe Prices Soar

Pipe producers have apparently reacted quickly to the surge in crude oil prices and supply disruptions and increased demand resulting from Hurricanes Katrina and Rita. Prices for sewer and water PVC pipe jumped between 9 and 16% this month. The largest

gain was for PVC 4-in.-dia sewer pipe, which is now 28% above 2004's level. Ductile iron pipe made monthly gains between 7 and 11%, pushing price more than 20% above a year ago. Copper water tubing prices also posted large increases (see table below).

## ENR's Materials Price Indexes



SOURCE: ENR CONSTRUCTION ECONOMICS DEPT.

## 20-City Average

ITEM	UNIT	PRICE	% CHG. MO.	% CHG. YEAR
<b>REINFORCED CONCRETE PIPE (RCP):</b>				
12"	ft	10.85	+0.2	+6.4
24"	ft	23.25	+0.5	+5.8
36"	ft	47.50	+0.1	+6.8
48"	ft	79.08	+0.3	+8.2
<b>CORRUGATED STEEL PIPE:</b>				
12"	ft	7.40	+1.7	+9.5
36"	ft	23.01	+0.9	+9.1
60"	ft	58.04	+1.9	+8.2
<b>VITRIFIED CLAY PIPE (VCP): PREMIUM JOINT</b>				
12"	ft	12.42	+9.9	+11.1
24"	ft	49.73	0.0	+0.4
<b>POLYETHYLENE PIPE (PE): UNDERDRAIN</b>				
4"	ft	0.75	+19.5	+39.0
<b>POLYVINYLCHLORIDE PIPE (PVC): SEWER</b>				
4"	ft	1.44	+15.5	+27.7
8"	ft	4.42	+9.4	+17.2
Water, 6"	ft	4.89	+12.8	+21.0
8"	ft	8.04	+8.9	+15.0
12"	ft	16.70	+8.9	+15.7
<b>DUCTILE IRON PIPE (DIP):</b>				
6"	ft	11.78	+7.0	+19.7
8"	ft	18.99	+10.9	+20.2
12"	ft	27.50	+11.3	+22.1
<b>COPPER WATER TUBING: L</b>				
1/2"	ft	1.25	+10.9	+15.4
1 1/2"	ft	4.05	+6.0	+19.8

Change per mo

## Sewer, Water and Drain Pipe

## Canada

ITEM	UNIT	LOS ANGELES	MINNEAPOLIS	NEW ORLEANS	NEW YORK	PHILADELPHIA	PITTSBURGH	ST. LOUIS	SAN FRANCISCO	SEATTLE	MONTREAL	TORONTO
<b>REINFORCED CONCRETE PIPE (RCP):</b>												
12"	ft	10.22	15.00	10.00	12.35	8.14	11.75	7.24	10.47	+11.80	80.75a	49.10a
24"	ft	22.04	27.10	23.92	19.47	13.29	20.50	17.15	22.38	+24.00	220.30a	93.40a
36"	ft	45.92	65.20	48.68	42.12	25.24	47.00	38.05	48.01	+48.50	429.75a	260.20a
48"	ft	74.92	113.50	80.00	65.00	41.05	75.00	60.90	75.19	+84.90	692.20a	430.60a
<b>CORRUGATED STEEL PIPE:</b>												
12"	ft	7.02	7.00	7.38	5.86	5.50	6.95	6.30	7.35	+11.73	—	54.51a
36"	ft	21.52	25.00	20.10	26.90	18.75	19.77	19.08	24.04	+33.89	—	183.10a
60"	ft	54.99	50.00	45.70	68.11	48.00	57.00	54.59	59.68	+85.00	172.95	311.14a
<b>VITRIFIED CLAY PIPE (VCP): PREMIUM JOINT</b>												
12"	ft	11.01	8.93	—	15.82	+25.00	8.88	7.71	11.09	15.88	—	—
24"	ft	47.04	41.11	—	—	54.75	+3.35	41.81	47.96	54.74	—	—
<b>POLYETHYLENE PIPE (PE): UNDERDRAIN</b>												
4"	ft	0.54	+0.79	+1.29	+0.92	+0.92	0.95	0.56	0.58	+1.02	—	0.35a
<b>POLYVINYLCHLORIDE PIPE (PVC): SEWER</b>												
4"	ft	1.09	+1.09	+1.48	+1.25	+1.25	+1.18	+1.10	1.18	1.18	6.89 b	7.71
8"	ft	3.54	+5.15	+4.32	+4.60	+4.60	+3.81	+4.30	3.60	4.20	23.51b	25.01
Water, 6"	ft	3.91	+5.68	+5.57	+5.80	+5.80	+5.74	+5.33	4.08	+4.87	35.53b	38.13
8"	ft	6.37	+9.85	+8.08	+9.81	+9.81	+9.87	+9.21	7.01	7.00	52.32b	53.14
12"	ft	19.70	+20.88	+17.48	+21.05	+21.05	+21.23	+19.54	14.98	14.49	108.35b	112.85
<b>DUCTILE IRON PIPE (DIP):</b>												
6"	ft	10.20	+13.68	+13.77	+19.36	+15.85	+10.99	+11.08	10.47	14.75	38.14	81.23a
8"	ft	17.07	+19.85	+17.70	+26.69	+22.80	+15.00	+15.14	17.36	17.40	55.35	81.91a
12"	ft	29.92	+31.14	+25.33	+44.12	+38.50	+24.45	+24.69	24.06	+23.48	94.34	114.32a
<b>COPPER WATER TUBING: TYPE L</b>												
1/2"	ft	1.04	2.05	1.08	+0.77	+1.07	+0.88	-1.11	1.08	+1.10	4.38	7.08
1 1/2"	ft	3.22	8.19	3.24	+3.06	+4.29	+3.42	+4.40	3.35	+4.45	18.62	15.42

(continued from p. 25) pipe is plain galvanized: 12-in. is 16-gauge, 36-in. is 14-gauge, 60-in. is 12-gauge. VCP pipe is ASTM C700, ES. PE pipe is M252, perforated and corrugated. PVC sewer pipe is ASTM D-3024, SDI-35. PVC water pipe is C900, CL 150. DIP pipe is CL 150 with a push-on joint. Copper water tubing pipe is hard and 1/4. The above prices are not intended to represent the prevailing or average price in a city but are designed to track price movement from a single source for a given product quantity and specification over time. Prices for PVC sewer 4" and 8", and PVC water 6", 8" and 12" for Toronto are per meter.

ad

Preliminary Open Meeting Item IV.

Oral Presentation re Conceptual Design  
For Oak Point Park and Nature Preserve  
Don Wendell

IVa

# MEMO

**DATE:** February 6, 2006

**TO:** Honorable Mayor and City Council  
City Manager Muehlenbeck

**FROM:** Di Zucco, Assistant City Secretary 

**RE:** Personnel Appointment - Executive and Worksession Meetings

The following appointments will be considered on February 13, 2006.

<p><b><u>Executive Session</u></b> No items to consider</p>	<p><b><u>Worksession Meeting</u></b></p> <p><b><u>Civil Service Commission</u></b> 1 Interim Term – expires 10-07 Resignation of Howard Apple</p> <p><b><u>Keep Plano Beautiful Commission</u></b> 1 Interim Term – expires 10-06 Resignation of Melva A. Comer</p>
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Vh

**Discussion/Action Items for Future Council Agendas  
(as of February 7, 2006)**

***Additional rescheduling of Council meetings may be necessary due to elections and the PISD calendar. These changes will be made as soon as the dates are confirmed.***

**February 27**

Dart Report  
Mobility Report  
Comprehensive Monthly Financial Report  
Animal Shelter Committee Report  
MP3 Presentation

**Public Hearing:** Comprehensive Plan Amendment - Request to amend the Housing Element of the Comprehensive Plan and include a policy statement with guidelines for reviewing zoning requests for infill housing. **Applicant: City of Plano**

**Public Hearing:** Zoning Case 2005-50 - A request to amend Subsection 2.502 (Schedule of Permitted Uses) of Section 2.500 (Permitted Uses), and Subsection 2.822 (CB-1 – Central Business-1), and Subsection 2.823 (CE – Commercial Employment) of Section 2.800 (District Charts) of Article 2 (Zoning Districts and Uses) of the Zoning Ordinance to increase the number of multifamily dwelling units allowed by right in the CB-1 district from 1,500 to 2,300. Tabled 01/17/06. **Applicant: City of Plano**

**Public Hearing:** Zoning Case 2005-53 - A request to amend Section 3.1600 (Sign Regulations) of Article 3 (Supplementary Regulations) and related sections of the Zoning Ordinance pertaining to temporary signs. The intent of the amendment is to remove temporary signage regulations from the Zoning Ordinance. Tabled 01/17/06. **Applicant: City of Plano**

***March 6-10, PISD Spring Break***

***March 11-15, National League of Cities, Washington DC***

**March 16**

***March 25 – Plano Police Department, Perot Systems, 7 p.m.***

*VIA*

**March 27**

Dart Report  
Mobility Report  
Comprehensive Monthly Financial Report  
Discussion regarding the financial forecast

**April 10**

Keep Plano Beautiful Commission Report

**April 24**

Community Relations Report  
Dart Report  
Mobility Report  
Comprehensive Monthly Financial Report  
Volunteer Recognition - Popik

**May 8**

***May 18 – District 3 Roundtable, Davis Library Program Room, 7 p.m.***

**May 22**

Dart Report  
Mobility Report  
Comprehensive Monthly Financial Report

*May 29 – Memorial Day Holiday*

***May 30, June 1 – Council Workshop – Lyle Sumek***

***June 2 – 5, Texas City Managers Association – Corpus Christi***

**June 12**

**June 26**

Dart Report  
Mobility Report  
Comprehensive Monthly Financial Report

*July 4 – Independence Day Holiday*

*V14*

**July 24**

Dart Report  
Mobility Report  
Comprehensive Monthly Financial Report

**July 26**

**August 14**

***August 24 – District 4 Roundtable, Haggard Library Program Room, 7 p.m.***

**August 28**

Dart Report  
Mobility Report  
Comprehensive Monthly Financial Report

*September 4 – Labor Day Holiday*

***September 10 – 13, International City Management Association, San Antonio***

**September 11**

**September 25**

Dart Report  
Mobility Report  
Comprehensive Monthly Financial Report

**October 9**

**October 23**

Dart Report  
Mobility Report  
Comprehensive Monthly Financial Report

***October 25-28, Texas Municipal League, Austin, Texas***

VIC

***November 9 – District 2 Roundtable Plano Sports Authority StarCenter, 7 p.m.***

**November 13**

*November 23, 24 – Thanksgiving Holidays*

**November 27**

Dart Report

Mobility Report

Comprehensive Monthly Financial Report

***December 5 - 9, National League of Cities, Reno, Nevada***

**December 11**

***December 14, City of Plano Employee Holiday Luncheon, Plano Centre, 11 am – 1 pm***

**December 19**

Dart Report

Mobility Report

Comprehensive Monthly Financial Report

*December 22, 25 Christmas Holidays*

*January 1, 2007 – New Year Holiday*

*vid*



**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>2/13/06</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>	1/31/06
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>				
Special Recognition: American Public Works Association Accreditation of the Public Works and Engineering Departments				
<b>FINANCIAL SUMMARY</b>				
<input 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
<b>BALANCE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
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>2/13/06</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>TM</i>	<i>2/13/06</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>				
Proclamation: Engineers Week - 2006				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
<b>FISCAL YEAR:</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	0	0
<b>BALANCE</b>	0	0	0	0
<b>FUND(s):</b>				
<b>COMMENTS:</b>				
<b>SUMMARY OF ITEM</b>				
<b>List of Supporting Documents:</b>		<b>Other Departments, Boards, Commissions or Agencies</b>		

**PLANO CITY COUNCIL  
PRELIMINARY OPEN MEETING  
January 23, 2006**

**COUNCIL MEMBERS**

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

**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 Attorney  
Elaine Bealke, City Secretary

Mayor Evans called the meeting to order at 5:08 p.m., Monday, January 23, 2006, in Training Room A of the Municipal Center, 1520 K Avenue. All Council Members were present with the exception of Council Member Stahel. 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 for which a certified agenda is not required.

Mayor Evans reconvened the meeting back into the Preliminary Open Meeting at 5:47 p.m. in the Council Chambers where the following matters were discussed:

**Consideration and Action Resulting From Executive Session Discussion:**

Nothing was brought forward.

**DART Report**

No report was presented.

**Mobility Report**

Transportation Engineering Manager Neal spoke to the red light camera program and a thirty-day warning period to begin on January 30. He stated that cameras will be located at the intersections of Spring Creek Parkway and Custer Road; Legacy Drive and Dallas Parkway; 15<sup>th</sup> Street and Independence Drive; and Park Boulevard and Ventura Drive.

Mr. Neal stated that each intersection has a high incidence of red light running. He responded to the Council that the state is seeking an opinion from the attorney general regarding the use of red light cameras on state roads and that new locations may possibly be added in the future. Mr. Neal further responded to the Council regarding the deployment of the 2070 traffic controllers and the resulting improvement of traffic conditions, and stated that the 2006 HAL/HARS Program looks at the accident picture of the City as a whole. He responded to the Council regarding the use of video detectors at intersections and stated that the program is going well.

### **Comprehensive Monthly Financial Report**

Finance Director McGrane presented the Comprehensive Monthly Finance Report for the month of December and spoke to funds being ahead of budget, stated that expenditures are at or slightly above budget, unemployment rates are slightly up, sales tax is up and spoke to city sales tax comparisons, stated that building values are up, and further spoke to the Hotel Motel Occupancy tax performing well. He spoke to the treasury pool equities, investment portfolio performance, and to the upcoming bond sale next month.

### **Discussion and Direction Regarding Acquisition of Park Property**

Nelson McCord, Jr., citizen of the City, spoke to the Council regarding a portion of his property encroaching upon City property allocated to the Parks and Recreation Department. He spoke to obtaining a document from the City stating that there would be no use of this land in the future by the City, stated that he has offered to buy the encroaching property but was advised that park land cannot be sold outright. Mr. McCord spoke to holding an election in conjunction with the upcoming General Election to authorize this transaction and further spoke to the possibility of selling his property and making major modifications in the amount of \$12,000 to resolve the encroachment.

City Engineer Upchurch reviewed slides of the property, spoke to other situational encroachments, and stated that an outright release of the property cannot be given by the City. He spoke to the alternatives and the requirement of holding a Chapter 26 Public Hearing followed by a City special election to acknowledge the encroachment and approve the sale of the park land. City Attorney Wetherbee clarified regarding public access no longer being provided the public with this action taken and stated that a license agreement would not provide an outright conveyance. Mr. Upchurch responded to the Council that there was no down-side to no longer retaining this property for park use, spoke to the value of the property and to possible expenses involved. The Council concurred there was no objection to placing this item on the ballot and spoke to providing clear ballot language.

### **Discussion and Direction Regarding Renaming Shiloh Road Between Park and Parker**

Planning Director Jarrell spoke to the request for an agenda item to consider renaming the section of Shiloh Road between Park Boulevard and Parker Road to Spring Creek Parkway.

Ms. Jarrell spoke to the policy for street name changes being for public safety reasons, stated that there is currently one Shiloh Road address in the area which belongs to the school district and that this building would require a new address assignment. She advised that caution is always taken due to data base changes and required 911 system updates. Ms. Jarrell also spoke to existing Spring Creek Parkway being an east/west street with different address sequencing than is assigned to Shiloh Road which is a north south street. The Council discussed the long path of the existing Spring Creek Parkway and various reasons to change the name of the street.

Jim Norton, citizen of the City, reviewed the history of future Shiloh Road expansion and stated it was initially looked at fifteen years ago. He spoke to the existing Spring Creek Parkway being the major street connecting to Parker Road and to the potential for confusion when the street becomes Shiloh Road, and to the belief that there are no safety concerns with the name change.

Ms. Jarrell spoke to approving this request by the adoption of an ordinance, making data base changes, and to notifying the appropriate parties. She stated that major thoroughfares are appropriate for making this type of change, and that safety issues are primary. Ms. Jarrell stated that the Outdoor Learning Center with the Plano Independent School District has a current Shiloh address and is located in this area and that the Fire Department did express concern regarding the change. The Council concurred to the name change.

### **Presentation Regarding the Expansion of the Custer Transfer Station and Drought Update**

Environmental Waste Services Manager Nevil spoke to presenting information regarding a plan update for the Custer Road Transfer Station located at Custer Road and Ridgeview Drive.

Operations Manager Joe Stankiewicz of the North Texas Municipal Water District advised that the District operates the solid waste transfer and disposal system for the member cities of Plano, Richardson, McKinney, Allen, and Frisco. He spoke to the charge of a long range plan, the study of the transfer station and to the purpose to include increasing the operating efficiency of the system. Mr. Stankiewicz stated that the study recommendations include developing a regional composting program, utilizing the Custer Transfer Station as a drop off point for member city yard waste, and also expanding the Station. He stated that the transfer station is approaching capacity and is utilized for solid waste disposal and further stated that continued growth in the area is going to require additional capacity. Mr. Stankiewicz stated that the Texas Commission on Environmental Quality could issue a permit for this expansion in 2006 allowing the project to be bid in May with construction beginning in the summer of 2006. He spoke to changes in the operating mode to top loading.

City Manager Muehlenbeck spoke to calling for a higher degree of landscaping and irrigation and to better maintenance of blowing paper around the station. Mr. Stankiewicz stated this is being looked at and further responded to the Council that the expansion is towards Custer Road and that no change in truck routes will be made. He stated that this will be the last expansion at this site, and that the Parkway site has plans only for conversion to a top load facility.

Director of Public Works Foster spoke to the existing drought, and stated we are below conservation pool level.

Mike Rickman, North Texas Municipal Water District Executive Assistant, spoke to the drought across this area of the country, stated that this is the driest year since the 1950s in the Dallas Fort Worth area, and spoke to not seeing any immediate relief in sight. He stated that the lakes and reservoirs are down, spoke to the district's conservation plan, a contract to acquire additional water, building an East Fork Reuse Project which will provide another lake, the Lower Bois d'Arc Creek Reservoir Project, Lake Texoma water use requiring a blended mixture of water, spoke to the NTMWD Water Conservation and Drought Contingency Plan to raise public awareness and to future plans to address the drought with possible emergency action taken. Mr. Rickman spoke to meeting with member cities and to forming a task group with a goal to develop a common conservation message and to educating the public. He responded to the Council regarding obtaining additional water and stated that the growth in the service area requires adding the equivalent of another Lake Lavon in the next five years.

Nothing further was discussed. Mayor Evans convened directly into the Regular Meeting at 7:13 p.m. No recess was taken.

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**Pat Evans, MAYOR**

ATTEST:

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Elaine Bealke, City Secretary

**PLANO CITY COUNCIL**  
**January 23, 2006**

**COUNCIL MEMBERS**

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

**STAFF**

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

Mayor Evans convened the Preliminary Open Meeting directly into the Regular Session on Monday, January 23, 2006, at 7:13 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present with the exception of Council Member Stahel.

The invocation was led by Pastor Larry Murray of the Plano Bible Chapel.

The Pledge of Allegiance was led by Brownie Troop 1688 of St. Mark's Catholic School.

Mayor Evans presented special recognitions to the Public Safety Communications Department for accreditation through the Commission on Accreditation for Law Enforcement Agencies (CALEA), the 2005 MP3 Class, Alan Birkelbach – Texas Poet Laureate and Park Place Lexus – 2005 Malcolm Baldrige Award Winner. She further recognized William E. Peterson Day, Heart Awareness Month – February, 2006 Wear Red for Women Day – February 3, 2006 and Henry Gentry - Forrest Mock Award.

Mayor Evans administered oaths of office to John Jeffrey Weeks as a member of the Building Standards Commission and Brian Chaput as a member of the Heritage Commission.

The Council resumed discussion of the Preliminary Open Meeting.

### Collin and Denton County Election Update

City Secretary Bealke stated that the Collin County Elections Administrator advised the City in November 2005 that effective immediately they would no longer be conducting the Denton County portion of the City's elections. She spoke to their advising that it was problematic, and to discussions with Denton County who stated they would not provide a full-service contract. Ms. Bealke advised that Denton County later advised they would provide a contract but that a third-party administrator would be needed at an estimated cost of \$14,000 over and above the normal expenditure and that the total fees would be \$3,000 more than those of Collin County. She stated concern that this expense would place the City over budget and that depending on the number of ballot issues and entities conducting the election the cost could reach \$100,000. Ms. Bealke spoke to Denton County not utilizing the same equipment and possible voter confusion, different election reports from the two counties, possible delays in receiving results and the possibility that the City may be required to use polling locations throughout Denton County. She spoke regarding Dallas County continuing to provide services for those cities with residents in more than one county and stated that the Secretary of State has contacted Denton County, but has no jurisdiction over variable costs. Ms. Bealke advised that the 2,200 registered voters from Denton County currently vote at Brinker Elementary School.

City Manager Muehlenbeck spoke to Collin County discontinuing their provision of services and the cost estimates given Denton County. He spoke regarding the county providing election services in order to consolidate costs and save money for all entities. Mr. Muehlenbeck advised that he has not yet received additional information from Collin County and stated that this item is to provide information to the Council. He advised that affected voters would be changing both their location and equipment and spoke to efforts to make the County Judge aware of the situation. Mr. Muehlenbeck and Ms. Bealke spoke to the complications of leasing machines, securing poll workers and being out of the office should the City conduct the election.

Ms. Bealke stated that currently anyone in the City can vote at any early voting location and advised that should the Denton County portion be conducted separately, voters will need to go to those locations and advised that for this year, the Parr Library has been secured as a temporary election day site for Denton County voters. She spoke to the benefits of one county conducting the elections and to provide quality service to the citizens.

Council Member LaRosiliere spoke to contacting members of the Collin County Elections Commission and Mayor Evans spoke to other entities facing the same problems. Council Member Magnuson requested information regarding the number of Denton County voters who participate in elections. City Manager Muehlenbeck responded to Council Member Ellerbe stating that if there were no alternatives, the cost provided by Denton County would still apply.

City Manager Muehlenbeck advised that Staff would follow up and bring back a response to the Council.

### Personnel Appointment – Keep Plano Beautiful Commission

The Council deferred appointment at this time.

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

Deputy Mayor Pro Tem Johnson requested that a special called worksession be held on Monday, February 6, 2006, in order to consider a resolution supporting the North Texas Tollway Authority's proposal related to S.H. 121. He spoke to the proposal going to the Regional Transportation Council on February 9, 2006.

Mayor Evans requested an item be placed on the next agenda to consider the election of a Mayor Pro Tem and Deputy Mayor Pro Tem along with committee assignments.

### Consent and Regular Agenda

Citizen Sonja Hammar requested Consent Agenda Items "R," a resolution to approve the establishment of a Chapter 380 grant for Legacy Drive and "AA," an ordinance to amend sections of Chapter 15, Parks and Recreation of the City of Plano Code of Ordinances, by revising language related to alcoholic beverages and fires be removed for individual consideration.

### Council Reports

Council Member Callison spoke to participation with the Keep Plano Beautiful Commission in the Litter Patrol Index Count and spoke to how clean the City is.

Council Member Magnuson advised that she and Council Member Ellerbe have meet with the Downtown Task Force and encouraged more merchants to participate. Ms. Magnuson advised that the next meeting will be held on February 1, 2006.

Council Member Magnuson spoke regarding attendance by several Council Members at the Collin County Taiwanese Chamber of Commerce Lunar New Year's Dinner. Mayor Evans advised that ninety percent of that organization's members are residents of the City of Plano.

### **GENERAL DISCUSSION**

Jack Lagos, citizen of the City, spoke to the lack of a certified audit of the financial records from the Arts of Collin County Commission and to the Council not receiving it as directed in the bylaws.

## **BOARD/COMMISSION REPORTS**

### **Transportation Advisory Committee**

Chair Michael Coleman advised that the board has updated and refined procedures for the Safe Streets Program and spoke regarding support for the Share the Road Campaign which addresses the importance of driver awareness of bicycles, motorcycles and pedestrians. He spoke regarding the local and regional updates provided by members of the board, discussions held regarding red light running, and the update of the School Zone Ordinance. Mr. Coleman thanked the Council for the opportunity to provide citizens a voice and encouraged them to attend. He advised in response to Mayor Evans that the board discussed the "Michigan" left turn lanes and felt they were a good solution and stated that attendance increased based on the issues coming forward.

## **CONSENT AGENDA**

Upon the request of Sonja Hammar, citizen of the City, Consent Agenda Items "R" and "AA" were removed for individual consideration.

Upon a motion made by Council Member Magnuson and seconded by Deputy Mayor Pro Tem Johnson, the Council voted 6-0 to approve and adopt all remaining items on the Consent Agenda as recommended and as follows:

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

January 9, 2006

### **Approval of Expenditures**

**Award/Rejection of Bid/Proposal: (Purchase of products/services through formal procurement process by this agency)**

**Bid No. 2006-54-C** for Fire Hydrant and Water Line Repair Parts – Groups 4-6 to Ferguson Waterworks and Hydraflo, Inc. in the total estimated annual amount of \$86,369. This item will establish an annual fixed price contract with two optional one-year renewals. [Consent Agenda Item (B)] (See Exhibit "A")

**Bid No. 2006-52-B** for the Purchase of Five (5) 12 to 14 Yard Dump Trucks from Southwest International Trucks, Inc. in the amount of \$300,475 for Utility District No. 2 and Streets Department. [Consent Agenda Item (C)] (See Exhibit "B")

**Bid No. 2006-53-B** for the Purchase of Two (2) ½ Ton Pick-Up Trucks with Slide-In Animal Transport Units from Sam Packs Five Star Ford of Carrollton in the amount of \$43,676. [Consent Agenda Item (D)] (See Exhibit "C")

**Bid No. 2006-3-B** for Carpenter Park Recreation Center HVAC Replacement to Johnson Controls, Inc. in the amount of \$272,988. [Consent Agenda Item (E)] (See Exhibit “D”)

**Bid No. 2005-245-C** for Indoor Plant Maintenance – Various Locations to Lafoy Service, Incorporated in the amount of \$49,176. This item will establish an initial term of two years with two optional one-year renewals. [Consent Agenda Item (F)] (See Exhibit “E”)

**Bid No. 2006-59-B** for the 2005-2006 Residential Street & Alley Pavement Rehabilitation Project, Zones N5 & Q4 to Jim Bowman Construction Company, L.P. in the amount of \$1,413,762. This project involves the replacement of street and alley pavement in two residential areas on the east side of the City, one bounded by Parker Road and Avenue K (Village North Addition) and the residential areas on the north and south side of Park Boulevard from Rowlett Creek to Cotton Wood Creek (Los Rios, Creekside and Ranch Estates Subdivisions). [Consent Agenda Item (G)] (See Exhibit “F”)

**Bid No. 2006-35-B** for an Integrated Software Solution to Landlogic, Inc. in the amount of \$38,078. This item is for the purchase of an integrated work order and scheduling software package for the Parks Department and includes applicable license fees for the first year, set-up, and training. [Consent Agenda Item (H)] (See Exhibit “G”)

**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).**

To authorize the purchase of two (2) Horton Medium Duty Ambulances in the amount of \$380,454 from Professional Ambulance through the Texas Association of School Board Cooperative Purchasing Buyboard Program and authorizing the City Manager to execute all documents necessary. (203-04). [Consent Agenda Item (I)]

To authorize the purchase of one (1) John Deere #744J Front End Loader in the amount of \$279,932 from RDO Equipment Company through the H-GAC Cooperative Purchasing Program contract and authorizing the City Manager to execute all necessary documents. (EM06-05) [Consent Agenda Item (J)]

To authorize the purchase of one (1) Crane Carrier Cab and Chassis in the amount of \$117,771 from Bond Equipment Company, Inc. through the Texas Association of School Buyboard Purchasing Program and one (1) Heil 32 YD Rapid Rail Automated Body in the amount of \$79,789 from Heil of Texas through H-GAC Cooperative Purchasing Program Contract and authorizing the City Manager to execute all documents necessary. (208-04; RC08-04) [Consent Agenda Item (K)]

To authorize two additional renewal periods for the purchase of Video Detection System in the estimated annual amount of \$840,000 from Paradigm Traffic Systems, Inc. through a State of Texas Catalog Information System Vendor (CISV) Contract, and authorizing the City Manager to execute all necessary documents (C104-04) (CISV Vendor No. 175220341400). [Consent Agenda Item (L)]

To authorize the purchase of rental and installation of a Xerox Docu Color Copier in the estimated total amount of \$73,631 from Xerox Corporation through a State of Texas contract, and authorizing the City Manager to execute all necessary documents. (Contract No. 985-A6). This item will provide an annual contract with two renewals. [Consent Agenda Item (M)]

To authorize the purchase of rental and installation of a Xerox 4110 Black Copier in the estimated total amount of \$78,135 from Xerox Corporation through a State of Texas contract, and authorizing the City Manager to execute all necessary documents. (Contract No. 985-A6). This item will provide an annual contract with two renewals. [Consent Agenda Item (N)]

To authorize the purchase of a Business Continuity Service in an estimated amount of \$91,000 from IBM through a Department of Information Resources (DIR) Contract, and authorizing the City Manager to execute all necessary documents. (DIR#: DIR-SC-03-226). These services will provide the City with a Data Center Recovery Plan and a Departmental Continuity Plan. [Consent Agenda Item (O)]

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

To approve the terms and conditions of an Architectural Services Contract by and between the City of Plano and GGO Architects Corp, in the amount of \$138,500 for Environmental Education Complex, and authorizing the City Manager to execute all necessary documents. [Consent Agenda Item (P)]

**Miscellaneous Purchase Authorization:**

To approve and authorize an additional services contract modification with Carter & Burgess, Inc. to provide Landscape Architectural Services in conjunction with improvements to Bluebonnet Trail Extension in an amount not to exceed \$62,230 and authorizing the City Manager to execute any and all documents necessary to effectuate the contract modification. [Consent Agenda Item (Q)]

### **Adoption of Resolutions**

**Resolution No. 2006-1-12(R):** To approve the terms and conditions of a Real Estate Contract by and between the City of Plano, Texas, and Howard D. Hamilton, Jr., for the purchase of 442 square feet of land for right of way for 15<sup>th</sup> Street and a temporary construction easement of 325 square feet, located at 802 East 15<sup>th</sup> Street, situated in the Joseph Klepper Survey, Abstract No. 213, and being a part of Lot 1, Block 20 of the J.F. Kendrick First Addition, an addition in the City of Plano, Collin County, Texas; authorizing its execution by the City Manager and providing an effective date. [Consent Agenda Item (S)]

**Resolution No. 2006-1-13(R):** To approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano and Denton County, Texas, providing terms and conditions for emergency ambulance services; authorizing its execution by the City Manager and providing an effective date. [Consent Agenda Item (T)]

**Resolution No. 2006-1-14(R):** To ratify and approve the City's expenditure of \$182,062 to Texas Air Systems for a new cooling tower to replace the existing cooling tower at the Plano Centre, the replacement due to unforeseen damage to the old cooling tower that could not be economically repaired; and approving all such actions taken by the City Manager to effectuate the purchase of the new cooling tower from Texas Air Systems, and providing an effective date. [Consent Agenda Item (U)]

**Resolution No. 2006-1-15(R):** To ratify and approve the City of Plano's expenditure of \$24,650 to Entech Corporation for installation and rental of a temporary cooling tower for the Plano Centre due to unforeseen damage to the existing cooling tower, and authorizing an expenditure of \$5,270 to Entech Corporation for an additional two week rental period; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the rental of the cooling tower from Entech Corporation; and providing an effective date. [Consent Agenda Item (V)]

**Resolution No. 2006-1-16(R):** To approve the terms and conditions of a modification to a Funding Agreement by and between ArtCentre of Plano and the City of Plano; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (W)]

**Resolution No. 2006-1-17(R):** 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 for a Green Living in Plano Residential Education Campaign; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (X)]

**Resolution No. 2006-1-18(R):** 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 for Organic Recycling/Composting with Biodegradable Plastic Bags; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (Y)]

### **Adoption of Ordinances**

**Ordinance No. 2006-1-19:** To authorize the Fire Chief to appoint or remove personnel to a position and rank immediately below the Department Head in accordance with Section 143.014 of the Texas Local Government Code; and providing a repealer clause, a severability clause and an effective date. [Consent Agenda Item (Z)]

**Ordinance No. 2006-1-20:** To determine the public use, need and necessity for the acquisition of fee simple title to a 4.290 acre tract of land out of Lot 1R, Block 1, Parker Coit addition located at the northwest quadrant of Coit Road and Parker Road, in the City of Plano, Collin County, Texas, for a Fire Station, Logistics Facility and Emergency Operations Center, and related public improvements in the City of Plano, Collin County, Texas, authorizing the City Attorney to file proceedings in eminent domain to acquire the needed real property; and providing an effective date. [Consent Agenda Item (BB)]

### **END OF CONSENT**

**Resolution No. 2006-1-21(R):** To approve the establishment of a Chapter 380 grant pursuant to the terms and conditions of a Landscaping and Maintenance Agreement for Legacy Drive by and between the Shops at Legacy (North), L.P. and the City of Plano; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (R)]

Sonja Hammar, citizen of the City, stated concern with speakers being requested to provide their addresses. She spoke to the proposed resolution benefiting the Shops at Legacy and being precedent setting as it specifically benefits this development. Ms. Hammer spoke to providing assistance to other areas of the City and requested a task force be appointed to study allocations.

City Manager Muehlenbeck spoke to this item being in the City's Capital Investment Program which went through the Public Hearing process and was adopted by the Council. He spoke to the rapid growth in the area and other entrance improvements throughout the City. Mr. Muehlenbeck spoke to discussions regarding improvements at a shopping center, improvements throughout the City and advised regarding the terms of the Chapter 380 grant.

Council Member LaRosiliere spoke to Chapter 380 grants being designed to stimulate economic development, benefits to the City and tax revenues from the Shops at Legacy going into the General Fund. City Manager Muehlenbeck spoke to this area being one of the major front doors into the City.

Upon a motion made by Council Member LaRosiliere and seconded by Council Member Callison, the Council voted 6-0 approve the establishment of a Chapter 380 grant pursuant to the terms and conditions of a Landscaping and Maintenance Agreement for Legacy Drive by and between the Shops at Legacy (North), L.P. and the City of Plano; authorizing its execution by the City Manager; and providing an effective date; and further to adopt Resolution No. 2006-1-21(R).

**Ordinance No. 2006-1-22:** To amend Section 15-1, 15-3, and 15-4 of Chapter 15, Parks and Recreation of the City of Plano Code of Ordinances, by revising language related to alcoholic beverages in Sections 15-1, 15-3 and 15-4 and fires in Section 15-3; and providing a severability clause, a repealer clause, a savings clause, a penalty clause and an effective date. [Consent Agenda Item (AA)]

Sonja Hammar, citizen of the City stated opposition to the item citing its association with scheduled events and performances at the new amphitheater in Oak Point Park. City Manager Muehlenbeck advised that the request is related to providing authority to consider a ban on fires in City parks for cookers as well.

Jim Fox, Parks Services Manager spoke to other park locations where alcoholic beverages are permitted such as golf courses. He stated that service would not necessarily occur at every event and spoke to the events being controlled by a gated ticket. City Manager Muehlenbeck spoke to the balloon festival expressing interest for their VIP tent. Mr. Fox responded to the Council, stating that he is unaware of any problems occurring since alcoholic beverages have been permitted at other locations.

Upon a motion made by Council Member Ellerbe and seconded by Deputy Mayor Pro Tem Johnson, the Council voted 6-0 to amend Section 15-1, 15-3, and 15-4 of Chapter 15, Parks and Recreation of the City of Plano Code of Ordinances, by revising language related to alcoholic beverages in Sections 15-1, 15-3 and 15-4 and fires in Section 15-3; and providing a severability clause, a repealer clause, a savings clause, a penalty clause and an effective date; and further to adopt Ordinance No. 2006-1-22.

**Resolution No. 2006-1-23(R):** To accept the findings and opinions of the Annual Audit; authorizing the City Manager to publish the results thereof; and providing an effective date. [Regular Agenda Item (1)]

Director of Finance McGrane advised the Council regarding the requirement that the report be audited by an external firm. Terry Kile of Deloitte & Touche advised that results were presented fairly in accordance with generally accepted accounting principles and spoke regarding the required compliance and control testing. He spoke to there being no material weaknesses in internal controls and to recommendations being forward looking and related to upcoming accounting standards. Mr. McGrane advised regarding availability of documents to the public.

Upon a motion made by Council Member LaRosiliere and seconded by Council Member Callison, the Council voted 6-0 to accept the findings and opinions of the Annual Audit; authorizing the City Manager to publish the results thereof; and providing an effective date; and further to adopt Resolution No. 2006-1-23(R).

**Ordinance No. 2006-1-24:** To authorizing a three-year renewal of the Private Franchise Agreement by and between the City of Plano, Texas and Allied Waste Systems, Inc. d/b/a Trinity Waste Services, for collection and disposal of solid waste for commercial customers located within the City of Plano and a non-exclusive private franchise for collection of recyclable materials from commercial customers located in the City of Plano; and authorizing the City Manager to execute any and all documents necessary to effectuate this renewal; providing a repealer clause, a severability clause, a savings clause, a penalty clause and providing for publication and an effective date. (Second Reading - First Reading was held and approved on 12/20/05) [Regular Agenda Item (2)]

Upon a motion made by Council Member Magnuson and seconded by Council Member Ellerbe, the Council voted 6-0 to authorizing a three-year renewal of the Private Franchise Agreement by and between the City of Plano, Texas and Allied Waste Systems, Inc. d/b/a Trinity Waste Services, for collection and disposal of solid waste for commercial customers located within the City of Plano and a non-exclusive private franchise for collection of recyclable materials from commercial customers located in the City of Plano; and authorizing the City Manager to execute any and all documents necessary to effectuate this renewal; providing a repealer clause, a severability clause, a savings clause, a penalty clause and providing for publication and an effective date; and further to adopt Ordinance No. 2006-1-24.

There being no further discussion, Mayor Evans adjourned the meeting at 9:05 p.m.

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**Pat Evans, MAYOR**

ATTEST:

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**Elaine Bealke, City Secretary**

**PLANO CITY COUNCIL  
NEIGHBORHOOD ROUNDTABLE  
DISTRICT ONE  
January 26, 2006**

**COUNCIL MEMBERS**

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

**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  
Elaine Bealke, City Secretary

The Plano City Council met informally at 7:10 p.m., Thursday, January 26, 2006, at Plano Centre, 2000 East Spring Creek Parkway, Windhaven Room, Plano, Texas. All Council Members were present with the exception of Council Member Stahel. Mayor Evans welcomed those in attendance, introduced members of the Council and identified the Council districts. She spoke regarding Council Members being elected and serving the City at large and the benefits provided.

Park Services Manager Fox provided an overview regarding Oak Point Park and Nature Preserve improvement phases; Council Member Callison provided an overview of current Engineering projects; Council Member Ellerbe provided an overview regarding current Planning projects; Deputy Mayor Pro Tem Johnson provided an overview regarding current Public Works projects; Council Member Magnuson provided an overview of current Public Safety Police and Fire projects; and Council Member LaRosiliere provided an overview of current Public Information projects.

Mayor Evans advised regarding the questions for the meeting and those in attendance broke into groups for discussion.

**Do you agree that traffic, crime, development and property standards enforcement are still the most important issues? What other issues should be included or replace these?**

Under the basic issues of traffic, crime, development, and property standards enforcement identified on the list of discussion questions, citizens spoke regarding speeding and in particular at Williams High School, traffic congestion, drag racing, crime and problems with gangs, drugs in apartments, the need for better Police presence and additional police when children are walking home from school, and the need for stop signs. Citizens spoke to addressing parking problems in residential and multi-family neighborhoods and in front of mailboxes and fire hydrants, home rental accountability, SH 121 Tollroad concerns, too many accidents, mail box placement, power lines, property standards issues with regard to deteriorating neighborhoods, noise reduction, too many people living in one house, the need to require mandatory homeowner associations, needed development in vacant businesses, issues with bog box retail, needed Parker Road and K Avenue intersection lane markings, problems with coyotes, dollars spent for a consultant at the Plano Centre surrounding area; persons standing with sandwich type signs, creek pollution, and the bad taste of drinking water at certain times of the year.

**Can you suggest other ways to improve the existing communications options?**

Citizens spoke to the need to hold more frequent roundtables, continue expanding the Plano web site, press releases and water bill inserts, look for a method to provide apartment residents with City information, provide an information program for new citizens, more e-mail communication, communicate disaster plan, and communicate crime-watch information without delay.

**Do you feel you are getting a fair return on your tax investment? Where would you like to see additional services? Are you willing to pay for increased property taxes to pay for additional services? If not, would you want services reduced and if so, which services?**

Citizens spoke to addressing issues with taxes in general, and there being a good return on tax dollars. Citizens stated that City parks are an asset.

Mayor Evans thanked those in attendance for their input and stated that issues will be summarized and responses forthcoming from Staff. The meeting was adjourned at 9:15 p.m.

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Pat Evans, **Mayor**

Attest

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Elaine Bealke, City Secretary

**PLANO CITY COUNCIL  
SPECIAL CALLED WORKSESSION  
FEBRUARY 3, 2006**

**COUNCIL MEMBERS**

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

**STAFF**

Thomas H. Muehlenbeck, City Manager  
Frank Turner, Executive Director  
Bruce Glasscock, Executive Director  
Rod Hogan, Executive Director  
Diane C. Wetherbee, City Attorney  
Paige Mims, Assistant City Attorney  
Elaine Bealke, City Secretary

Mayor Evans called the meeting to order at 5:00 p.m., Friday, February 3, 2006, in the Council Chambers of the Plano Municipal Center, 1520 K Avenue. All Council Members were present with the exception of Council Member Stahel.

**Selection and Designation of Mayor Pro Tem and Deputy Mayor Pro Tem**

Upon a motion made by Council Member Ellerbe and seconded by Council Member Magnuson, the Council voted 6-0 to name Deputy Mayor Pro Tem Johnson as Mayor Pro Tem.

Upon a motion made by Mayor Pro Tem Johnson and seconded by Council Member Callison the Council voted 6-0 to name Council Member Magnuson as Deputy Mayor Pro Tem.

**Resolution No. 2006-2-1 (R)** of the City Council of the City of Plano, Collin County, Texas, Rescinding Resolution No. 2005-8-6(R) and Supporting the North Texas Tollway Authority Proposal to Construct, Maintain and Operate SH 121 as a Toll Road in Collin County from the Dallas North Toll Road to US 75; Authorizing Its Execution by the Mayor or, in her absence, the Mayor Pro Tem; and providing an effective date.

City Manager Muehlenbeck thanked City Engineer Upchurch for his work with the Council, the North Texas Tollway Authority, and the participating cities.

City Engineer Upchurch reviewed negotiation efforts and plans for the North Texas Tollway Authority (NTTA) to build and sponsor SH 121 as a tollroad. He spoke to provisions of the resolution which summarize the conditions put together by the NTTA in negotiations with TXDOT regarding toll revenue and excess toll revenue spending, establishment of a toll rate, and the maintenance of the service roads which would fall under the responsibility of the cities. Mr. Upchurch further spoke to negotiations with the Regional Transportation Council to develop a modified toll excess policy to fit specifically with the SH 121 Collin County project. He stated that the proposal from the NTTA will be presented to the Texas Highway Commission on February 23.

Mayor Pro Tem Johnson spoke to the good job done by all and stated that the NTTA proposal is the best solution. Council Members spoke in appreciation of work done by all involved. Mayor Evans spoke to attending the Dallas Regional Mobility Coalition meeting where the proposal was presented, stated that discussions made it clear that a decision will not be unanimous, and that there are differing opinions as to how this project should be handled. She stated that going with the NTTA proposal is the best way to accomplish a good outcome.

Upon a motion made by Council Member Callison and a second made by Deputy Mayor Pro Tem Magnuson the Council voted 6-0 to rescind Resolution No. 2005-8-6(R) and to support the North Texas Tollway Authority Proposal to Construct, Maintain and Operate SH 121 as a Toll Road in Collin County from the Dallas North Toll Road to US 75; and further to adopt Resolution No. 2006-2-1 (R).

Nothing further was discussed. Mayor Evans adjourned the meeting at 5:10 p.m.

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Pat Evans, **MAYOR**

ATTEST:

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Elaine Bealke, City Secretary



## 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>2/13/06</b>		Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
Department:	Purchasing Division			Initials	Date
Department Head	Mike Ryan			Executive Director	
Dept Signature:	<i>[Signature]</i>			City Manager	
Agenda Coordinator (include phone #):		<b>January Cook X7376</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 Bid No. 2006-61-B for the Purchase of Six (6) Pick-Up Trucks from Sam Packs Five Star Ford of Carrollton (Items 1-2 and 4-5) and Tyler Motor Company (Item 3) in the amount of \$96,012.26.					
<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:	<b>05-06</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget		0	192,000	0	<b>192,000</b>
Encumbered/Expended Amount		0	0	0	<b>0</b>
This Item		0	-96,012	0	<b>-96,012</b>
BALANCE		0	95,988	0	<b>95,988</b>
<b>FUND(S): EQUIPMENT REPLACEMENT FUND &amp; GENERAL FUND</b>					
<p><b>COMMENTS:</b> Funds are included in the FY 2005-06 adopted budget for the replacement purchase of (2) ¾ Ton Extended Cab Trucks, (1) ½ Ton Crew Cab Truck, and the new addition of (1) ¾ Ton Regular Cab Truck, (1) ½ Ton Extended Cab Truck, and (1) ¼ Ton Extended Cab Truck for various departments. The balance of funds will be used for other equipment replacement purchases.</p>					
<p><b>STRATEGIC PLAN GOAL:</b> Equipment replacement relates to the City's goal of "Service Excellence".</p>					
<b>SUMMARY OF ITEM</b>					
<p>Staff recommends bids of Sam Packs Five Star Ford of Carrollton (Items 1-2 and 4-5 in the amount of \$77,541.88) and Tyler Motor Company (Item 3 in the amount of \$18,470.38) in the total amount of \$96,012.26 be accepted as the lowest responsive responsible bids meeting specifications for the purchase of six (6) pick-up trucks. These units are approved scheduled replacements for unit #35045 (Dept. 648), unit #98171 (Dept. 648), unit #34261 (Dept. 648), and new additions to the fleet funded in the FY 05-06 budget for Animal Services (Dept. 583) and Landscape Services (Dept 646).</p>					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
Bid Recap					

B-1

**CITY OF PLANO**  
**Bid No. 2006-61-B**  
**Purchase of Six (6) Pick-Up Trucks**

**Bid Recap**

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<b>Bid opening Date/Time:</b>	1/10/06 @ 3:00 PM
<b>Number of Vendors Notified:</b>	533
<b>Vendors Submitting "NO BIDS":</b>	1
<b>Vendors Non-Responsive to Specification:</b>	None

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<u>Responsive Bidders</u>	<u>Items 1-2 and 4-5</u>	<u>Item 3</u>
Sam Packs Five Star Ford of Carrollton	<b>\$77,541.88</b>	\$19,599.60
Tyler Motor Company	\$82,241.65	<b>\$18,470.38</b>
Baby Jack II Automotive LTD	\$79,180.00	\$18,632.00
Metro Ford Truck Sales, Inc.	\$79,583.00	\$20,618.00
Dallas Dodge	\$82,614.00	\$18,484.00
Rockwall Ford	\$82,984.00	\$19,777.00
Huffines Chevrolet	\$85,307.57	\$22,194.63

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*January M. Cook*

January 19, 2006

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January M. Cook, CPPB  
Senior Buyer  
Purchasing Division

---

Date

*b-2*



**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>2/13/06</b>		Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
Department:	Purchasing Division		Initials	Date	
Department Head	Mike Ryan		Executive Director		
Dept Signature:	<i>[Signature]</i>		City Manager	<i>[Signature]</i> 2/23/06	
Agenda Coordinator (include phone #) <b>January Cook X7376</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 Bid No. 2006-66-B for the Purchase of One (1) ¾ Ton Extended Cab/Chassis with Animal Control Body from Metro Ford Truck Sales, Inc. in the amount of \$31,089.00.					
<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:	<b>05/06</b>	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	43,000	0	43,000
Encumbered/Expended Amount		0	0	0	0
This Item		0	-31,089	0	-31,089
BALANCE		0	11,911	0	11,911
FUND(S): <b>EQUIPMENT REPLACEMENT FUND</b>					
COMMENTS: Funds are included in the FY 2005-06 adopted budget for the replacement of (1) ¾ Ton Extended Cab Truck with Animal Control Body for the Animal Services Department. The balance of funds will be used for other equipment replacement purchases.					
STRATEGIC PLAN GOAL: Equipment replacement relates to the City's goal of "Service Excellence".					
<b>SUMMARY OF ITEM</b>					
Staff recommends bid of Metro Ford Truck Sales, Inc. in the amount of \$31,089.00 be accepted as the lowest responsive responsible bid meeting specifications for the purchase of one (1) ¾ ton extended cab/chassis with animal control body. This unit is an approved scheduled replacement for unit #99340 (Dept. 583).					
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies			
Bid Recap					

*C-1*

# CITY OF PLANO

Bid No. 2006-66-B

Purchase of One (1) ¾ Ton Extended Cab/Chassis with Animal Control Body

## Bid Recap

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<b>Bid opening Date/Time:</b>	1/12/06 @ 3:00 PM
<b>Number of Vendors Notified:</b>	704
<b>Vendors Submitting "NO BIDS":</b>	1
<b>Vendors Non-Responsive to Specification:</b>	Baby Jack II Automotive LTD

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### Responsive Bidders

Metro Ford Truck Sales, Inc.	<b>\$31,089.00</b>
Huffines Chevrolet	\$31,394.00
Sam Packs Five Star Ford of Carrollton	\$31,447.26
Westway Ford	\$33,817.00

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*January M. Cook*

January 19, 2006

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January M. Cook, CPPB  
Senior Buyer  
Purchasing Division

---

Date

C-2



**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>2/13/06</b>		Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Purchasing Division		Initials	Date	
Department Head	Mike Ryan		Executive Director		
Dept Signature:	<i>[Signature]</i>		City Manager		
Agenda Coordinator (include phone #):		<b>January Cook X7376</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. 2005-237-B for Asset Management Tracking System for the Plano Police Department Supply Unit to Advanced Public Safety Inc. in the amount of \$37,045.00.					
<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:	<b>2005-06</b>	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	55,000	0	55,000
Encumbered/Expended Amount		0	0	0	0
This Item		0	-37,045	0	-37,045
BALANCE		0	17,955	0	17,955
FUND(S): GENERAL FUND					
COMMENTS: Funds for an Asset Management system for the Police Department Supply Unit were approved on the FY 2004-05 Carry Forward List to FY 2005-06 as approved by the City Council on October 24, 2005.					
STRATEGIC PLAN GOAL: The purchase of an Asset Management system for Police Department Supplies relates to the City's goal of "Service Excellence".					
<b>SUMMARY OF ITEM</b>					
Staff recommends proposal of Advance Public Safety Inc. in the amount of \$37,045.00 be accepted as the best proposal meeting specifications for the purchase of Asset Management Tracking System for the Plano Police Department Supply Unit. This system will be used to track assets and expendable assets of the Plano Police Department.					
List of Supporting Documents: Memo Evaluation Matrix			Other Departments, Boards, Commissions or Agencies		



P.O. Box 860358  
Plano, Texas 75086-0358  
972-941-7000  
Fax. No. 972-941-0099  
<http://www.ci.plano.tx.us>

## MEMORANDUM

**DATE:** January 11, 2006  
**TO:** Gregory W. Rushin, Chief of Police  
**FROM:** Edward G. Brashear, Administrative Manager  
**SUBJECT:** Award of Asset Management Tracking System

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The Selection Team responsible for the review of the proposals submitted for an Asset Management Tracking System is recommending the bid be awarded to Advanced Public Safety (APS). The Selection Team reviewed proposals from eight different vendors. Based on the initial review the Team requested four to provide presentations on their products. As a result the Team determined APS provided the most cost effective and efficient solution based on meeting all functional requirements, and not requiring any additional expense on the part of the Police Department.

The initial APS proposal included all costs for the City of Plano to deploy the proposed APS system. The best and final offer was **\$30,471**. The committee met to review the best and final, and based on the cost provided by APS, and our available funding, the recommendation is also made to purchase the additional items listed below. The acquisition of these items will increase the productivity of the staff members using the asset system.

- Two (2) additional Symbol MC-50 Handheld Scanning Devices @ \$1,295.00 each = \$2,590.00
- One (1) additional Zebra Mobile Label Printer @ \$989.00
- One (1) additional Zebra Aluminum Label Printer @ \$2,995.00

The total for these additional items is **\$6,574**. As a result the total cost for the system and these items is **\$37,045**, well within our budgeted funds of \$55,000. Based on our need for these additional items, the Team would have also recommended their purchase from any of the other prospective vendors had their proposals been accepted and the funding available.

Please contact me if you any questions regarding this recommendation.

*d-2*

**SOFTWARE TRACKING MATRIX**  
**CUMULATIVE TOTAL SUBMITTED BY COMMITTEE**

EACH AWARD METHOD IS RATED-  
 WITH THE HIGHEST BEING THE BEST

METHOD OF AWARD	ADVANCED PUBLIC SAFETY - \$29,178				LOCKWOOD - \$30,000				BMC - \$47,498				MGM - \$62,200				OPEN				OPEN							
PURCHASE PRICE - 40 POINTS	192	140	104	81	74	53	54	57	63	52	45	51	46	46	38	42	73	48	46	54	448	339	287	285	0	0	0	0
ABILITY TO CUSTOMIZE UNDER PROJECT GOALS 1.2.4, 1.2.5, 1.2.6, 1.2.7, 1.2.8, 1.2.9 AND TRACK INFORMATION 3.0 - 15 POINTS																												
MAINTENANCE 3.0 - 15 POINTS																												
WORK HISTORY 4.0.2.1 - 15 POINTS																												
VENDOR EVALUATION OF ENTIRE RESPONSE - 15 POINTS																												
<b>TOTAL:</b>																												

*d-3*



**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>2/13/06</b>	Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
Department:	Purchasing Division	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>January Cook X7376</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 Bid No. 2006-68-B for the Purchase of Four (4) Heavy Duty Commercial Diesel-Powered Riding Turf Mowers from Luber Bros., Inc. in the amount of \$64,915.76.					
<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:	<b>05/06</b>	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	54,000	0	<b>54,000</b>
Encumbered/Expended Amount		0	0	0	<b>0</b>
This Item		0	-64,916	0	<b>-64,916</b>
BALANCE		0	-10,916	0	<b>-10,916</b>
FUND(S): <b>EQUIPMENT REPLACEMENT FUND</b>					
COMMENTS:    Funds are included in the FY 2005-06 adopted budget for the replacement purchase of (4) Riding Turf Mowers. The overage will be funded through savings on other equipment replacement purchases.					
STRATEGIC PLAN GOAL:    Equipment replacement relates to the City's goal of "Service Excellence".					
<b>SUMMARY OF ITEM</b>					
Staff recommends bid of Luber Bros., Inc. in the amount of \$64,915.76 be accepted as the lowest responsive responsible bid meeting specifications for the purchase of four (4) heavy duty commercial diesel-powered riding turf mowers. These units are approved scheduled replacements in the FY 05-06 ERF for unit #01505 (Dept. 637), unit #00128 (Dept. 648), unit #01162 (Dept. 648) and unit #01163 (Dept. 648).					
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies			
Bid Recap					

*e-1*

# CITY OF PLANO

Bid No. 2006-68-B

## Purchase of Four (4) Heavy Duty Commercial Diesel-Powered Riding Turf Mowers

### Bid Recap

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<b>Bid opening Date/Time:</b>	1/13/06 @ 3:00 PM
<b>Number of Vendors Notified:</b>	440
<b>Vendors Submitting "NO BIDS":</b>	10
<b>Vendors Non-Responsive to Specification:</b>	Four Brothers Outdoor Power (Offers 1 - 4) Storm Lawn Garden

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### Responsive Bidders

Luber Bros., Inc.	<b>\$64,915.76</b>
Ag-Power, Inc.	\$71,934.52
Professional Turf Products, Inc.	\$71,992.00
C M Golf Grounds Equipment	\$93,776.00

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*January M. Cook*

February 2, 2006

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January M. Cook, CPPB  
Senior Buyer  
Purchasing Division

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Date

*e-2*



## 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>2/13/06</b>		Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
Department:	Parks and Recreation		Initials	Date	
Department Head	Don Wendell	<i>DW</i>	Executive Director	<i>[Signature]</i>	<b>2-6-06</b>
Dept Signature:			City Manager	<i>[Signature]</i>	<b>2/6/06</b>
Agenda Coordinator (include phone #): <b>Linda Benoit (7255)</b>					

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

### CAPTION

Award/Rejection of Bid/Proposals and Conditional Acceptance of the Lowest Responsible Bid to Core Construction for the Tom Muehlenbeck Center. (Bid No. 2006-39-b).

### FINANCIAL SUMMARY

NOT APPLICABLE     OPERATING EXPENSE     REVENUE     CIP

FISCAL YEAR: <b>2005-06</b>	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	1,951,000	13,361,062	7,250,000	<b>22,562,062</b>
Encumbered/Expended Amount	-1,442,938	-701,217	0	<b>-2,144,155</b>
This Item	0	-12,659,845	-6,692,155	<b>-19,352,000</b>
BALANCE	508,062	0	557,845	<b>1,065,907</b>

**FUND(S): RECREATION CENTERS CIP & PARK IMPROVEMENT CIP**

**COMMENTS:** Funds are included in the 2005-06 Recreation Center CIP and Park Improvement CIP. This item, in the amount of \$19,352,000, will utilize the current year balance for the Tom Muehlenbeck Center and Park Improvements projects. The remainder will be encumbered and carried over into cash allocations for next fiscal year.

**STRATEGIC PLAN GOAL:** Construction of recreation centers relates to the City's Goal of "Premier City for Families."

### SUMMARY OF ITEM

Bids were opened on December 15, 2005 for construction of the Tom Muehlenbeck Center. Seven (7) bids were received. The low bid was submitted by Core Construction. The bid is broken down as follows:

	Bid Amount	Running Total
<b>Base Bid</b> Includes all planned improvements except the outdoor pool, outdoor water slides, and outdoor amphitheater.	\$16,930,000	\$16,930,000
<b>Alternate 1</b> Includes the outdoor pool and one water slide.	\$2,250,000	\$19,180,000
<b>Alternate 2</b> A second water slide for the outdoor pool.	\$92,000	\$19,272,000
<b>Alternate 3</b> A third water slide for the outdoor pool.	\$80,000	\$19,352,000
<b>Alternate 4</b> Addition of a small outdoor amphitheater outside of the multipurpose meeting rooms.	\$210,000	\$19,562,000

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# CITY OF PLANO COUNCIL AGENDA ITEM

The total funding available for construction is \$17,652,000. This figure takes into account all other project expenditures such as design, testing, furniture, equipment, and all necessary project contingencies. This figure also includes \$300,000 allotted in the Park Improvement Account for the trail and landscape improvements north of the recreation center on PISD property. This work is included in the base bid.

The base bid in the amount of \$16,930,000 can be awarded within the available project funding. Award of alternates will require additional funding as follows:

	<b>Additional Funding Needed</b>
Alternate 1	\$1,528,000
Alternates 1, 2	\$1,620,000
Alternates 1, 2, 3	\$1,700,000
Alternates 1, 2, 3, 4	\$1,910,000

In the 2005 Bond Program, \$2,000,000 was included for the Aquatic Center renovation. Approximately \$175,000 of this funding has been spent, with an additional \$125,000 needed to address immediate needs at the Aquatic Center. This leaves a balance of \$1,700,000 in funding allotted for the Aquatic Center renovation. This work at the Aquatic Center is planned for 2008.

Staff recommends that \$1,700,000 allotted to the Aquatic Center renovation be used for the Tom Muehlenbeck Center and that a contract be awarded for the base bid plus alternates 1, 2, and 3 in the amount of \$19,352,000. Staff does not recommend the award of alternate 4 because it exceeds the additional funding available from the Aquatic Center renovation project. Staff also believes that the cost for the amphitheater exceeds the value it adds to the facility. The balance of funding needed to complete the Aquatic Center renovation could be included in the Capital Reserve Fund in the appropriate budget year.

There are several advantages to building the outdoor pool at this time.

- Building the pool now will complete the facility at the time of its initial opening and provide a much needed outdoor leisure pool component.
- The pool will be complete without future disruption to the facility once it is already opened.
- Turf and irrigation in the pool area will not need to be put in now and then removed when the pool is added.
- Adding the pool as part of the overall recreation center construction is more cost efficient than it will be to add the pool as a separate project at a later date.
- Construction costs in general are likely to continue to go up and thus result in higher cost to construct the pool in the future.

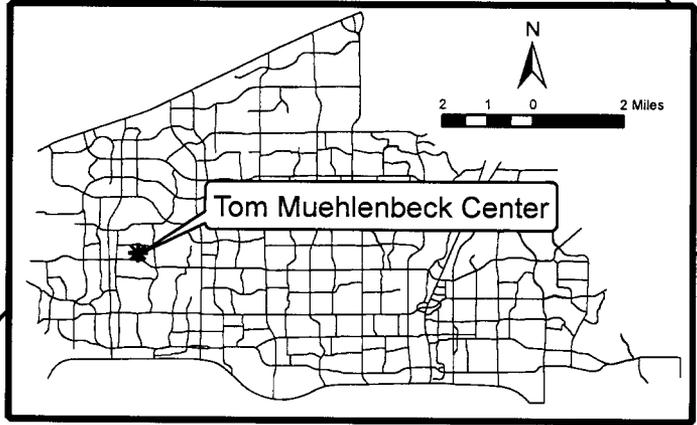
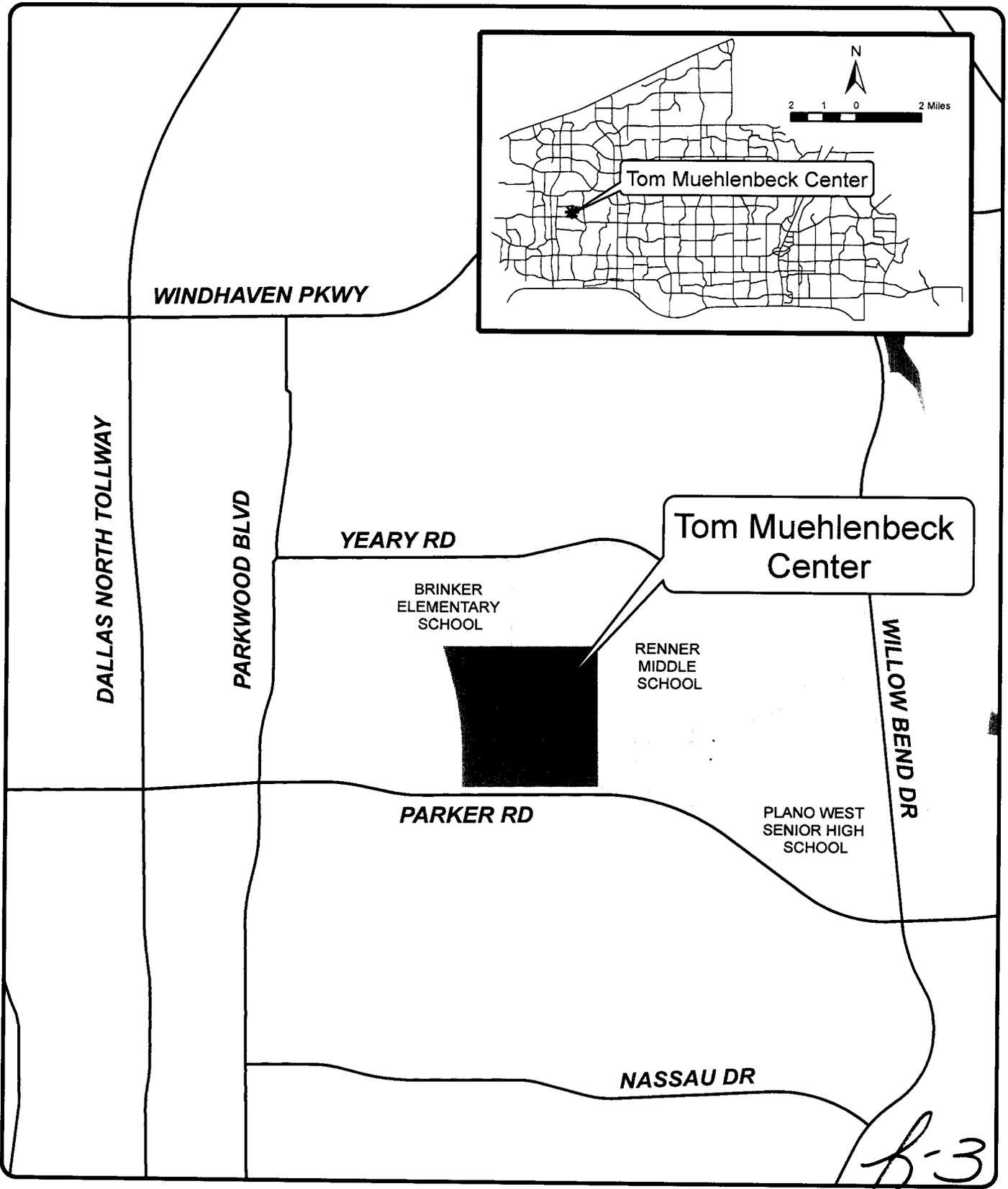
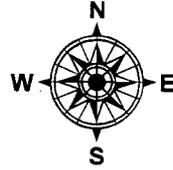
In the event that the low bidder cannot execute contract documents, staff does not recommend award of a contract to the second low bidder at this time.

List of Supporting Documents:  
 Location Map  
 Bid Tabulation

Other Departments, Boards, Commissions or Agencies

# Location Map

## Tom Muehlenbeck Center



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**CITY OF PLANO  
 BID TABULATION  
 2006-39-B**

**TOM MUEHLENBECK CENTER – PROJECT NO. 5526**

**December 15, 2005 @ 3:00 P.M.**

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BIDDER:	BID	ADD		TOTAL	ALTERNATE			
		NO. 1	NO. 2		BASE BID	NO. 1	NO. 2	NO. 3
<b>CORE CONSTRUCTION</b>	YES	YES	YES	\$16,930,000.00	\$2,250,000.00	\$92,000.00	\$80,000.00	\$210,000.00
SKANSKA USA BUILDING	YES	YES	YES	\$17,423,000.00	\$2,322,000.00	\$97,000.00	\$80,000.00	\$264,000.00
RATCLIFF CONSTRUCTORS	YES	YES	YES	\$17,550,000.00	\$2,300,000.00	\$120,000.00	\$103,000.00	\$265,000.00
CADENCE MCSHANE	YES	YES	YES	\$17,782,000.00	\$2,200,000.00	\$115,000.00	\$94,000.00	\$243,000.00
LEE LEWIS CONSTRUCTION	YES	YES	YES	\$18,400,000.00	\$2,317,000.00	\$98,000.00	\$81,000.00	\$210,000.00
ALSHALL CONSTRUCTION	YES	YES	YES	\$18,489,786.00	\$2,194,262.00	\$175,455.00	\$109,389.00	\$244,904.00
HISAW & ASSOCIATES	YES	YES	YES	\$22,497,000.00	\$2,200,000.00	\$95,000.00	\$79,000.00	\$275,000.00

I certify that the above includes all firms contacted to bid and that replies are exactly as stated.

*Donna Holden*

Donna Holden, Buyer

December 15, 2005

Date

**“BID TABULATION STATEMENT”**

ALL BIDS SUBMITTED FOR THE DESIGNATED PROJECT ARE REFLECTED ON THIS BID TAB SHEET. HOWEVER, THE LISTING OF A BID ON THIS SHEET SHOULD NOT BE CONSTRUED AS A COMMENT ON THE RESPONSIVENESS OF SUCH BID OR AS ANY INDICATION THAT THE CITY ACCEPTS SUCH BID AS RESPONSIVE. THE CITY WILL MAKE A DETERMINATION AS TO THE RESPONSIVENESS OF BIDS SUBMITTED BASED UPON COMPLIANCE WITH ALL APPLICABLE LAWS, CITY OF PLANO PURCHASING GUIDELINES, AND PROJECT DOCUMENTS, INCLUDING BUT NOT LIMITED TO THE PROJECT SPECIFICATIONS AND CONTRACT DOCUMENTS. THE CITY WILL NOTIFY THE SUCCESSFUL BIDDER UPON AWARD OF THE CONTRACT AND, ACCORDING TO LAW, ALL BIDS RECEIVED WILL BE AVAILABLE FOR INSPECTION AT THAT TIME.

PURCHASING DIVISION  
 CITY OF PLANO TEXAS



## 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>2/13/06</b>	Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	Parks and Recreation		Initials	Date
Department Head	Don Wendell <i>cut for DW</i>	Executive Director	<i>[Signature]</i>	2-10-06
Dept Signature:		City Manager	<i>[Signature]</i>	2/6/06
Agenda Coordinator (include phone #): <b>Linda Benoit (7255)</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 Bid No. 2006-58-B for Waste Receptacles to Preeminence in the amount of \$27,375.				
<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>2005-06</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	2,964,096	5,768,904	7,945,000	<b>16,678,000</b>
Encumbered/Expended Amount	-2,964,096	-767,581	0	<b>-3,731,677</b>
This Item	0	-27,375	0	<b>-27,375</b>
<b>BALANCE</b>	<b>0</b>	<b>4,973,948</b>	<b>7,945,000</b>	<b>12,918,948</b>
<b>FUND(S):    PARK IMPROVEMENT CIP &amp; CAPITAL RESERVE</b>				
<b>COMMENTS:</b> Funds are included in the 2005-06 Park Improvement CIP & Capital Reserve Fund. This item, in the amount of \$27,375, will leave a current year balance of \$4,973,948 for the Oak Point Park Development, Park Improvements, and Park Structures & Equipment projects.				
<b>STRATEGIC PLAN GOAL:</b> Waste receptacles relate to the City's Goal of "Premier City for Families."				
<b>SUMMARY OF ITEM</b>				
The competitive bid process utilized the services of RFP Depot. Five bids were received with the low bid from Preeminence Company for \$27,375 for the purchase of 75 waste receptacles.				
The current standard for the park system is the cylindrical gray toned waste receptacle often seen in the medians near the left turn lanes of Plano's thoroughfares. They are durable, attractive, and can be easily handled by staff.				
The waste receptacles will be placed at the Amphitheater and at various athletic field locations throughout the city.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Bid Summary				

**CITY OF PLANO**  
**BID TABULATION**  
**BID No. 2006-58-B**

**WASTE RECEPTACLES FOR PARKS**  
**ONE-TIME PURCHASE**

<u>VENDOR</u>	<u>TOTAL BID</u>
Preeminence	\$27,375.00
United Distributors	\$27,443.25
Clean Care, Inc.	\$29,578.50
Dianna DeGroot Construction	\$29,662.50
Ascendant International, Inc.	\$29,797.00

*g-2*



**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>2/13/06</b>		Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
Department:	Purchasing			Initials	Date
Department Head	Mike Ryan			Executive Director	
Dept Signature:				City Manager	
Agenda Coordinator (include phone #):		<b>Donna Holden, extension 7248</b>			
<b>ACTION REQUESTED:</b> <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 PURCHASE FROM EXISTING CONTRACT					
<b>CAPTION</b>					
ANNUAL PURCHASE FROM AN EXISTING CITY OF PLANO CONTRACT (2004-37-C) FOR STRUCTURAL FIRE FIGHTING PROTECTIVE CLOTHING IN THE ESTIMATED AMOUNT OF \$125,000 FROM QUAKER SAFETY PRODUCTS CORPORATION, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ANY NECESSARY DOCUMENTS.					
<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:	<b>2005-06, 2006-07, 2007-08</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
<b>FUND(S): GENERAL FUND</b>					
<b>COMMENTS:</b> This item authorizes the purchase of fire protective clothing from an existing contract with Quaker Safety Products Corporation. Expenditures will be made in the Fire Department within the approved annual budget appropriations. The estimated amount of this item is up to \$125,000 for each of the remaining years on the three remaining contract annual renewal periods. <b>STRATEGIC PLAN GOAL:</b> Protective clothing for the Fire Department relates to the City's Goal of "Service Excellence".					
<b>SUMMARY OF ITEM</b>					
<b>PURCHASE FROM EXISTING CONTRACT</b>					
The City of Plano has an existing contract (2004-37-C) that was originally awarded by Council on March 2, 2004. The contract is a two-year contract with three one year renewals. The department anticipates expending up to \$125,000 for each of the remaining renewal periods. Purchase of these items are necessary to provide required fire protective clothing to all necessary Fire Personnel and maintain adequate inventories of such items.					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		

*B-1*



## 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>2/13/06</b>		Reviewed by Legal <i>MBS</i>	<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>	
Dept Signature:	<i>Don Wendell</i>		City Manager	<i>[Signature]</i>	
Agenda Coordinator (include phone #):		<b>Linda Benoit (7255)</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 PURCHASE OFF EXISTING CONTRACT	

### CAPTION

Authorizing the purchase of furniture and fixtures for the Cox Building in the amount of \$36,610.68 from The Spencer Company through Interlocal Agreement I 045-04; and authorizing additional purchases of furniture and fixtures for the Cox Building through TXMAS contracts as follows: \$714.04 from the Mayline Group (TXMAS-4-7110330); \$1,912.27 from Fixtures Furniture (TXMAS-3-711080); \$988.91 from ABCO Office Furniture (TXMAS-4-7110180-1); \$6,311.74 from David Edward Company (TXMAS-3-7110270-9); and authorizing the City Manager or his designee to execute all necessary documents.

### FINANCIAL SUMMARY

NOT APPLICABLE    
  OPERATING EXPENSE    
  REVENUE    
  CIP

FISCAL YEAR: <b>2005-06</b>	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	132,500	0	<b>132,500</b>
Encumbered/Expended Amount	0	-37,021	0	<b>-37,021</b>
This Item	0	-46,538	0	<b>-46,538</b>
<b>BALANCE</b>	<b>0</b>	<b>48,941</b>	<b>0</b>	<b>48,941</b>

**FUND(S): GENERAL FUND**

**COMMENTS:** These expenditures will be reimbursed by the Plano Independent School District. The remaining balance will be used for other Cox Building expenditures.

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

### SUMMARY OF ITEM

This item authorizes the purchase from a State Contract and through an Interlocal Agreement of furniture and fixtures for the lobby, offices, and classroom in the City of Plano facilities in the newly renovated Cox Building.

The City is authorized to purchase from a Local Cooperative Organization pursuant to Section 271 Subchapter F of the Local Government Code and by doing so satisfies State Laws requiring local governments to seek competitive bids for Items. (Contract # I 045-04).



## CITY OF PLANO COUNCIL AGENDA ITEM

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 State Laws requiring local governments to seek competitive bids for Items. (TXMAS-4-7110330, TXMAS-3-711080, TXMAS-4-7110180-1, TXMAS-3-7110270-9).

List of Supporting Documents:  
Vendor quotes

Other Departments, Boards, Commissions or Agencies

*i-2*

PROPOSAL: 54498

THE SPENCER COMPANY  
2121 NORTH AKARD  
SUITE 100  
DALLAS, TX 75201  
(214) 720-0345

PROJECT #: 039-000054  
DATE: 01/04/06

SOLD TO:  
CLIENT: 010626  
CITY OF PLANO  
CITY OF PLANO  
ACCOUNTS PAYABLE  
P.O. BOX 860279  
PLANO, TX 75086-0279  
ATTN:

SHIP TO:  
CITY OF PLANO  
COX BUILDING  
CREATIVE ARTS DEPARTMENT  
ATTN: JIM WEAR 972-941-5202

SALESPERSON:  
Eric Clendenin

CUSTOMER PO #:

TERMS:  
NET 15 DAYS

QUOTE VALID:

339  
337  
337  
337

<u>MFG/PRODUCT #</u>	<u>DESCRIPTION</u>	<u>NET EACH</u>	<u>NET EXTEND</u>
	REFERENCE CONTRACT TXMAS-3-711060 FOR NATIONAL OFFICE FURNITURE.		
	REFERENCE CONTRACT TXMAS-3-711050 FOR HAWORTH.		
	REFERENCE CONTRACT TXMAS-3-711010 FOR GLOBAL INDUSTRIES.		
	REFERENCE CONTRACT TXMAS-5-711050 FOR CAROLINA BUSINESS FURNITURE.		
	REFERENCE CONTRACT TXMAS-4-7110330 FOR MAYLINE GROUP.		
1	N32HH NATIONAL RENO, 2 AND HALF SEAT LOUNGE	654.80	654.80
2	GRADE 2 22129 SEDONA MIRAGE NATIONAL OFFICE FURNITURE		
	Line Number: 1 Tagging: BREAKROOM3 List Price: 1,637.00 Discount Off List: 60.00 %		
1	TA-2701-00 CHALLENGER TABLE LAMP 32-1/2", METAL & WOOD	95.00	95.00
	BRUSHED NICKEL CONTINUED...		

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PROPOSAL: 54498

THE SPENCER COMPANY  
2121 NORTH AKARD  
SUITE 100  
DALLAS, TX 75201  
(214) 720-0345

PROJECT #: 039-000054  
DATE: 01/04/06

<u>QTY</u>	<u>MFG/PRODUCT #</u>	<u>DESCRIPTION</u>	<u>NET EACH</u>	<u>NET EXTEND</u>
.		#1001 MERIDIAN CHERRY FINISH		
.		TAKES ONE 100w A BULB		
.		7x13x12 NLHB		
*		SHADE HOMESPUN BEIGE HARDBACK		
		CHALLENGER LIGHTING CO., INC.		
		Line Number: 2		
		Tagging: BREAKROOM4		
		List Price: 95.00		
1	CTW2424ENPA C2	OCCASIONAL TABLE, 24DX24W, END, TRANSITIONAL, LAM AUTUMN 2 NATIONAL OFFICE FURNITURE	283.60	283.60
		Line Number: 3		
		Tagging: BREAKROOM5		
		List Price: 709.00		
		Discount Off List: 60.00 %		
1	JSPY-0536-S 1	X SERIES, STORAGE CABINET, 5X36	378.78	378.78
	(S1)	PTD DRW, ELL PULL		
	, TR-	SURFACE 1		
	00K	CHARCOAL		
	, TR-	SURFACE 2		
	00K	CHARCOAL		
	, LR-	LOCK PLUG & RING COLORS		
	0BL	BLACK		
		HAWORTH INC		
		Line Number: 4		
		Tagging: CLASSROOM2		
		List Price: 1,070.00		
		Discount Off List: 64.60 %		

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PROPOSAL: 54498

THE SPENCER COMPANY  
2121 NORTH AKARD  
SUITE 100  
DALLAS, TX 75201  
(214)720-0345

PROJECT #: 039-000054  
DATE: 01/04/06

<u>QTY</u>	<u>MFG/PRODUCT #</u>	<u>DESCRIPTION</u>	<u>NET EACH</u>	<u>NET EXTEND</u>
1	LCS2046R	CLARIDGE LCS DELUXE MARKERBOARD W/ALUMINUM FRAME; MAP RAIL CLARIDGE  Line Number: 5 Tagging: CLASSROOM4 List Price: 351.00 Discount Off List: 39.03 %	214.02	214.02
2	W28	BERNHARDT WAVE END TABLE, OVAL 21X28  836 LIGHTLY FIGURED ANIGRE VENEER FINISH 836 BERNHARDT CONTRACT  Line Number: 6 Tagging: ELEVATOR LOBBY1 List Price: 2,099.00 Discount Off List: 45.12 %	1,151.89	2,303.78
1	W42	BERNHARDT WAVE COFFEE TABLE, 42"R, TWO PIECES  836 LIGHTLY FIGURED ANIGRE VENEER FINISH 836 BERNHARDT CONTRACT  Line Number: 7 Tagging: LOWER LOBBY1 List Price: 3,561.00 Discount Off List: 45.12 %	1,954.21	1,954.21
2	6810	BERNHARDT LAUREL BENCH; COM  836 FINISH 836 COM COM MOMENTUM SCOUPE/ 09069960 COLOR: MIMOSA BERNHARDT CONTRACT	794.99	1,589.98

CONTINUED...

*i-5*

PROPOSAL: 54498

THE SPENCER COMPANY  
2121 NORTH AKARD  
SUITE 100  
DALLAS, TX 75201  
(214) 720-0345

PROJECT #: 039-000054  
DATE: 01/04/06

<u>QTY</u>	<u>MFG/PRODUCT #</u>	<u>DESCRIPTION</u>	<u>NET EACH</u>	<u>NET EXTEND</u>
		Line Number: 8 Tagging: MAIN LOBBY1 List Price: 1,202.00 Discount Off List: 33.86 %		
1	W28	WAVE END TABLE, OVAL 21X28	1,151.89	1,151.89
	836 *	LIGHTLY FIGURED ANIGRE VENEER FINISH: #836 BERNHARDT CONTRACT		
		Line Number: 9 Tagging: MAIN LOBBY3 List Price: 2,099.00 Discount Off List: 45.12 %		
1	3140-3	GLOBAL MALAGA HIGH BACK MULTI-FUNCTION	346.12	346.12
	~04 ~CUML CU88 TD BK ~ C10 ~ ~ ~ ~ *	GRADE 04 CUMULUS FOLIAGE A-(STD) HT/ADJ TEARDROP T-ARM F-BLACK (STD) C-(STD) 2" INTEGR DUAL-WHL - B (STD) (STD) (STD) (STD) TAG: CHRISTINE GLOBAL INDUSTRIES SOUTHWEST		
		Line Number: 10 Tagging: OFFICE1 List Price: 727.00 CONTINUED...		

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PROPOSAL: 54498

THE SPENCER COMPANY  
2121 NORTH AKARD  
SUITE 100  
DALLAS, TX 75201  
(214) 720-0345

PROJECT #: 039-000054  
DATE: 01/04/06

<u>QTY</u>	<u>MFG/PRODUCT #</u>	<u>DESCRIPTION</u>	<u>NET EACH</u>	<u>NET EXTEND</u>
		Discount Off List: 52.39 %		
1	3140-3	GLOBAL MALAGA HIGH BACK MULTI-FUNCTION	346.12	346.12
	~04	GRADE 04		
	~QUAN	QUANTUM		
	QU27	1-RASBERRY		
	TD	A-(STD) HT/ADJ TEARDROP T-ARM		
	BK	F-BLACK		
	~	(STD)		
	C10	C-(STD) 2" INTEGR DUAL-WHL - B		
	~	(STD)		
	*	TAG: NATALIE		
		GLOBAL INDUSTRIES SOUTHWEST		
		Line Number: 11		
		Tagging: OFFICE1		
		List Price: 727.00		
		Discount Off List: 52.39 %		
1	2760-4LM	GLOBAL KARIZMA EXECUTIVE BACK INFINITE TILTER	417.54	417.54
	~07	GRADE 07		
	~LTHR/MOCK	LEATHER/MOCK LEATHER		
	~LTHR:450	BLACK		
	450/550	1-BLACK/BLACK		
	AL	F-(STD) ALUMINUM		
	C1	C-(STD) 2" DUAL-WHL CASTOR - B		
	*	TAG: JIM		
		GLOBAL INDUSTRIES SOUTHWEST		
		CONTINUED...		

*1-7*

PROPOSAL: 54498

THE SPENCER COMPANY  
2121 NORTH AKARD  
SUITE 100  
DALLAS, TX 75201  
(214) 720-0345

PROJECT #: 039-000054  
DATE: 01/04/06

<u>QTY</u>	<u>MFG/PRODUCT #</u>	<u>DESCRIPTION</u>	<u>NET EACH</u>	<u>NET EXTEND</u>
		Line Number: 12 Tagging: OFFICE2 List Price: 877.00 Discount Off List: 52.39 %		
3	N55EE	NATIONAL ADMIRE, SIDE CHAIR, HALF UPH BACK, ARMS	221.20	663.60
	2 21106 AC *	GRADE 2 VENETIAN TUSCANY AUTUMN TAG: JIM NATIONAL OFFICE FURNITURE		
		Line Number: 13 Tagging: OFFICE3 List Price: 553.00 Discount Off List: 60.00 %		
2	N55EE	ADMIRE, SIDE CHAIR, HALF UPH BACK, ARMS	225.20	450.40
	3 33477 AC *	GRADE 3 SPIRAL MAGENTA AUTUMN TAG: NATALIE NATIONAL OFFICE FURNITURE		
		Line Number: 14 Tagging: OFFICE4 List Price: 563.00 Discount Off List: 60.00 %		
3	N55EE	NATIONAL ADMIRE, SIDE CHAIR, HALF UPH BACK, ARMS	215.60	646.80

CONTINUED...

i-8

PROPOSAL: 54498

THE SPENCER COMPANY  
2121 NORTH AKARD  
SUITE 100  
DALLAS, TX 75201  
(214)720-0345

PROJECT #: 039-000054  
DATE: 01/04/06

<u>QTY</u>	<u>MFG/PRODUCT #</u>	<u>DESCRIPTION</u>	<u>NET EACH</u>	<u>NET EXTEND</u>
	1 10085 AC *	GRADE 1 FALLING LEAVES SKY AUTUMN TAG: CHRISTINE NATIONAL OFFICE FURNITURE  Line Number: 15 Tagging: OFFICE5 List Price: 539.00 Discount Off List: 60.00 %		
1	BW-1616AC	CONF TABLE, 16DX16WX27H, BASE, SOFT SQUARE, WOOD, AUTUMN NATIONAL OFFICE FURNITURE  Line Number: 16 Tagging: OFFICE6 List Price: 712.00 Discount Off List: 60.00 %	284.80	284.80
1	CCW42RDW	CONF TABLE, 42DIA, TOP, ROUND, WOOD  Line Number: 17 Tagging: OFFICE7 List Price: 1,320.00 Discount Off List: 60.00 %	528.00	528.00
	K X AC	ESCALADE NO GROMMET AUTUMN NATIONAL OFFICE FURNITURE  Line Number: 18 Tagging: OFFICE7 List Price: 1,320.00 Discount Off List: 60.00 %		
3	EC2030CD4AC	ESCALADE, 20DX30W, CENTER DRAWER, AUTUMN NATIONAL OFFICE FURNITURE  Line Number: 18 CONTINUED...	95.20	285.60

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PROPOSAL: 54498

THE SPENCER COMPANY  
2121 NORTH AKARD  
SUITE 100  
DALLAS, TX 75201  
(214)720-0345

PROJECT #: 039-000054  
DATE: 01/04/06

<u>QTY</u>	<u>MFG/PRODUCT #</u>	<u>DESCRIPTION</u>	<u>NET EACH</u>	<u>NET EXTEND</u>
		Tagging: OFFICE8 List Price: 238.00 Discount Off List: 60.00 %		
3	EC2272CLF24 AC	ESCALADE, 22DX72W, CREDENZA, LEFT PED, FF, FREESTANDING, AUTUMN NATIONAL OFFICE FURNITURE	796.40	2,389.20
		Line Number: 19 Tagging: OFFICE9 List Price: 1,991.00 Discount Off List: 60.00 %		
1	EC2424ENAC	ESCALADE, 24DX24W, END TABLE, AUTUMN NATIONAL OFFICE FURNITURE	370.80	370.80
		Line Number: 20 Tagging: OFFICE91 List Price: 927.00 Discount Off List: 60.00 %		
3	EC2448BEFAC	ESCALADE, 24DX48W, BRIDGE, AUTUMN NATIONAL OFFICE FURNITURE	323.60	970.80
		Line Number: 21 Tagging: OFFICE92 List Price: 809.00 Discount Off List: 60.00 %		
3	EC3672DRFBA 14AC	ESCALADE, 36DX72W, DESK, RIGHT PEDESTAL, ARC TOP, EARLY AUTUMN NATIONAL OFFICE FURNITURE	1,100.00	3,300.00
		Line Number: 22 Tagging: OFFICE93 List Price: 2,750.00 CONTINUED...		

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PROPOSAL: 54498

THE SPENCER COMPANY  
2121 NORTH AKARD  
SUITE 100  
DALLAS, TX 75201  
(214)720-0345

PROJECT #: 039-000054  
DATE: 01/04/06

<u>QTY</u>	<u>MFG/PRODUCT #</u>	<u>DESCRIPTION</u>	<u>NET EACH</u>	<u>NET EXTEND</u>
		Discount Off List: 60.00 %		
3	EC3750BCHG4 AC	ESCALADE, 37WX50H, BOOKCASE, GLASS DOORS, SET ON, AUTUMN NATIONAL OFFICE FURNITURE	810.40	2,431.20
		Line Number: 23 Tagging: OFFICE94 List Price: 2,026.00 Discount Off List: 60.00 %		
3	EC2236LFF24 AC	ESCALADE, 22DX36W, LATERAL FILE, FREESTANDING, 2 DRAWER, AUTUMN NATIONAL OFFICE FURNITURE	656.00	1,968.00
		Line Number: 24 Tagging: OFFICE95 List Price: 1,640.00 Discount Off List: 60.00 %		
3	EC7230SOHW4 AC	ESCALADE, 72WX30H, WALL MOUNT CABINET, WOOD DOORS, AUTUMN NATIONAL OFFICE FURNITURE	932.00	2,796.00
		Line Number: 25 Tagging: OFFICE96 List Price: 2,330.00 Discount Off List: 60.00 %		
3	NAC49TLB	ACCESSORIES, 49W, TASK LIGHT, BLACK, 40 WATTS NATIONAL OFFICE FURNITURE	77.20	231.60
		Line Number: 26 Tagging: OFFICE97 List Price: 193.00 CONTINUED...		

PROPOSAL: 54498

THE SPENCER COMPANY  
2121 NORTH AKARD  
SUITE 100  
DALLAS, TX 75201  
(214) 720-0345

PROJECT #: 039-000054  
DATE: 01/04/06

<u>QTY</u>	<u>MFG/PRODUCT #</u>	<u>DESCRIPTION</u>	<u>NET EACH</u>	<u>NET EXTEND</u>
		Discount Off List: 60.00 %		
5	TA-2701-00	CHALLENGER TABLE LAMP 32-1/2", METAL & WOOD  BRUSHED NICKEL #1001 MERIDIAN CHERRY FINISH TAKES ONE 100w A BULB 7x13x12 NLHB * SHADE HOMESPUN BEIGE HARDBACK CHALLENGER LIGHTING CO., INC.  Line Number: 27 Tagging: OFFICE98 List Price: 95.00	95.00	475.00
1	NV3672DDY  AC2 AC2	ENVYWORKS, 36DX72W, DESK, DOUBLE 3/4 PED, RECTANGULAR TOP  AUTUMN 2 AUTUMN 2 NATIONAL OFFICE FURNITURE  Line Number: 28 Tagging: OPERATIONS1 List Price: 940.00 Discount Off List: 60.00 %	376.00	376.00
1	NV2436LFF2  AC2 AC2	ENVYWORKS, 24DX36W, LATERAL FILE, 2 DRAWER  AUTUMN 2 AUTUMN 2 NATIONAL OFFICE FURNITURE  Line Number: 29 CONTINUED...	255.20	255.20

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PROPOSAL: 54498

THE SPENCER COMPANY  
2121 NORTH AKARD  
SUITE 100  
DALLAS, TX 75201  
(214) 720-0345

PROJECT #: 039-000054  
DATE: 01/04/06

<u>QTY</u>	<u>MFG/PRODUCT #</u>	<u>DESCRIPTION</u>	<u>NET EACH</u>	<u>NET EXTEND</u>
		Tagging: OPERATIONS2 List Price: 638.00 Discount Off List: 60.00 %		
1	3140-3	GLOBAL MALAGA HIGH BACK MULTI-FUNCTION	346.12	346.12
	~04	GRADE 04		
	~XXXX	PATTERN TBD		
	XXXX	COLOR TBD		
	TD	A-(STD) HT/ADJ TEARDROP T-ARM		
	BK	F-BLACK		
	~	(STD)		
	C10	C-(STD) 2" INTEGR DUAL-WHL - B		
	~	(STD)		
		GLOBAL INDUSTRIES SOUTHWEST		
		Line Number: 30 Tagging: OPERATIONS3 List Price: 727.00 Discount Off List: 52.39 %		
1	JSPY-0536-S 1	X SERIES, STORAGE CABINET, 5X36	378.78	378.78
	(S1)	PTD DRW, ELL PULL		
	, TR-	SURFACE 1		
	00K	CHARCOAL		
	, TR-	SURFACE 2		
	00K	CHARCOAL		
	, LR-	LOCK PLUG & RING COLORS		
	0BL	BLACK		
		HAWORTH INC		
		CONTINUED...		

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PROPOSAL: 54498

THE SPENCER COMPANY  
2121 NORTH AKARD  
SUITE 100  
DALLAS, TX 75201  
(214) 720-0345

PROJECT #: 039-000054  
DATE: 01/04/06

<u>QTY</u>	<u>MFG/PRODUCT #</u>	<u>DESCRIPTION</u>	<u>NET EACH</u>	<u>NET EXTEND</u>
		Line Number: 31 Tagging: OPERATIONS5 List Price: 1,070.00 Discount Off List: 64.60 %		
2	7010-LB	CAROLINA RETROSPECT LOVESEAT BENCH	513.45	1,026.90
	2687-901	FABRIC GROUP 3 DESIGNTEX FRONDE PIQUE/MONSOON CAROLINA BUSINESS FURNITURE		
		Line Number: 32 Tagging: PASSAGEWAY List Price: 1,141.00 Discount Off List: 55.00 %		
1	JSPY-0536-S 1	HAWORTH X SERIES, STORAGE CABINET, 5X36	378.78	378.78
	(S1) ,TR- ~ ,TR- ~ ,LR- ~	PTD DRW, ELL PULL SURFACE 1 UNDECIDED COLOR SURFACE 2 UNDECIDED COLOR LOCK PLUG & RING COLORS UNDECIDED COLOR HAWORTH INC		
		Line Number: 33 Tagging: THEATER STORAGE List Price: 1,070.00 Discount Off List: 64.60 %		
1	7878+7868C	MAYLINE 5 DRAWER FLAT FILE W/HIGH BASE, 30D X 42W MAYLINE COMPANY INC	714.04	714.04

CONTINUED...

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PROPOSAL: 54498

THE SPENCER COMPANY  
2121 NORTH AKARD  
SUITE 100  
DALLAS, TX 75201  
(214) 720-0345

PROJECT #: 039-000054  
DATE: 01/04/06

<u>QTY</u>	<u>MFG/PRODUCT #</u>	<u>DESCRIPTION</u>	<u>NET EACH</u>	<u>NET EXTEND</u>
		Line Number: 34 Tagging: THEATER STORAGE List Price: 1,884.00 Discount Off List: 62.10 %		
2	1388	BERNHARDT WINTHROPE SIDE CHAIRS; COM	565.91	1,131.82
	836 COM 09062931	FINISH 836 MOMENTUM LOCALE/ LEMON ZEST BERNHARDT CONTRACT		
		Line Number: 35 Tagging: WINDOW LOBBY1 List Price: 834.00 Discount Off List: 32.15 %		
1	MT30	BERNHARDT GALLATIN OCCASIONAL TABLE, 28X20	593.23	593.23
	836	WHITE OAK VENEER FINISH #836 BERNHARDT CONTRACT		
		Line Number: 36 Tagging: WINDOW LOBBY2 List Price: 1,081.00 Discount Off List: 45.12 %		
1	FREIGHT	FREIGHT/FUEL FOR BERNHARDT BERNHARDT CONTRACT	659.02	659.02
		Line Number: 37 List Price: 659.02		

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PROPOSAL: 54498

THE SPENCER COMPANY  
2121 NORTH AKARD  
SUITE 100  
DALLAS, TX 75201  
(214)720-0345

PROJECT #: 039-000054  
DATE: 01/04/06

<u>QTY</u>	<u>MFG/PRODUCT #</u>	<u>DESCRIPTION</u>	<u>NET EACH</u>	<u>NET EXTEND</u>
1	FREIGHT	FREIGHT/FUEL FOR NATIONAL @ 1% OF NET NATIONAL OFFICE FURNITURE  Line Number: 38 List Price: 188.80	188.80	188.80
1	FREIGHT	FREIGHT FOR CLARIDGE CLARIDGE  Line Number: 39 List Price: 243.90	243.90	243.90
1	FUEL	FUEL SURCHARGE FOR CAROLINA CAROLINA BUSINESS FURNITURE  Line Number: 40 List Price: 37.50	37.50	37.50
1	FREIGHT	FREIGHT FOR CHALLENGER LIGHTING CHALLENGER LIGHTING CO., INC.  Line Number: 41 List Price: 121.95	121.95	121.95
12	DESIGN	12 HOURS DESIGN TIME @\$50 PER HOUR SPENCER COMPANY  Line Number: 42 List Price: 50.00	50.00	600.00
1	LABOR	D&I DURING NORMAL BUSINESS HOURS METROPLEX FACILITY SERVICES  Line Number: 43 List Price: 2,031.00	2,031.00	2,031.00

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PROPOSAL: 54498

THE SPENCER COMPANY  
2121 NORTH AKARD  
SUITE 100  
DALLAS, TX 75201  
(214) 720-0345

PROJECT #: 039-000054  
DATE: 01/04/06

<u>QTY</u>	<u>MFG/PRODUCT #</u>	<u>DESCRIPTION</u>	<u>NET EACH</u>	<u>NET EXTEND</u>
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CUSTOMER IS RESPONSIBLE FOR ALL APPLICABLE SALES TAXES.

DEPOSIT REQUIRED

0.00

PRODUCT SUBTOTAL:	32,728.51
OTHER.....:	600.00
FREIGHT.....:	1,251.17
INSTALL.....:	2,031.00

ACCEPTED BY: \_\_\_\_\_

TOTAL:	=====
	36,610.68

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

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# MAYLINE GROUP

*Kwik-File · Mayline · Tiffany Industries*

Dealer: Spencer Furniture - Dallas, TX  
Barbara Levine

End User: Not Provided

Date: 1/3/2006

CONTRACT - TXMAS-4-7110330

Qty	Model #	Description	List Each	List Ext.	TXMAS each	TXMAS Ext.
1	7868C	Five Drawer File for 30" x 42" Sheets	\$1,390.00	\$1,390.00	\$526.81	\$526.81
1	7878	20" High Base with Bookshelf for 30" x 42" Size File	\$494.00	\$494.00	\$187.23	\$187.23

\$1,884.00

\$714.04

Freight Prepaid - Dock-to-Dock

Prices based on 2005 Price List effective October 1, 2004 with a 62.1% discount

Orders are to be issued from the state agency directly to the dealer if qualified as a HUB dealer

Copy of state agency po must be included when submitting dealer po to Mayline

Contract number must be referenced on order

Dealer will receive 9% commission

yes.

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# Terry Twomey & Associates

#3 Kyle Drive, Mansfield, TX 76063  
Ph 817.477.3700, Fax 817.473.0700  
Email: [t.twomey@verizon.net](mailto:t.twomey@verizon.net)

December 30, 2005

Barbara Levine  
The Spencer Company  
2121 N. Akard St.  
Dallas, TX 75201

Ref: City of Plano – TXMAS Pricing

## Fixtures Furniture

#62003cc	Fetch chair, armless with clear plastic glides. Thermoplastic seat and back, chrome frame.	\$132.00 ea. List. \$ 56.52 ea. TXMAS Net
#00062	Chair Dolly	\$506.00 ea. List \$216.67 ea. TXMAS Net

- Fixtures TXMAS Contract # TXMAS-3-711080
- P.O. to be issued to Fixtures Furniture % Spencer Co., 1642 Crystal Ave., Kansas City, MO 64126
- Free freight, does not include inside delivery or installation

## ABCO Furniture

HRD42/HBB30	42" diameter table top, standard ABCO laminate, Smooth T-mold edge. X-Base in standard paint finish.	\$538.00 ea. List \$236.43 ea. Net
TLC1824	Table Lectern 18dx24wx14h. Thermo fused melamine Top and shell with 3mm edge. Standard finishes	\$149.00 ea. List \$65.48 ea. Net

- ABCO TXMAS Contract # TXMAS-4-7110180-1
- City of Plano PO to be issued to ABCO Office Furniture, 6141 Rushton St., Florence, AL 35630
- Freight paid, does not include inside delivery or installation
- Pricing based on standard ABCO laminates and finishes

\* Since products quoted above are from (2) manufacturers we will need a separate PO for each.

Please don't hesitate to contact me if any questions.

Sincerely,

*Linda Twomey*  
817.477.3700

*l-19*

**Pamela Keller Associates**  
 P.O. Box 595580  
 Dallas, TX 75359-5580  
 Phone: (214) 747-7160  
 Fax: (214) 823-3002  
 Email: pamelakellerasso@aol.com

### QUOTATION

Project:  
 Specifier/Dealer: The Spencer Co.  
 Project Manager: Barbra Levine  
 Phone/Fax (214) 720-0345/(214) 720-7738  
 Manufacturer: David Edward  
 Date: December 13, 2005  
 December 21, 2005

DAVID EDWARD  
 1407 PARKER RD.  
 BALTIMORE, M.D. 21227  
 (410) 242-2222

Quote #DE1213051-RV2  
 TXMAS

Qty	Product #	Description	Unit List	Ext. List	Unit Net	Ext. Net
1	#03535	Ply Fly Settee, Low Back w/Upholstered Arm, Tight Seat 56" w. x 33" d. x 35.25" h. Standard David Edward Finish on Maple #41 Light Cherry Fabric: Momentum "Quad"/Sunkist Grade 7000			\$1422.00	\$1422.00
2	#03433	Ply Fly Chair, Low Back w/Wood Arm Tight Seat 32.25" w. x 32.25" d. x 35.25" h. Standard David Edward Finish on Maple #41 Light cherry Fabric: Maharam "Urthinged"/Spice Grade 6000			\$ 871.00	\$1742.00
2	#03613	No Fly Chair, High Back, Tight Seat 26.25" x 34" d. x 41.25" h. Legs: Standard David Edward Finish on Maple #41 Light Cherry Fabric: Designtex "AlEx"/Chili Sauce Grade 6000			\$ 768.00	\$1536.00
2	#03513	Ply Fly Chair, High Back w/Upholstered Arms, Tight Seat 32.25" w. x 34" d. x 41.25" h.			\$ 740.00	\$ 1480.00

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December 21, 2005

PKA Quote #DE1213051-RV2  
The Spencer Company

Standard David Edward Finish on Maple #41 Light Cherry \$ 310.80 \$621.60  
Fabric: Momentum "Scoupe"/Mimosa

**Optional**

One time stain to match charge → N/A  
Per unit charge

\$ 216.00 net  
+ \$ 16.00 net

- Discount: Net
- Freight: Guaranteed Freight Program (8.5% of net, C.O.M.) = \$381.90 Minimum (When listing freight on your PO it must be listed as "Guaranteed Freight" to receive the proper freight rate).
- Pricing: Valid thru January 31, 2006
- Lead Time: 8-10 weeks upon receipt of fabric. (Lead time is subject to change without notice.)

← \$578.14 = 8.5% of net

TXMAS orders should be placed directly with David Edward listing the participating dealer listed on their P.O. Participating Dealer will receive a 10% commission of the Net, COM amount of the furniture. The commission is payable as a check rebated to the dealer within 30 days of the month following shipment. Participating dealers also have an opportunity to sell installation services separately as the GSA contract covers product only.

Installation services should be purchased on a separate PO to the dealer. As the contractor, D.E. is not responsible for invoicing the government for these services and rebating charges collected to the dealer.

Dealers can not sell the freight as our contract is FOB origin and charges will be added by David Edward.

*12-21*



**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>2/13/06</b>	Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
Department:	Purchasing Division	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>January Cook X7376</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 EXISTING CONTRACT					
<b>CAPTION</b>					
Purchase from Existing Contract to authorize the purchase of two (2) Certified Law Enforcement Motorcycles in the amount of \$31,876.00 from Renegade Harley Davidson through a City of Plano contract, and authorizing the City Manager or his designee to execute all necessary documents (B043-05).					
<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:	<b>05-06</b>	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	32,000	0	<b>32,000</b>
Encumbered/Expended Amount		0	0	0	0
This Item		0	-31,876	0	<b>-31,876</b>
BALANCE		0	124	0	<b>124</b>
FUND(S): <b>EQUIPMENT REPLACEMENT FUND</b>					
COMMENTS: Funds are included in the FY 2005-06 adopted budget for the replacement purchase of (2) Law Enforcement Motorcycles. The balance of funds will be used for other equipment replacement purchases.					
STRATEGIC PLAN GOAL: Equipment replacement relates to the City's goal of "Service Excellence".					
<b>SUMMARY OF ITEM</b>					
Staff recommends the purchase of two (2) Certified Law Enforcement Motorcycles from Renegade Harley Davidson in the amount of \$31,876.00. Council awarded Bid No. B043-05 to Renegade Harley Davidson on 2/14/05. The original bid included a provision to purchase additional motorcycles within a one year time period at the awarded bid price of \$15,938.00 each. These motorcycles are scheduled replacements for unit #02281 and unit #03280 (Dept. 532).					
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies			
Memo					



## MEMORANDUM

**DATE:** January 27, 2006  
**TO:** January Cook, Senior Buyer  
**FROM:** Reid Choate, Technical Coordinator  
**SUBJECT:** Request to purchase two (2) Harley Davidson Police Motorcycles.

It is the recommendation of Fleet and Equipment Services to purchase two (2) Certified Law Enforcement Motorcycles from Renegade Harley Davidson the lowest responsive, responsible bidder from Bid # B043-05 in the amount of \$15,938.00 ea. for a total of \$31,876.00. As a provision of the bid the City has the right to purchase one or more units under this bid for a period of one year from the contract.

These are for scheduled replacements for unit #02281 and 03280 in Dept. 532. Budgeted amount is \$32,000.00.

Please feel free to call me if you have any questions at extension 4182.

Cc: Karl Henry  
Marty Childers

J-2



**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>2/13/06</b>		Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
Department:	Fire		Initials	Date	
Department Head	Robert Acker, Interim Fire Chief	Executive Director	<i>[Signature]</i>	2-7-06	
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	2/7/06	
Agenda Coordinator (include phone #): <b>Frank Snidow, X7318</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>					
Purchase from existing contract/agreement to authorize the purchase of ambulance cots in the amount of \$122,368 from 1 <sup>st</sup> Mutual Aid Fire and EMS, LLC through a City of Garland, Texas RFP Depot Bid #46-06 and authorizing the City Manager or his designee to execute all necessary documents.					
<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>05/06</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>	
Budget	0	115,500	0	<b>115,500</b>	
Encumbered/Expended Amount	0	0	0	<b>0</b>	
This Item	0	122,368	0	<b>-122,368</b>	
BALANCE	<b>0</b>	-6,868	0	<b>-6,868</b>	
FUND(S): <b>FIRE ERF (903)</b>					
COMMENTS: Funds are included in the 2005-06 Fire Dept. ERF approved budget for the replacement purchase of ambulance cots. Funds are available in the Fire ERF balance to offset the price increase.					
STRATEGIC PLAN GOAL: Replacement of ambulance cots relates to the City's Goal of "Service Excellence".					
<b>SUMMARY OF ITEM</b>					
Staff recommends approval of expenditure for the purchase of ambulance cots from 1 <sup>st</sup> Mutual Aid Fire and EMS, LLC in an amount not to exceed \$114,720 and unpublished options in the amount of \$7,648. This award is through an interlocal agreement with the City of Garland, Texas, pursuant to Chapter 271, Section 271.102 of the Local Government Code.					
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies			

*R-1*

City of Plano



# Fire Department

P.O. BOX 860358 • Plano, Texas 75086-0358  
972-941-7159 Fax: 972-941-7291  
www.planofire.org

William Peterson  
Fire Chief



Fire Administration  
1901 Avenue K

Fire Station 1  
1901 Avenue K

Fire Station 2  
2630 West 15<sup>th</sup> Street

Fire Station 3  
3520 Sherrye Drive

Fire Station 4  
6000 Roundrock Trail

Fire Station 5  
5115 W. Park Blvd.

Fire Station 6  
900 Seabrook Drive

Fire Station 7  
5602 Democracy Drive

Fire Station 8  
4621 Hedgecoxe Drive

Fire Station 9  
6625 W. Parker Road

Fire Station 10  
3540 McDermott Drive

## MEMORANDUM

Date: February 7, 2006  
To: Bruce Glasscock, Executive Director  
From: Robert Acker, Interim Fire Chief   
Subject: Council Agenda Item – Purchase of Ambulance Cots

Attached is an agenda item requesting authorization to purchase ambulance cots in the amount of \$122,368 from 1<sup>st</sup> Mutual Aid Fire and EMS, LLC. The department is purchasing off of an existing City of Garland contract for ambulance cots.

Funding for the requested purchase was approved in the department's FY 05-06 budget.

If you have any questions or require additional information, please advise.

Attachment





## 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>2/13/06</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		
Dept Signature:	<i>Don Wendell</i>	City Manager		
Agenda Coordinator (include phone #):		<b>Linda Benoit (7255)</b>		

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

### CAPTION

To approve and authorize a contract with Newman, Jackson, Bieberstein, Inc., to provide Landscape Architectural Services in conjunction with construction of parking lots at Parkwood Green Park and Coyote Creek Park in an amount not to exceed \$44,270.10, and authorizing the City Manager or his designee to execute any and all documents necessary to effectuate a contract.

### FINANCIAL SUMMARY

NOT APPLICABLE     OPERATING EXPENSE     REVENUE     CIP

FISCAL YEAR: <b>2005-06</b>	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	3,231	955,769	250,000	<b>1,209,000</b>
Encumbered/Expended Amount	-3,231	-9,523	0	<b>-12,754</b>
This Item	0	-44,270	0	<b>-44,270</b>
BALANCE	0	901,976	250,000	<b>1,151,976</b>

**FUND(S):    PARK IMPROVEMENT CIP**

**COMMENTS:** Funds are included in the 2005-06 Park Improvement CIP. This item, in the amount of \$44,270, will leave a current year balance of \$901,976 for the Neighborhood Park Improvements project.

**STRATEGIC PLAN GOAL:** Landscaping and architectural services relate to the City's Goal of "Premier City for Families."

### SUMMARY OF ITEM

The attached Landscape Architectural Services Agreement with Newman, Jackson, Bieberstein, Inc. is for the preparation of construction drawings that includes plans and specifications for construction of two parking lots, one at Parkwood Green Park and another at Coyote Creek Park.

The contract fee is \$44,270.10 and includes basic services, reimbursable expenses, special services, platting, and surveying.



## CITY OF PLANO COUNCIL AGENDA ITEM

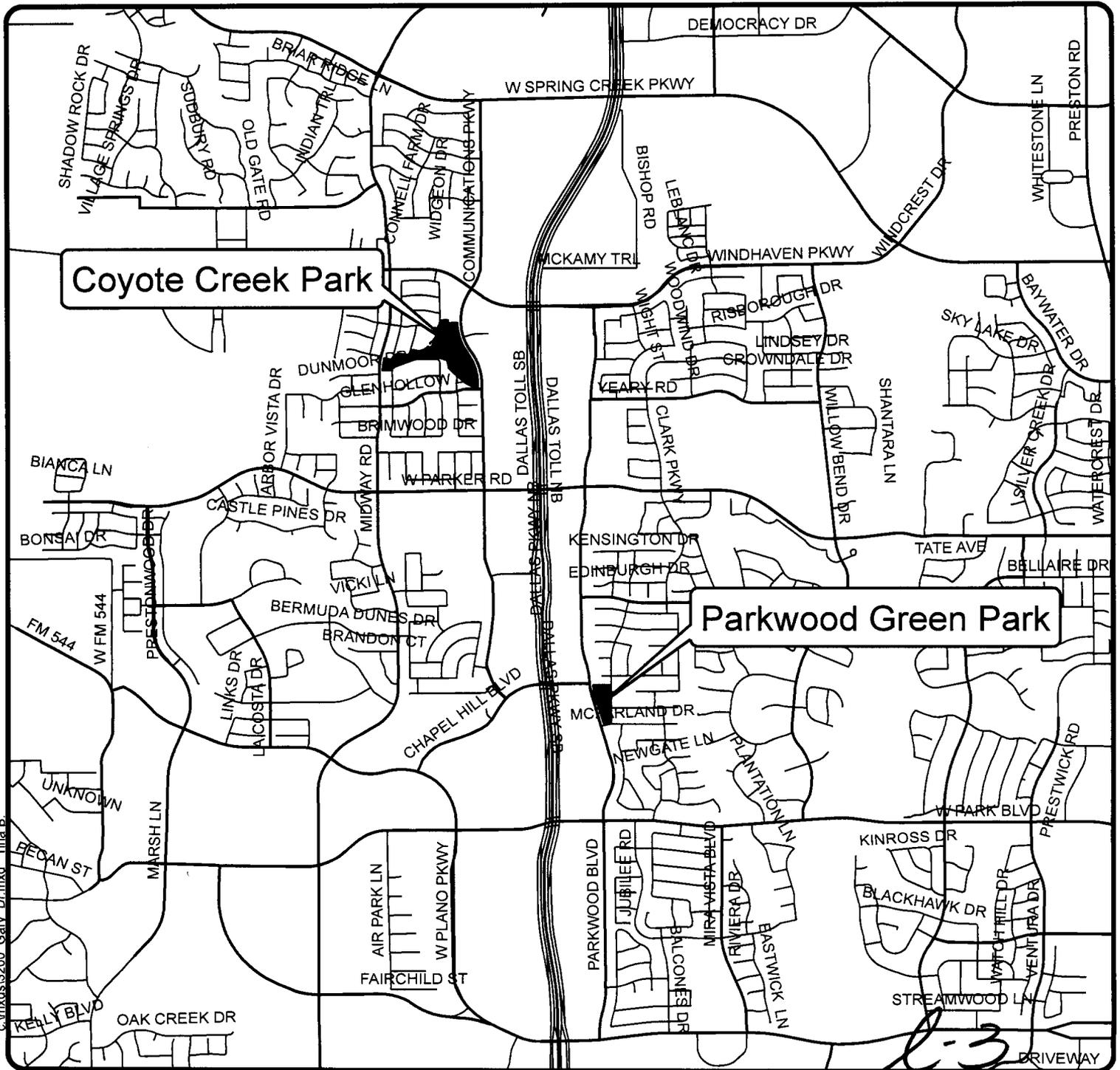
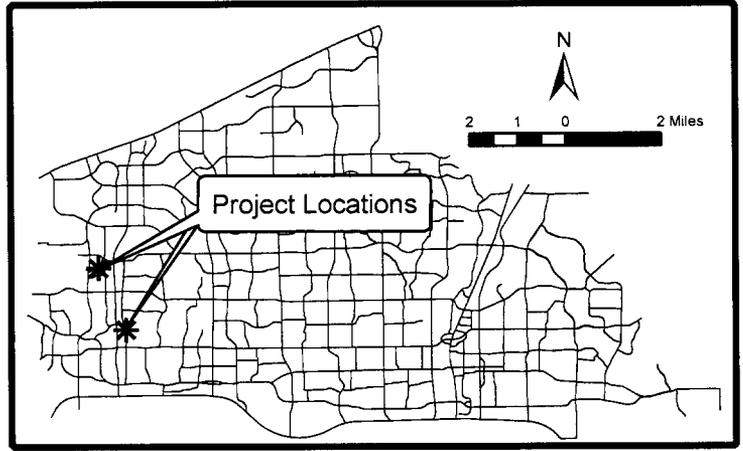
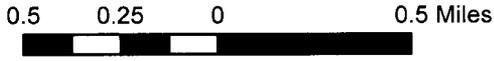
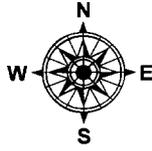
The fee is consistent with previous park engineering projects of this type and size. The total construction estimate for the project is \$358,458.70. The total contract fee is 12% of the estimated construction budget. Newman, Jackson, Bieberstein, Inc. is on the 2005-06 list of qualified consultants for landscape architects.

List of Supporting Documents:  
Location Map  
Architectural Services Agreement

Other Departments, Boards, Commissions or Agencies

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# Location Map Proposed Parking Lot Construction



**PARKING IMPROVEMENTS AT PARKWOOD GREEN  
AND COYOTE CREEK PARKS**

**PROJECT NO. 5693**

**LANDSCAPE ARCHITECT 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 **NEWMAN, JACKSON, BIBERSTEIN, INC.**, a **TEXAS** Corporation, licensed to do business in the State of Texas, hereinafter referred to as "Architect", to be effective from and after the date as provided herein.

**WITNESSETH:**

**WHEREAS**, the City desires to engage the services of the Architect to perform landscape architectural services in connection with the **PARKING IMPROVEMENTS AT PARKWOOD GREEN AND COYOTE CREEK PARKS** project located in the City of Plano, Collin County, Texas, hereinafter referred to as the "Project"; and

**WHEREAS**, the Architect desires to render such Architectural 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 Architect**

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

**II. Scope of Services**

The parties agree that Architect 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 contract modifications orders may be authorized from time to time by the City.

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### **III. Schedule of Work**

The Architect agrees to commence work immediately upon execution of this Agreement, and to proceed diligently with said work, except for delays beyond the reasonable control of Architect, to completion as described in the Completion Schedule, attached hereto as Exhibit "B" and thereby made a part of this Agreement.

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

The parties agree that Architect 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.

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

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

### **VI. Insurance**

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

### **VII. Indemnity**

Architect 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 Architect and to the extent caused by the negligent act or omission or intentional wrongful act or omission of Architect, its officers, agents, employees, subcontractors, licensees, invitees or any other third parties for whom Architect is legally responsible (hereinafter "Claims"). Architect 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 Architect 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 Architect's obligation to

*l-5*

defend City or as a waiver of Architect's obligation to indemnify City pursuant to this Agreement. Architect 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 Architect fails to retain counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Architect shall be liable for all costs incurred by City.

### **VIII. Independent Contractor**

Architect covenants and agrees that Architect is an independent contractor and not an officer, agent, servant or employee of City; that Architect 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 Architect, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Architect.

### **IX. Assignment and Subletting**

The Architect 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 Architect 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 Architect from its full obligations to the City as provided by this Agreement.

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

The Architect agrees that at any time during normal business hours and as often as City may deem necessary, Architect 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 Architect 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 Architect shall execute the affidavit shown in Exhibit "E". Architect understands and agrees that the existence of a prohibited interest during the term of this contract will render the contract voidable.

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## **XI. 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 Architect. In the event of such termination, Architect shall deliver to City all finished or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs or other items prepared by Architect in connection with this Agreement. Architect 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.

## **XII. Architect's Opinion of Probable Construction Costs**

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

## **XIII. Ownership of Documents**

Original drawings and specifications are the property of the Architect; however, the Project is the property of the City and Architect 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, Architect 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 Architect'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.

## **XIV. 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.

## **XV. Mailing of Notices**

Unless instructed otherwise in writing, Architect 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  
Parks & Recreation Department  
P.O. Box 860358  
Plano, TX 75086-0358

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

Karl Von Bieberstein  
Newman, Jackson, Bieberstein, Inc.  
12770 Coit Road #210  
Dallas TX 75251

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.

## **XVI. 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 County, Texas. Exclusive venue shall lie in Collin County, Texas.

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D. Successors and Assigns:

City and Architect, 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.

**NEWMAN, JACKSON, BIEBERSTEIN,  
INC.**

A Texas Corporation

DATE: JANUARY 30, 2006

BY: *Karl Von Bieberstein*  
Karl Von Bieberstein  
VICE PRESIDENT

**CITY OF PLANO, TEXAS**

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

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

**APPROVED AS TO FORM:**

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

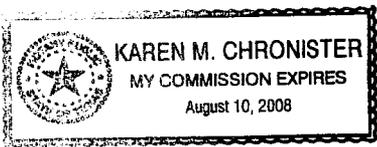
*2-9*

**ACKNOWLEDGMENTS**

STATE OF TEXAS §

COUNTY OF DALLAS §

This instrument was acknowledged before me on the 30 day of January, 2006, by **KARL VON BIEBERSTEIN, VICE PRESIDENT** of **NEWMAN, JACKSON, BIEBERSTEIN, INC.**, a **TEXAS** corporation, licensed to do business in the State of Texas, on behalf of said corporation.



Karen M. Chronister  
Notary Public, State of Texas

STATE OF TEXAS §

COUNTY OF COLLIN §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, 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**  
**PARK AND RECREATION DEPARTMENT**  
**CITY OF PLANO**

**1.0 SCOPE**

The Consultant's area and scope shall consist of site and parking area improvements to Coyote Creek Park located at Communications Parkway and Glenhollow Drive and Parkwood Green Park located at Parkwood Boulevard and McFarland Drive in Plano, Texas.

1.1 This proposal is based on man-hour labor and material costs to design the following improvements:

1.1.1 **Coyote Creek Park:** Provide parking facilities for 30 additional cars within the boundaries of the park including a new entry and related fencing modifications off Communications Parkway, upgrade the small playground adjacent to Coyote Creek with a new concrete edge, updated playground equipment and accessible surfacing, new concrete walkways between the new parking and the playground / shelter area, re-grassing, and irrigation modifications necessitated by the construction of the parking improvements and walks.

1.1.2 **Parkwood Green Park:** Provide parking facilities for 25 - 30 additional cars along Notre Dame Drive; provide additional pedestrian circulation around the park perimeter, enhancements to the existing picnic shelter columns, re-grassing, additional tree plantings, and irrigation modifications necessitated by the construction of the parking improvements and walkway modifications.

1.2 Phases of the work shall consist of Pre-design, Preliminary Design, Construction Documents, and Limited Construction Administration services.

**2.0 BASIC SERVICES**

The Consultant services shall consist of the four (4) phases described in Paragraph's 2.1. through 2.4 as follows:

## 2.1 Pre-design

2.1.1 Base maps of the two parks will be created from existing park information available from Consultant's files and aerial photographs provided by the City. Consultant has provided for limited topographic surveying to supplement existing surveys in the vicinity of the proposed parking area locations. It is not anticipated that updated topographic surveys for the entire parks will be required and none have been provided as part of this proposal.

2.1.2 The Consultant will visit each site and document existing conditions through site photographs and notes before beginning preliminary design.

## 2.2 Preliminary Design

2.2.1 Consultant shall prepare plan and detailed drawings for the following elements related to Coyote Creek and Parkwood Green Parks:

- Parking Areas: One scheme for each park will be developed for parking expansion at Coyote Creek Park and Parkwood Green Park. Schemes will be reviewed first by the City (one meeting) and then forwarded to each park's respective HOA president for review and comment. City will provide neighborhood comments to landscape architect for incorporation into the plans for each park site;
- Small Children's playground at Coyote Creek Parks: Upgrade of this play area with new playground edge, new equipment and play surface and drainage. The same general play elements will remain unless either the City or the local project stakeholders desire further modifications;
- Parkwood Green: extension of the existing concrete perimeter walk to connect to a walkway along Parkwood Boulevard as well as minor reconfiguration (if necessary) to the walk along Notre Dame necessitated by the parallel parking design;
- Enhancements to the existing picnic shelters columns at Parkwood Green Park only;
- Turf re-establishment in all areas disturbed by construction at both parks;
- Parkwood Green: Additional tree planting;
- Coyote Creek: Modifications to the existing ornamental metal fence and stone columns along Communications Parkway required by the new parking area entry;

2.2.2 Consultant shall prepare Preliminary Cost Estimate.

2.2.3 Deliverables for Coyote Creek Park during this phase shall include:

2.2.3.1 One (1) color plot of the park site with parking area recommendations for initial reviews

2.2.3.2 One color rendering of the final agreed parking configuration as well as recommendations to the adjacent small playground

2.2.4 Deliverables for Parkwood Green Park during this phase shall include:

2.2.4.1 One color plot of the parallel parking configuration including the additional walkways, planting recommendations, and picnic shelter enhancements.

## 2.3 Construction Documents

Based on the approved Preliminary Design Documents and Preliminary Cost Estimate, Consultant shall prepare for approval by the Owner, Construction Documents in one bid package for the improvements to each park site consisting of:

- Cover sheet showing vicinity map for project, signature block, index of drawings, contact list;
- Horizontal and vertical control drawings with appropriate benchmarks;
- Legend with listing of symbols, abbreviations, lines and shading patterns;
- General notes and special conditions;
- Demolition details showing removal and or relocation of existing elements as required to accommodate the improvements;
- Existing and proposed contour lines showing surface drainage flows;
- Indicate method of proposed storm drainage systems with labels indicating length and size of pipe section;
- Erosion control plans and details including SWPPP plans;
- Complete construction details and standards with special construction items labeled for clarification.

2.3.1 Consultant will prepare estimates of probable costs at the end of the contract document phase.

- 2.3.2 Deliverables include three (3) sets of full size 90% review prints and three (3) sets of full size review sets at the 60% progress review.
- 2.3.3 Consultant will submit a full-sized set of construction documents to the Texas Department of Licensing and Regulation or an Independent Contract Provider for *Texas Accessibility Standards* review. Based on this review, Consultant shall revise the construction documents accordingly.
- 2.3.4 Final deliverables shall include one (1) set of reproducible drawings, one set of unbound specifications, and one electronic file of the construction documents in AutoCAD compatible format.

## **2.4 Administrative and Project Observation During the Construction Phase**

During the construction phase of the Project, Consultant agrees to perform certain administrative and Project observation services. These services are limited to the following with the understanding that the CITY will employ an in-house Project coordinator as the CITY's Project Representative and will utilize CITY inspectors to oversee construction of the Project:

- 2.4.1 The Consultant will assist the City's Project coordinator with any addenda preparation; attendance at a pre-bid conference, bid opening, and pre-construction conference; and bid tabulation.
- 2.4.2 The Consultant shall review and make recommendations to the CITY regarding Contractor's submittals such as Shop Drawings, Product Data and Samples, for the purpose of checking for conformance with information and design concepts expressed in the Contract Documents. Shop Drawings and other submittals related to Work designed or certified by the Contractor's design professionals shall bear such professional's written approval and seal or certification (when applicable) when submitted to the Consultant.
- 2.4.3 The Consultant shall assist the CITY in reviewing and making recommendations on properly prepared, timely requests by the Contractor for Change Orders. A properly prepared request for a Change Order shall be accompanied by sufficient supporting information to permit the CITY and Consultant to make a reasonable determination without extensive investigation or

preparation of additional drawings or specifications. All change orders involving monetary issues shall be made in writing to the CITY's Park Department. The Consultant shall have authority to order minor changes in the Work, which are consistent with the intent of the Contract Documents, and not involving an adjustment in the Contract Sum or an extension of the Contract Time provided the CITY's Park Department is notified in writing prior to the change. Notification shall include the specific item that changed, reason for the change, and confirmation that it neither increased nor decreased the Contract Sum or schedule. This authority does not include substitution of major Project components or materials.

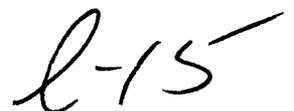
- 2.4.4 The Consultant shall review timely and appropriate requests by the Contractor for additional information about the Contract Documents. The Consultant shall consult and assist the CITY in issuing advice and instructions to the Contractor, but all such instruction shall be issued through the CITY, unless otherwise instructed by the CITY.
- 2.4.5 When requested by the CITY's Project coordinator, Consultant will make four (2) periodic site visits to each park site for a total of four (4) site visits to observe contractor progress and plan compliance.
- 2.4.6 Consultant will make one site visit and report (punch list) per park (for a total of two visits) for the purpose of assisting the CITY in determining the status of Project Completion.
- 2.4.7 Consultant will make one site visit and report per park (for a total of two visits) for the purpose of verifying completion of punch list items.
- 2.4.8 Consultant will prepare written report of findings and report any discrepancies or problems to the City.

### **3.0 Special Services**

- 3.1 The Consultant will provide platting services for each park in accordance with City of Plano and Collin County requirements.

### **4.0 Limitations**

The Consultant understands that the following services are not required at this time and have not been provided for as part of this proposal:



- Existing utility mapping and/or adjustments;
- Creation of base plans for both entire parks;
- Construction staking;
- Lighting design including electrical services;
- Traffic study;
- Easement and ROW dedication documents except as identified above;
- Water and sanitary sewer services;
- Geotechnical reports and recommendations will be provided by the Owner;
- Revising drawings, specifications or other documents previously approved to accomplish changes requested by the Owner;
- Assisting the Owner in arranging for the work to proceed should the Contractor default due to delinquency or insolvency;
- Preparing presentation models or renderings beyond those described in Basic Services;
- Inspection of erosion control devices or maintaining erosion control or SWPPP documents during construction are not a part of this agreement;
- Filing of Final Plats with Collin County including filing fees.
- Additional neighborhood meetings and renderings beyond those stipulated under basic services.

## 5.0 Additional Services

Additional services must receive written authorization from the City before being performed and will be compensated for as mutually agreed between Consultant and City.

## 6.0 Statement of Jurisdiction

The Texas Board of Architectural Examiners has jurisdiction over complaints regarding the professional practices of persons registered as landscape architects in Texas.

Texas Board of Architectural Examiners  
 333 Guadalupe, Suite 2-350  
 Austin, TX 78701-3942  
 Phone (512) 305-9000  
 Fax (512) 305-8900

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## Exhibit B – Schedule

Work shall be performed in accordance with the following schedule:

- Consultant receives NTP and begins site review and analysis;
- Initial kick-off meeting with staff for both parks scheduled to occur within thirty (30) days of NTP.
- Review meeting with staff to discuss preliminary recommendations for each park will be scheduled to occur within thirty (30) days of kick-off meeting; Consultant begins work on preliminary plats;
- Submittal of rendered plans for each park to City for forwarding on to HOA Presidents within twenty-one (21) days of review of preliminary recommendations; Preliminary Plats submitted to City for review;
- 60% final design within forty-five (45) days of receipt of preliminary design comments from City;
- 90% final design within twenty-one (21) days of receipt of 60% final design comments from City;
- 100% final design and final plats within fifteen (15) days of receipt of 90% final design comments from City.

**EXHIBIT C  
BASIS OF COMPENSATION**

- A. Billing shall be monthly based on a percentage of completion with payment due within 30 days of receipt.
- B. Payment is due upon receipt of invoice and is payable at the offices of Newman, Jackson, Bieberstein, Inc., Banner Place North, 12770 Coit Road, Suite 210, Dallas, Texas 75251.
- C. For Additional Services, compensation shall be computed as a lump sum or hourly, as mutually agreed to by both parties. Additional Services will only be performed after receiving CITY authorization to proceed.
- D. In addition to the basic services fees shown on the following pages, Consultant will bill the City at Consultant's direct cost for normal reimbursable expenses, such as postage/delivery charges, printing, photography, CADD plotting, travel to and from the site, fees paid for securing approval of authorities having jurisdiction over the project, long distance communications, expense of any additional insurance coverage/limits requested by CITY in excess of our normal coverage, and other "out-of-pocket" expenses appropriate to our professional services. An allowance for project expenses has been provided for in the fee proposal (refer to page 2 of this exhibit).
- E. When requested and approved by the CITY, additional trips to the site beyond those provided by the basic services will be billed on an hourly basis per the following hourly rates:

NJB, Landscape Architect	
Principal	\$130.00
Associate Principal	\$ 85.00
Landscape Architect	\$ 55.00
Technician / Intern	\$ 35.00
Clerical	\$ 50.00
Sr. PE	\$125.00
PE	\$100.00
EIT	\$ 75.00

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Exhibit "C"

## NJB Fee Proposal Summary Sheet

Plano Parks - Coyote Creek and Parkwood Green

Task	Coyote Creek Park	Parkwood Green	Total
<b>Basic Services</b>			
Pre-design	\$ 562.50	\$ 497.50	\$ 1,060.00
Preliminary Design	\$2,365.00	\$ 1,470.00	\$ 3,835.00
Construction Documents	\$4,675.00	\$ 4,022.50	\$ 8,697.50
Bidding	\$ 670.00	\$ 670.00	\$ 1,340.00
Construction Observation	\$1,825.00	\$ 1,825.00	\$ 3,650.00
Sub-total Basic Services	\$ 10,097.50	\$ 8,485.00	\$18,582.50
<b>Allowances Basic Services</b>			
Project expenses	\$1,370.30	\$ 1,355.30	\$ 2,725.60
Sub-consultants - Basic Services			
Civil Engineering & SWPPP(MI)	\$7,368.00	\$ 7,268.00	\$14,636.00
Irrigation (Irritech)	\$ 750.00	\$ 750.00	\$ 1,500.00
Sub-total Consultants	\$8,118.00	\$ 8,018.00	\$16,136.00
<b>Total Basic Services and Allowances</b>	<b>\$ 19,585.80</b>	<b>\$ 17,858.30</b>	<b>\$37,444.10</b>
<b>Special Services - Platting</b>			
Platting Services (MI)	\$3,863.00	\$ 2,963.00	\$ 6,826.00
<b>Total - Basic and Special Services</b>	<b>\$23,448.80</b>	<b>\$20,821.30</b>	<b>\$44,270.10</b>

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Basic Services - Coyote Creek Park

Task Principal Project Mgr Land Arch Tech Clerical Total

Pre Design	Principal	Project Mgr	Land Arch	Tech	Clerical	Total
1 Base Plan Preparation using Exist Cad files & photos	0.5		4			
2 Site Visit / Analysis	1.5		1.5			
Total Hours	2	0	5.5	0	0	
Rate per hour	\$ 130.00	\$ 85.00	\$ 55.00	\$ 35.00	\$ 50.00	\$ 562.50
Labor Total	\$ 260.00	\$ -	\$ 302.50	\$ -	\$ -	\$ -

Preliminary Design

1 Initial kick-off Meeting with City Staff	2		2			
2 Develop configuration for pkg expansion	1		4			
3 Develop plan for playground imp.	1		8			
4 Develop cost estimate	1		4			
5 Review with PARD staff			2			
6 Develop site illustrative plan & playground enlargement	0.5		10			
7 Final Review w/ City staff						
Total Hours	5.5	0	30	0	0	
Rate per hour	\$ 130.00	\$ 85.00	\$ 55.00	\$ 35.00	\$ 50.00	\$ 50.00
Labor Total	\$ 715.00	\$ -	\$ 1,650.00	\$ -	\$ -	\$ 2,365.00

Final Design

1 Cover Page			1			
2 Demo Plan			3			
3 Layout & Materials Plan	0.5					
Playground and walks	1		16			
Parking areas (Coordin w/ civil)	0.5		1			
Grading Plan (Co-ord. w/ Civil)	0.5		2			
Erosion Control Plan (Civil Prepares)			0.5			
Civil Details (Co-ordinate with Civil)			0.5			

SR/LEGAL/06L-NEWMAN1 (01/06)

Task	Principal	Project Mgr	Land/Arch	Tech	Clerical	Total
7 Planting Plan	0.5		4			
8 Details (Estimate 1 sheet)	1		12			
9 Irrigation Plan and Details (Consultant Coordination)			1			
10 Technical Specifications	4				4	
11 Develop Bid Form	1					
12 NJB QC	2		4			
13 Revise Cost estimate	0.5		1.5			
14 City submittal coord. At 60% and 90%			2			
15 Incorporate review Comments	0.5		4			
16 TDLR Submittal Coordination			0.5			
<b>Total Hours</b>	12	0	53	0	4	
<b>Rate per hour</b>	\$ 130.00	\$ 85.00	\$ 55.00	\$ 35.00	\$ 50.00	
<b>Labor Total</b>	\$1,560.00	\$ -	\$2,915.00	\$ -	\$ 200.00	\$ 4,675.00
<b>Bidding</b>						
1 Attend Pre-bid Conf			2			
2 Services during bidding phase	1		4		2	
3 Attend Bid Opening			2			
<b>Total Hours</b>	1	0	8	0	2	
<b>Rate per hour</b>	\$ 130.00	\$ 85.00	\$ 55.00	\$ 35.00	\$ 50.00	
<b>Labor Total</b>	\$ 130.00	\$ -	\$ 440.00	\$ -	\$ 100.00	\$ 670.00

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Task	Principal	Project Mgr	Land Arch	Tech	Clerical	Total
Construction Observation						
1 Attend Pre-Construction Mtg	2		2			
2 Provide RFI's, submittals, shop dwgs, etc.	1		4		2	
3 Site Visits and Inspections and follow-up (2 visits)	1		4		2	
4 Develop Punch List	1		3		1.5	
5 Final Walk-through			2		1.5	
Total Hours	5	0	15	0	7	
Rate per hour	\$ 130.00	\$ 85.00	\$ 55.00	\$ 35.00	\$ 50.00	
Labor Total	\$ 650.00	\$ -	\$ 825.00	\$ -	\$ 350.00	\$ 1,825.00
<b>Total Basic Services Fee</b>						<b>\$10,097.50</b>

**Basic Services - Parkwood Green Park**

**Task**      **Principal**      **Project Mgr**      **Land Arch**      **Tech**      **Clerical**      **Total**

**Pre Design**

1	Base Plan Preparation using Exist Cad files & photos						
2	Site Visit / Analysis	1.5					
			4				
			1.5				
	<b>Total Hours</b>	1.5	5.5	0	0	0	
	<b>Rate per hour</b>	\$ 130.00	\$ 55.00	\$ 35.00	\$ 50.00	\$ 50.00	
	<b>Labor Total</b>	\$ 195.00	\$ 302.50	\$ -	\$ -	\$ -	\$ 497.50

**Preliminary Design**

1	Initial review Meeting with City Staff	2	2				
2	Develop park imp. Plan w/ pkgng along Notre Dame	1	12				
3	Develop sketch of column enhancements		2				
4	Review plan w/ City staff (staff sends to HOA)		2				
5	Develop Cost estimate	1	4				
6	Review HOA comments w/ City staff		2				

**Total Hours**

<b>Rate per hour</b>	2	0	22	0	0	0	
<b>Labor Total</b>	\$ 130.00	\$ 85.00	\$ 55.00	\$ 35.00	\$ 50.00	\$ 50.00	\$ 1,470.00
	\$ 260.00	\$ -	\$ 1,210.00	\$ -	\$ -	\$ -	

**Final Design**

1	Cover Page		1				
2	Demo Plan		3				
3	Layout & Materials Plan	0.5					
	Walks, Shelter column enhancements		8				
4	Grading & Drainage Plan (Coord w/ Civil)	1	1				
5	Civil Details / Erosion Control		0.5				

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Task	Principal	Project Mgr	Land Arch	Tech	Clerical	Total
6 Planting Plan	0.5		6			
7 Details (Estimate 1 sheet)	1		8			
8 Irrigation Plan and Details			1.5			
9 Technical Specifications	4				4	
10 Develop Bid Form	1					
11 NJB QC	2		6			
12 Update Cost estimate	0.5		2			
13 City submittal coord. At 60% and 90%			2			
14 Incorporate review Comments			4			
15 TDLR Submittal Coordination	0.5					
<b>Total Hours</b>	11	0	43.5	0	4	
<b>Rate per hour</b>	\$ 130.00	\$ 85.00	\$ 55.00	\$ 35.00	\$ 50.00	
<b>Labor Total</b>	\$1,430.00	\$ -	\$2,392.50	\$ -	\$ 200.00	\$ 4,022.50
<b>Bidding</b>						
1 Attend Pre-bid Conf			2			
2 Services during bidding phase	1		4		2	
3 Attend Bid Opening			2			
<b>Total Hours</b>	1	0	8	0	2	
<b>Rate per hour</b>	\$ 130.00	\$ 85.00	\$ 55.00	\$ 35.00	\$ 50.00	
<b>Labor Total</b>	\$ 130.00	\$ -	\$ 440.00	\$ -	\$ 100.00	\$ 670.00

Task	Principal	Project Mgr	Land Arch	Tech	Clerical	Total
Construction Administration						
1 Attend Pre-Construction Mtg	2		2			
2 Provide RFI's, submittals, shop dwgs, etc.	1		4		2	
3 Site Visits and Inspections and follow-up (2 visits)	1		4		2	
4 Develop Punch List	1		3		1.5	
5 Final Walk-through			2		1.5	
Total Hours	5	0	15	0	7	
Rate per hour	\$ 130.00	\$ 85.00	\$ 55.00	\$ 35.00	\$ 50.00	
Labor Total	\$ 650.00	\$ -	\$ 825.00	\$ -	\$ 350.00	\$ 1,825.00
<b>Total Basic Services Fee</b>						<b>\$ 8,485.00</b>

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**Project Expenses  
Coyote Creek Park**

Item	Unit	Quan	Unit Price	Cost
CADD Plots (ea)				
Bond	ea	25	\$ 9.00	\$ 225.00
Vellum	ea	8	\$ 12.00	\$ 96.00
Color	ea	1	\$ 27.00	\$ 27.00
Reproduction				\$ -
Prints	sheet	30	\$ 3.00	\$ 90.00
Reproducibles (Sheet)	sheet	8	\$ 35.00	\$ 280.00
Digital Scanning	ea	1	\$ 25.00	\$ 25.00
Digital Blowbacks	sf		\$ 12.00	\$ -
Postage	ea	20	\$ 0.50	\$ 10.00
Courier	ea	4	\$ 25.00	\$ 100.00
Photocopies	sheet	200	\$ 0.15	\$ 30.00
Color Photocopies	sheet		\$ 1.50	\$ -
Facsimile transmissions	ea	5	\$ 3.00	\$ 15.00
TDLR Review Fee	ea	0.5	\$ 400.00	\$ 200.00
TDLR filing Fee	ea	0.5	\$ 175.00	\$ 87.50
Mileage (12 trips @ 35mi per trip)	mi	420	\$ 0.44	\$ 184.80
Total Estimate				\$1,370.30

**Project Expenses  
Parkwood Green Park**

Item	Unit	Quan	Unit Price	Cost
CADD Plots (ea)				
Bond	ea	25	\$ 9.00	\$ 225.00
Vellum	ea	8	\$ 12.00	\$ 96.00
Color	ea	1	\$ 27.00	\$ 27.00
Reproduction				\$ -
Prints	sheet	25	\$ 3.00	\$ 75.00
Reproducibles (Sheet)	sheet	8	\$ 35.00	\$ 280.00
Digital Scanning	ea	1	\$ 25.00	\$ 25.00
Digital Blowbacks	sf		\$ 12.00	\$ -
Postage	ea	20	\$ 0.50	\$ 10.00
Courier	ea	4	\$ 25.00	\$ 100.00
Photocopies	sheet	200	\$ 0.15	\$ 30.00
Color Photocopies	sheet		\$ 1.50	\$ -
Facsimile transmissions	ea	5	\$ 3.00	\$ 15.00
TDLR Review Fee	ea	0.5	\$ 400.00	\$ 200.00
TDLR filing Fee	ea	0.5	\$ 175.00	\$ 87.50
Mileage - 12 trips @ 35 mi.	mi	420	\$ 0.44	\$ 184.80
Total Estimate				\$1,355.30

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**Project Expenses  
Coyote Creek Park**

Item	Unit	Quan	Unit Price	Cost
CADD Plots (ea)				
Bond	ea	25	\$ 9.00	\$ 225.00
Vellum	ea	8	\$ 12.00	\$ 96.00
Color	ea	1	\$ 27.00	\$ 27.00
Reproduction				\$ -
Prints	sheet	30	\$ 3.00	\$ 90.00
Reproducibles (Sheet)	sheet	8	\$ 35.00	\$ 280.00
Digital Scanning	ea	1	\$ 25.00	\$ 25.00
Digital Blowbacks	sf		\$ 12.00	\$ -
Postage	ea	20	\$ 0.50	\$ 10.00
Courier	ea	4	\$ 25.00	\$ 100.00
Photocopies	sheet	200	\$ 0.15	\$ 30.00
Color Photocopies	sheet		\$ 1.50	\$ -
Facsimile transmissions	ea	5	\$ 3.00	\$ 15.00
TDLR Review Fee	ea	0.5	\$ 400.00	\$ 200.00
TDLR filing Fee	ea	0.5	\$ 175.00	\$ 87.50
Mileage (12 trips @ 35mi per trip)	mi	420	\$ 0.44	\$ 184.80
Total Estimate				\$1,370.30

**Project Expenses  
Parkwood Green Park**

Item	Unit	Quan	Unit Price	Cost
CADD Plots (ea)				
Bond	ea	25	\$ 9.00	\$ 225.00
Vellum	ea	8	\$ 12.00	\$ 96.00
Color	ea	1	\$ 27.00	\$ 27.00
Reproduction				\$ -
Prints	sheet	25	\$ 3.00	\$ 75.00
Reproducibles (Sheet)	sheet	8	\$ 35.00	\$ 280.00
Digital Scanning	ea	1	\$ 25.00	\$ 25.00
Digital Blowbacks	sf		\$ 12.00	\$ -
Postage	ea	20	\$ 0.50	\$ 10.00
Courier	ea	4	\$ 25.00	\$ 100.00
Photocopies	sheet	200	\$ 0.15	\$ 30.00
Color Photocopies	sheet		\$ 1.50	\$ -
Facsimile transmissions	ea	5	\$ 3.00	\$ 15.00
TDLR Review Fee	ea	0.5	\$ 400.00	\$ 200.00
TDLR filing Fee	ea	0.5	\$ 175.00	\$ 87.50
Mileage - 12 trips @ 35 mi.	mi	420	\$ 0.44	\$ 184.80
Total Estimate				\$1,355.30

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## EXHIBIT "D"

### LANDSCAPE ARCHITECT

### 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 Architect (hereinafter called "Architect") shall not start work under this contract until the Architect 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 Architect 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 Architect 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 Architect'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.

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- 1.5 The Architect 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 Architect 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 Architect 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 Architect, and the Architect 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 Architect. Architect may be required to provide proof of financial ability to cover deductibles, or may be required to post a bond to cover deductibles.

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

- 2.1 The Architect 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 Architect 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 Architect 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

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# LANDSCAPE ARCHITECT

## City of Plano - Insurance Checklist

("X" means the coverage is required.)

### Coverages Required

### Limits (Figures Denote Minimums)

X 1. Workers' Compensation & Employers' Liability

Statutory limits of State of Texas  
\$100,000 accident \$100,000 disease  
\$500,000 policy limit disease

   2. For Future Use

   3. City Approved Alternative Workers' Comp. Program

\$150,000 medical, safety program

X 4. General Liability

Complete entry No. 26  
Minimum \$500,000 each occurrence  
\$1,000,000 general aggregate

X 5. General aggregate applies per project (CGL)

X 6. Premises/Operations

(Items No. 3-10 & 12 require)

X 7. Independent Contractors

\$500,000 combined single limit  
for bodily injury and property damage

   8. Products

damage each occurrence with

   9. Completed Operations

\$1,000,000 general aggregate that  
applies to project under contract

X 10. Contractual Liability

X 11. Personal Injury Liability

\$500,000 each offense & aggregate

   12. XCU Coverages

X 13. Automobile Liability

\$500,000 Bodily Injury & Property

X 14. Owned, Hired & Non-owned

Damage each accident

   15. Motor Carrier Act Endorsement

X 16. Professional Liability

\$1,000,000 each claim and aggregate

   17. Garage Liability

\$        BI & PD each occurrence

\_\_\_ 18. Garagekeepers' Legal \$ \_\_\_\_\_ - Comprehensive  
\$ \_\_\_\_\_ - Collision

\_ 19. Owners Protective Liability \$500,000 Combined single limits

X 20. City named as additional insured on General Liability policy.. This coverage is primary to all other coverages the City may possess.

21. City provided with Waiver of Subrogation on Workers' Compensation or Alternative program if applicable.

X 22. Ten (10) days notice of cancellation, non-renewal, material change or coverage reduction endorsement required. The words "endeavor to" and "but failure" (to end of sentence) are to be eliminated from the Notice of Cancellation provision on standard ACORD certificates.

X 23. The City of Plano prefers an A.M. Best's Guide Rating of "A-", "VI" or better or Standard and Poors Rating AA or better; Authorized to do business in the State of Texas (not applicable for workers' compensation assigned through pool or alternative compensation programs).

X 24. The Certificate must state project title and project number.

X 25. Other Insurance Required:

INSURANCE AGENT'S STATEMENT

I have reviewed these requirements with the Architect named below. Additionally:

X 26. The above policy(s) carry the following deductibles: \_\_\_\_\_

Full limits of coverage available for:  
General Liability \_\_\_\_\_ Professional Liability \_\_\_\_\_  
Automobile Liability \_\_\_\_\_

X 27. Liability policies are (indicate):

OCCURRENCE [ ]

CLAIMS MADE [ ]

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Insurance Agent (Print)

\_\_\_\_\_  
Name of Insured

\_\_\_\_\_  
Date

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**EXHIBIT "E"**

**AFFIDAVIT OF NO PROHIBITED INTEREST**

I, the undersigned declare and affirm that no person or officer of NEWMAN, JACKSON, BIEBERSTEIN, 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.

NEWMAN, JACKSON, BIEBERSTEIN, INC.

Name of Contractor

By: Karl Von Bieberstein  
Signature

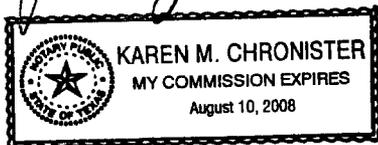
KARL VON BIEBERSTEIN  
Print Name

VICE PRESIDENT  
Title

JANUARY 30, 2006  
Date

STATE OF Texas §  
COUNTY OF Dallas §

January, 2006. SUBSCRIBED AND SWORN TO before me this 30 day of



Karen M. Chronister  
Notary

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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>2/13/06</b>		Reviewed by Legal <i>[Signature]</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Engineering	Initials	Date	
Department Head	Alan L. Upchurch	Executive Director		
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	<i>2/13/06</i>
Agenda Coordinator (include phone #): <b>Pegues (7198)</b> <i>[Signature]</i>		<b>(Project No. 5634)</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 checked="" type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
<b>CAPTION</b>				
Approval of a contract to approve the terms and conditions of an engineering services contract by and between the City and Walter P. Moore & Associates, Inc. in the amount of \$136,270 for Erosion Control-Waasland Drive and Pittman Creek Rehabilitation and authorizing the City Manager or his designee to execute all necessary documents.				
<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>2005-06</b>	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	505,000	500,000	<b>1,005,000</b>
Encumbered/Expended Amount	0	-4,682	0	<b>-4,682</b>
This Item	0	-136,270	0	<b>-136,270</b>
<b>BALANCE</b>	<b>0</b>	<b>364,048</b>	<b>500,000</b>	<b>864,048</b>
FUND(S): <b>MUNICIPAL DRAINAGE CIP</b>				
<b>COMMENTS:</b> Funds are included in the 2005-06 Municipal Drainage CIP. This item, in the amount of \$136,270, will leave a current year balance of \$364,048 for the Erosion Control project. <b>STRATEGIC PLAN GOAL:</b> Erosion control relates to the City's Goal of Livable Neighborhoods and Urban Centers.				
<b>SUMMARY OF ITEM</b>				
This agreement with Walter P. Moore & Associates, Inc. is for engineering design for the installation of erosion control measures (rock gabion wall structures) and/or rehabilitation of existing erosion structures in creek areas for two (2) separate construction contracts at the following locations:				
<i>Contract I</i>				
1. 7612 Waasland Drive				
2. 6705 Timothy Drive				
<i>Contract II</i>				
1. Pittman Creek – Roundrock Trail to West Park Boulevard (selected locations)				
The contract fee is for \$136,270 and is detailed as follows:				
<u>Basic Services</u>				
Phase I – Preliminary Engineering	\$ 32,250			
Phase II – Final Engineering	\$ 31,740			
Phase III – Construction Administration	\$ 16,140			
Sub-Total Basic Services	\$ 80,130			

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**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<u>Special Services</u>	
Topographic Surveying	\$ 20,800
Geotechnical Study	\$ 21,600
Pittman Creek Pre-Project Study	\$ 4,060
Waasland Hydraulic Study	\$ 7,680
Anchored Gabion License	\$ 900
Reimbursables	<u>\$ 1,100</u>
Sub-Total Special Services	\$ 56,140
<b>TOTAL FEE</b>	<b>\$136,270</b>

Funding is available from the Municipal Drainage Community Investment Program. Staff feels the fee is reasonable for this project estimated to cost \$1,240,000.

List of Supporting Documents:  
Engineering Services Agreement  
Location Map

Other Departments, Boards, Commissions or Agencies  
N/A

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**EROSION CONTROL  
WAASLAND DRIVE AND PITTMAN CREEK REHABILITATION**

**PROJECT NO. 5634**

**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 **WALTER P. MOORE & 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 **EROSION CONTROL – WAASLAND DRIVE AND PITTMAN CREEK REHABILITATION** project located in the City of Plano, Collin 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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**Engineering Services Agreement  
Erosion Control – Waasland Drive and Pittman Creek Rehabilitation  
Project No. 5634**

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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. 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.

#### **V. 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.

#### **VI. 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.

#### **VII. 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

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shall have the right to retain defense counsel on its own behalf, and Engineer shall be liable for all costs incurred by City.

### **VIII. 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.

### **IX. 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.

### **X. 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.

## **XI. 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.

## **XII. 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.

## **XIII. 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.

## **XIV. 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.

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## **XV. 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:

Walter P. Moore & Associates, Inc.  
1845 Woodall Rodgers Freeway, Suite 1650  
Dallas, Texas 75201  
Attn: Faisal Syed, P.E., Principal

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.

## **VI. 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 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.

**WALTER P. MOORE & ASSOCIATES,  
INC.**  
A Texas Corporation

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

BY: \_\_\_\_\_  
Edwin Friedrichs, P.E., PRESIDENT  
INFRASTRUCTURE DIVISION

**CITY OF PLANO, TEXAS**

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

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

**APPROVED AS TO FORM:**

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

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**ACKNOWLEDGMENTS**

**STATE OF TEXAS       §**  
**§**  
**COUNTY OF DALLAS   §**

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2006, by **EDWIN FRIEDRICHS, P.E., PRESIDENT - INFRASTRUCTURE DIVISION**, of **WALTER P. MOORE & ASSOCIATES, INC.**, a **TEXAS** corporation, on behalf of said corporation.

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

**STATE OF TEXAS       §**  
**§**  
**COUNTY OF COLLIN   §**

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2006, 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

## Exhibit "A"

### SCOPE OF ENGINEERING SERVICES Erosion Control – Waasland Drive and Pittman Creek Rehabilitation Project No. 5634

The project includes design and plan preparation for repair of existing or installation of new erosion control structures for channel and bank erosion improvements for two (2) separate construction contracts at the following sites within the City of Plano, Texas:

#### Contract I

1. 7612 Waasland Drive
2. 6705 Timothy Drive

#### Contract II

1. Pittman Creek – Roundrock Trail to West Park Boulevard (selected locations)

### PART I - PRELIMINARY ENGINEERING

#### A. Mobilization/Data Collection

1. Review Reports, utility plans and Data Collection including reviewing any available City of Plano reports on the erosion problems and obtaining pertinent utility plans, street plans, plats, existing easement information, and other features within the project area.
2. Field Surveying for Design Phase
  - a. Establish a local control network and tie into the existing City of Plano control network on all sites.
  - b. Tie right-of-way lines and property lines to the sites.
  - c. Verify horizontal and vertical locations of existing city facilities on the sites.
  - d. When underground utilities are exposed at the City's request, tie to the local control network.
  - e. Obtain topographic information including cross-sections of the existing ground features as needed for design.
  - f. Locate all pertinent creek features for design including top of bank, existing walls and slabs, existing buildings, existing pavements, fences, trees 4" diameter and larger, and utility appurtenances such as water valves, fire hydrants, manholes, etc., (within construction area) on the sites.
  - g. Contact utility companies to locate and uncover utilities which conflict with the proposed project. Tie uncovered utilities to the local control network.

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3. Geotechnical Engineering:

- a. Perform truck-mounted borings and hand borings at all sites to collect necessary soil samples. The engineer will take reasonable precautions to avoid damage to utilities and flatwork at the sites, but will not be responsible for any damage done at the site.
- b. Do the laboratory testing required for the design of the erosion control structure.

4. Pre-Project Study to define extend of repair needs for Pittman Creek unit.

**B. Preliminary Design**

1. Prepare preliminary plans:

- a. Establish preliminary horizontal and vertical wall alignment at sites of new or repair structures.
- b. Prepare cross-sections of proposed erosion protection indicating the general orientation of the improvements with respect to the channel.
- c. Establish design concepts for repair and/or anchorage of existing gabion retaining wall elements.
- d. Locate utility crossings, adjacent utilities, and other improvements within a limit of twenty feet beyond the proposed improvement at each site.
  - i. Work with affected utility companies such as water, gas, telephone, cable TV, and electricity to obtain information for horizontal and vertical data for their facilities. Identify which utilities must be protected or relocated.
  - ii. Tie locations of exposed utilities to the local control network. When underground utilities are uncovered, tie locations to the local control network.
- e. Establish preliminary easement needs including permanent and temporary construction easements. Show all existing easements on the plans.
- f. 6705 Timothy Drive location – The gabion wall height should be a minimum of 1' above the 100 year storm water surface.
- g. 7612 Waasland Drive location – The gabion wall height should be a minimum of 1' above the 100 year storm water surface but should extend up to a height that allows a slope not steeper than 2H:1V from the top of wall to the existing floodway easement line or private fence, whichever is closer to the proposed gabion work.

2. Prepare an estimate of construction quantities and develop a preliminary opinion of probable cost for the proposed solution. The purpose of the opinion is to confirm that the project is in general accordance with the construction budget.

3. Submit to the City of Plano three (3) sets of preliminary plan drawings for each erosion control structure site listed above.
4. Attend one meeting at the City of Plano to review and discuss the preliminary plan drawings and engineering comments.
5. Distribute one set of preliminary drawings to local utility companies to obtain information regarding impacts to their facilities.

## **PART II - FINAL ENGINEERING**

### **A. Final Design**

1. Finalize plan for proposed improvements.
2. Revise preliminary plans and incorporate comments from the City of Plano and property owners.
3. Incorporate comments from the utility companies. If necessary, coordinate with utility companies to locate and uncover utilities which conflict with the proposed erosion control structure. Tie the location of uncovered utilities to the local control network.
4. Incorporate standard details into the plans and prepare additional details as required.

### **B. Perform hydraulic modeling for the 7612 Waasland Drive site only.**

1. The purpose of the model is to confirm that the alignment does not raise the 100-year water surface elevation;
2. The proposal does not include any FEMA approval, analysis of a range of flows, or velocity mitigation;
3. This proposal assumes that a satisfactory existing model will be used as a basis for the analysis;
4. The existing model will be truncated so that only one half mile each side of the subject site will be studied;
5. Only cross-sections in the limits of the subject site will be added to the model.

### **C. Prepare final technical specifications for the erosion control structures.**

### **D. Revise the quantity estimate and prepare a revised estimate of probable construction cost based on the final design of the project.**

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- E.** Assist in preparing final bid documents. The City of Plano will prepare the final form of construction documents. The following information to be supplied by the Engineer shall include:
1. One copy of the finalized technical specifications.
  2. Project specific information for use with the City of Plano standard construction agreement form, including the notice to contractors, bid proposal and contract bid schedule forms.
  3. One set of blueline or blackline prints of final drawings and one electronic set of final drawings for Purchasing.
- F.** Meet with homeowners and/or property owners at prospective construction access locations. Coordinate between owners and City regarding this access and the City's preparation of temporary access and construction easements, if required. Engineer will provide the Contractor and the City of Plano with site access information and agreement concepts. Any required reimbursement for these easements is to be paid by the City or the Contractor.
- G.** Provide necessary Storm Water Pollution Prevention Concept Plans in accordance with the City of Plano requirements.
- H.** Furnish the City of Plano with the following final documents:
1. Three sets of blueline or blackline prints of final drawings for approval by City.
- I.** Assist the City of Plano staff in advertising for bids. Furnish additional sets of contract documents for bidding or as directed by the City of Plano.
1. Furnish additional sets of plans and bid documents for up to four plan review rooms to be determined by the City. These documents are to be furnished at no cost to the plan review rooms.
  2. The cost for information (plans and contract document) provided for the purpose of securing bids shall be recovered by the Engineer by a non-refundable deposit from Contractors. Maintain a list of plan holders.
- J.** Assist the City in conducting pre-bid conference, as required.
- K.** Assist the City of Plano in securing bids, issuing notice to bidders notifying construction news publications. The notice to bidders will be furnished by the City of Plano for publication in the local news media. The cost for publications shall be paid by the City of Plano.

- L. Assist City of Plano in the opening, tabulation, and analysis of the bids received and furnish recommendations on the award of the contract or the appropriate action to be taken by the City of Plano.
  - 1. Evaluate the lowest and second lowest bidder. Bid evaluation will include the contractor's:
    - a. Past work history
    - b. Financial resources;
    - c. Physical resources to produce the project.
  - 2. Provide a summary of the bid analysis to the City for use in selection and award of the construction project.

### **PART III - CONSTRUCTION ADMINISTRATION**

- A. Furnish 13 sets of final plans and seven (7) sets of the contract documents marked "**For Construction**".
- B. Assist the City of Plano staff in conducting one pre-construction conference with the Contractor.
- C. Provide construction control points to be used for construction. Set horizontal and vertical control monuments, with coordinates tied to the Horizontal Control Plan.
- D. Assist the City of Plano in arranging for testing of materials and laboratory control during construction, which is to be conducted at the City's expense.
- E. Perform two site visits to the site each month (maximum of 12 total visits) to observe the progress and the quality of work and to attempt to determine if the work is proceeding in accordance with the Contract Documents. If the Engineer is requested to visit the site more frequently, the requested visits shall be considered an Additional Service. In performing the services above, the Engineer will endeavor to protect the City of Plano against defects and deficiencies; however, it is understood that the Engineer does not guarantee the Contractor's performance, nor is the Engineer responsible for supervision of the Contractor's operation and employees. The Engineer shall not be responsible for the acts or omissions of any person at the Project sites or otherwise performing any of the work of the Project.
- F. Review concrete mix design, samples, catalog data, shop drawings, laboratory tests, shop mill tests of material and test equipment and other submittal information to assure conformity with construction plans. Provide written responses to requests for information or clarification.

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- G. Conduct coordination meetings with contractors, inspection personnel, and City representatives.
- H. Interpret intent of the drawings and technical specifications for the City of Plano and the Contractor. Respond to contractor's verbal technical questions.
- I. Conduct, in company with the City's representative, a final review of the Project for conformance with the design concept of the Project and general compliance with the Contract Documents.
- J. Revise the construction drawings in accordance with the information furnished by construction Contractor reflecting the changes in the Project made during construction. The Engineer shall submit one set of "as-builts" to the Engineering Inspector for review and approval. Upon approval, the city shall have the drawings processed in the following quantities and formats:
  1. One set of 24" x 36" black-line plans shall be submitted to the Engineering Department from Design Engineer.
  2. Two CD-ROM disks containing scanned images of the 24" x 36" final "as-built" black-line drawings (with "as-built stamps" bearing the signature of the Engineer and the date.) The drawings shall be scanned 1 to 1 as Group 4 TIF files at a minimum resolution of 200 dots per inch and a maximum resolution of 400 dots per inch. The TIF files shall be legible and shall include any post processing that may be required to enhance image quality (e.g., de-speckling, de-shading, de-skewing, etc.) Each file shall be named in numeric order format or converted to DXF format.

**PART IV - ADDITIONAL SERVICES**

Additional Services to be performed by Engineer, if authorized by the City of Plano, which are not included in the above-described basic services, are described as follows:

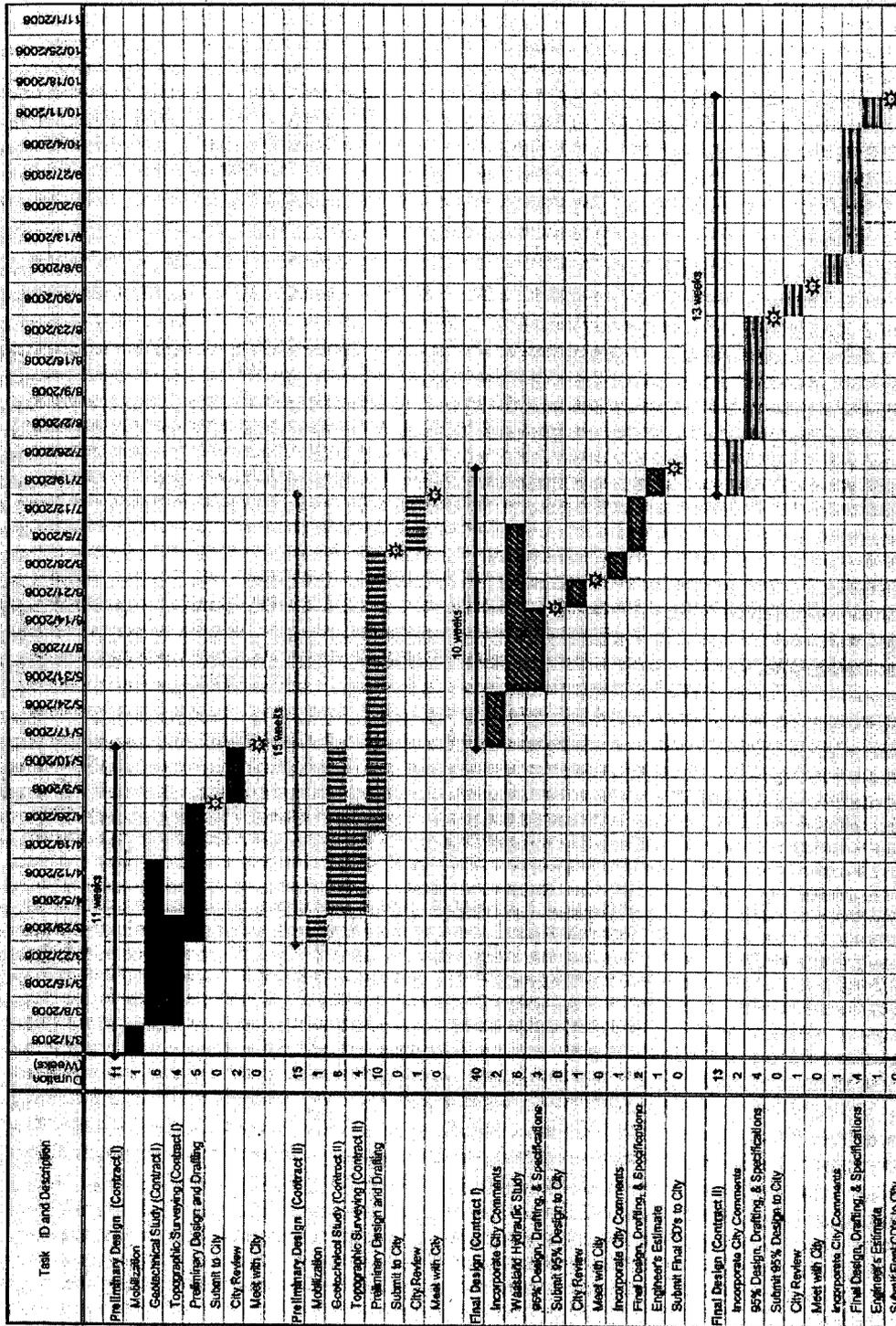
- A. Surveying for any new permanent or temporary easements;
- B. Assisting City of Plano with public meetings or hearings to inform residents beyond that contained in the above scope of services;
- C. Performing title searches and examination of deed records;
- D. Investigations involving detailed consideration of operation, maintenance and overhead expenses, and the preparation of rate schedules, earnings and expense statements, feasibility studies, appraisals, evaluations, assessment schedules,

traffic engineering reports and studies, flood plain reclamation plans, and material audits or inventories required construction performed by the City;

- E. Preparing applications and supporting documents for government grants, loans, or planning advances and providing data for detailed applications;
- F. Providing full time site inspection during construction of the project;
- G. Performing designs for trench safety and retaining walls, etc. which are not included in the above Scope of Services;
- H. Revisions to plans as result of revisions after completion of original final design (unless to correct error on original plans);
- I. Appearing before regulatory agencies or courts as an expert witness in any litigation with third parties or condemnation proceedings arising from the development or construction of the Project, including preparation of engineering data and reports for assistance to the City of Plano;
- J. Assisting the City of Plano in claims disputes with the Contractor(s);
- K. Assisting the City of Plano with any aspect regarding homeowner meetings;
- L. Assisting the City of Plano in the defense or prosecution of litigation in connection with or in addition to those services contemplated by this Agreement. Such services, if any, shall be furnished by Engineer on a fee basis negotiated by the respective parties outside of and in addition to this Agreement;
- M. Providing environmental support services including the design and implementation of ecological baseline studies, environmental monitoring, impact assessment and analyses, permitting assistance other than listed in the above Scope of Services, and other assistance required to address environmental issues;
- N. Any Corps of Engineers work including but not limited to wetlands delineation, meetings with the Corps of Engineers staff, wetlands mitigation, or any other work not listed in the Scope of Services;
- O. Attending homeowners and/or Council meetings including preparation of all displays, reports, or other data for use at such meetings;
- P. Preparation of plans and/or specifications related to the relocation of utilities;
- Q. Fees for permits and advertising;
- R. Flood plain reclamation plans;

- S. Consulting services by others not included in proposal;
- T. Quality control and testing services during construction;
- U. Preparation and processing monthly or final construction pay estimates;
- V. Preparation of a hydraulic model for a creek or creek section for which a City accepted model has not already been developed;
- W. Determination of a floodway;
- X. Revision of hydraulic models, reports, or graphics other than minor adjustments as needed for final submittal;
- Y. Preparation of a Request for Letter of Map Revision or Conditional Letter of Map Revision, or any work pertaining to it.

CITY OF PLANO - 2005-2006 EROSION CONTROL  
EXHIBIT "B" - DESIGN SCHEDULE



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EXHIBIT "C" – COMPENSATION AND METHOD OF PAYMENT

	Basic Services	Special Services
<b>SITE 1 - 7612 Waasland</b>		
<b>Phase I - Preliminary Engineering</b>		
Project Management	\$1,780	
Preliminary Design	\$4,800	
Preliminary Drafting	\$3,600	
<b>Phase II - Final Engineering</b>		
Project Management	\$1,540	
Final Design	\$3,840	
Final Drafting	\$5,100	
<b>Phase III - Construction</b>		
As-Builts	\$1,560	
Site Visits	\$1,920	
Final Walk Through	\$480	
<b>Special Services</b>		
Topographic Surveying		\$4,640
Geotechnical Study		\$5,440
Hydraulic Study (if required)		\$7,680
Anchored Gabion License		\$600
Reimbursables		\$500
	\$24,620	\$18,860

	Basic Services	Special Services
<b>SITE 2 - Pittman Creek</b>		
<b>Phase I - Preliminary Engineering</b>		
Project Management	\$3,750	
Preliminary Design	\$9,600	
Preliminary Drafting	\$6,000	
<b>Phase II - Final Engineering</b>		
Project Management	\$3,510	
Final Design	\$6,720	
Final Drafting	\$8,400	
<b>Phase III - Construction</b>		
As-Builts	\$4,680	
Site Visits	\$3,360	
Final Walk Through	\$1,920	
<b>Special Services</b>		
Pre-project Study		\$4,060
Topographic Surveying		\$13,920
Geotechnical Study		\$11,920
Reimbursables		\$500
	\$47,940	\$30,400

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EXHIBIT "C" – COMPENSATION AND METHOD OF PAYMENT

	Basic Services	Special Services
<b>SITE 3 - 6705 Timothy</b>		
<b>Phase I - Preliminary Engineering</b>		
Project Management	\$770	
Preliminary Design	\$1,200	
Preliminary Drafting	\$750	
<b>Phase II - Final Engineering</b>		
Project Management	\$770	
Final Design	\$960	
Final Drafting	\$900	
<b>Phase III - Construction</b>		
As-Builts	\$780	
Site Visits	\$960	
Final Walk Through	\$480	
<b>Special Services</b>		
Topographic Surveying		\$2,240
Geotechnical Study		\$4,240
Anchored Gabion License		\$300
Reimbursables		\$100
	<b>\$7,570</b>	<b>\$6,880</b>

FEE SUMMARY

	Basic Services	Special Services
PHASE 1 - PRELIMINARY ENGINEERING	\$32,250	
PHASE 2 - FINAL ENGINEERING	\$31,740	
PHASE 3 - CONSTRUCTION	\$16,140	
TOPOGRAPHIC SURVEYING		\$20,800
GEOTECHNICAL STUDY		\$21,600
PITTMAN CREEK PRE-PROJECT STUDY		\$4,060
WAASLAND HYDRAULIC STUDY		\$7,680
ANCHORED GABION LICENSE		\$900
REIMBURSABLES		\$1,100
	<b>\$80,130</b>	<b>\$56,140</b>

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EXHIBIT "C" – COMPENSATION AND METHOD OF PAYMENT

Hourly Invoicing Rates - 2005

Infrastructure Engineering Services

<u>Category</u>	<u>Rate</u>
Senior Principal	\$200
Principal	\$160
Team Director	\$145
Senior Project Manager	\$130
Project Manager	\$115
Senior Engineer	\$115
Engineer	\$95
Graduate Engineer	\$85
Senior Designer	\$95
Designer	\$75
CADD Manager	\$80
Senior CADD Technician	\$80
CADD Technician	\$60
Senior Administrative Assistant	\$80
Administrative Assistant	\$60

## 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.

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- 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

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# 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	<u>\$500,000</u> 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

- 18. Garagekeepers' Legal \$ \_\_\_\_\_ - Comprehensive  
\$ \_\_\_\_\_ - Collision
- 19. Owners Protective Liability \$500,000 Combined single limits
- 20. City named as additional insured on General Liability policy. This coverage is primary to all other coverages the City may possess.
- 21. City provided with Waiver of Subrogation on Workers' Compensation or Alternative program if applicable.
- 22. Ten (10) days notice of cancellation, non-renewal, material change or coverage reduction endorsement required. The words "endeavor to" and "but failure" (to end of sentence) are to be eliminated from the Notice of Cancellation provision on standard ACORD certificates.
- 23. The City of Plano prefers an A.M. Best's Guide Rating of "A-", "VI" or better or Standard and Poors Rating AA or better; Authorized to do business in the State of Texas (not applicable for workers' compensation assigned through pool or alternative compensation programs).
- 24. The Certificate must state project title and project number.
- 25. Other Insurance Required:

INSURANCE AGENT'S STATEMENT

I have reviewed these requirements with the Engineer named below. Additionally:

- 26. The above policy(s) carry the following deductibles: \_\_\_\_\_

Full limits of coverage available for:  
 General Liability \_\_\_\_\_ Professional Liability \_\_\_\_\_  
 Automobile Liability \_\_\_\_\_

- 27. Liability policies are (indicate):

OCCURRENCE [ ]

CLAIMS MADE [ ]

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Insurance Agent (Print)

\_\_\_\_\_  
Name of Insured

\_\_\_\_\_  
Date

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**EXHIBIT "E"**

**AFFIDAVIT OF NO PROHIBITED INTEREST**

I, the undersigned declare and affirm that no person or officer of \_\_\_\_\_ (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.

\_\_\_\_\_  
Name of Contractor

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

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

STATE OF \_\_\_\_\_ §

COUNTY OF \_\_\_\_\_ §

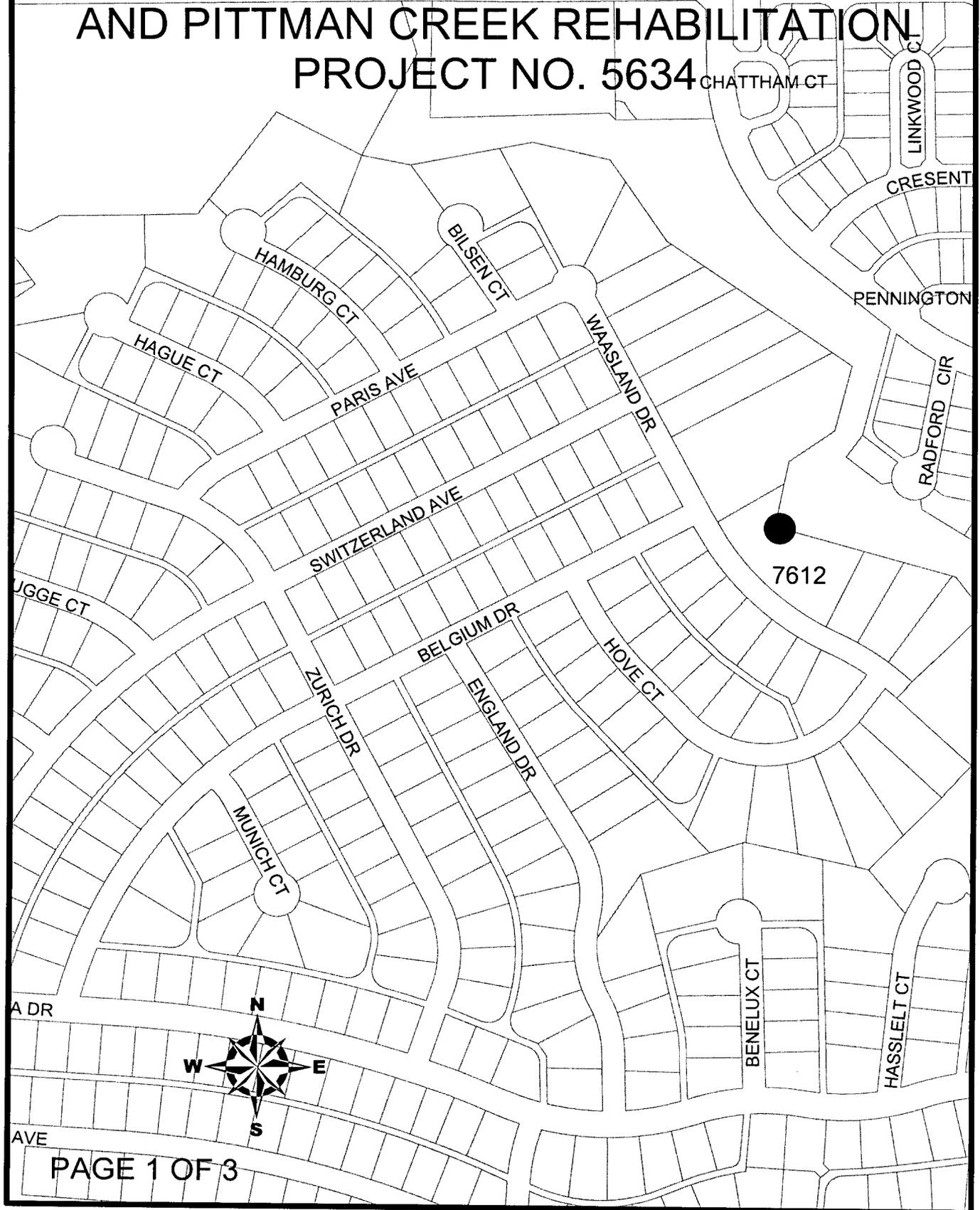
**SUBSCRIBED AND SWORN TO** before me this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Notary

**Engineering Services Agreement  
Erosion Control – Waasland Drive and Pittman Creek Rehabilitation  
Project No. 5634**

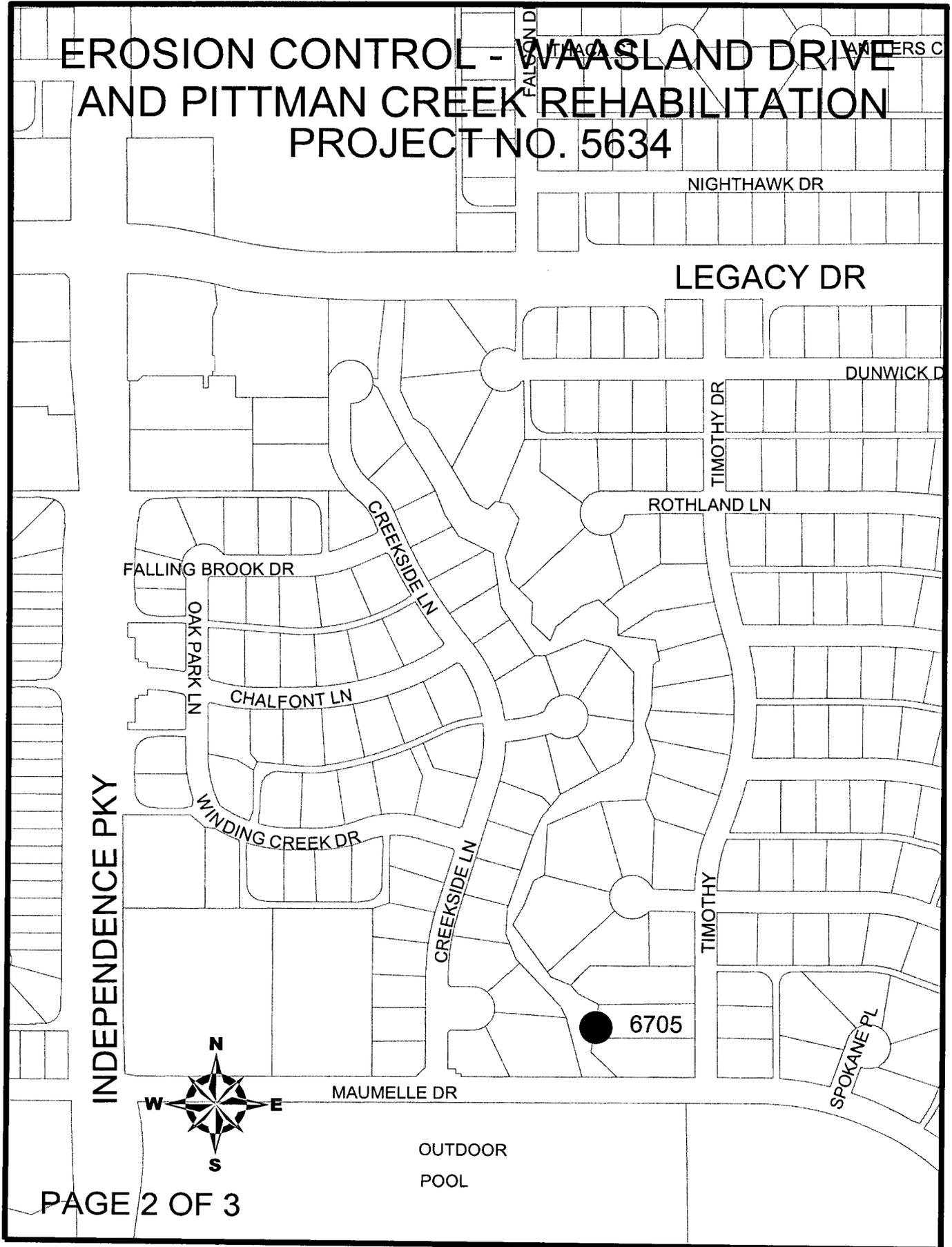
*M-27*  
Page 25

# EROSION CONTROL - WAASLAND DRIVE AND PITTMAN CREEK REHABILITATION PROJECT NO. 5634



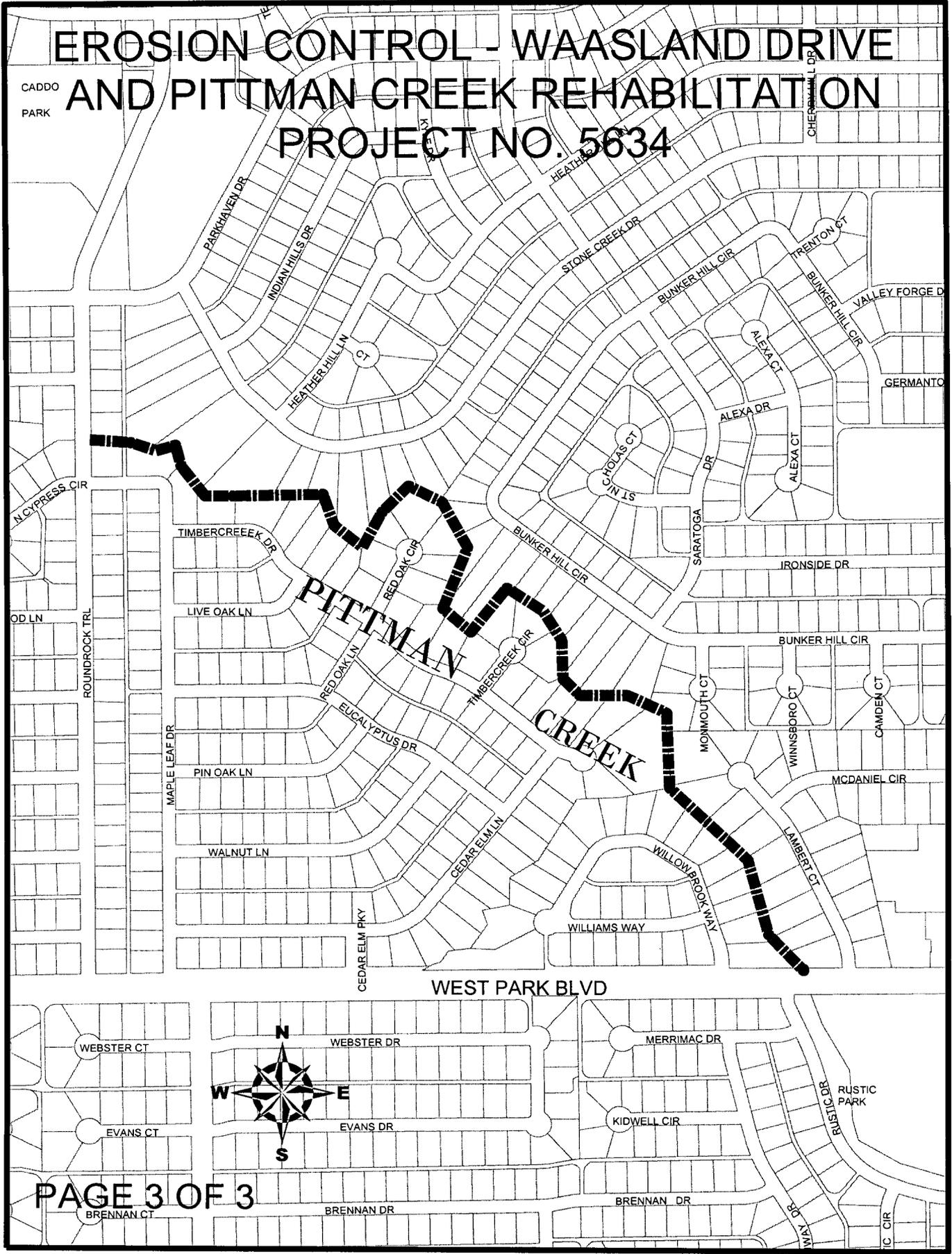
M-28

# EROSION CONTROL - WAASLAND DRIVE AND PITTMAN CREEK REHABILITATION PROJECT NO. 5634



M-29

# EROSION CONTROL - WAASLAND DRIVE AND PITTMAN CREEK REHABILITATION PROJECT NO. 5634



M-30



## 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>2/13/06</b>	Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	Engineering		Initials	Date
Department Head	Alan J. Upchurch	Executive Director		
Dept Signature:		City Manager		
Agenda Coordinator (include phone #):		<b>Irene Pegues (7198)</b>		<b>Project No. 554741</b>

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

### CAPTION

Approving and authorizing reimbursement to RH of Texas Limited Partnership for oversize participation for water and paving improvements in Gillespie Drive associated with the construction of Ridgeview Villas in the amount of \$82,341.26.

### FINANCIAL SUMMARY

NOT APPLICABLE     OPERATING EXPENSE     REVENUE     CIP

FISCAL YEAR: <b>2005-06</b>	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	1,160,239	943,761	700,000	<b>2,804,000</b>
Encumbered/Expended Amount	-1,160,239	-95,533	0	<b>-1,255,772</b>
This Item	0	-82,341	0	<b>-82,341</b>
<b>BALANCE</b>	0	765,887	700,000	<b>1,465,887</b>

**FUND(S):    STREET IMPROVEMENT CIP AND WATER CIP**

**COMMENTS:** Funds are included in the 2005-06 Street Improvement CIP and Water CIP. This item, in the amount of \$82,341, will leave a current year balance of \$765,887 for the Oversized Participation projects.

**STRATEGIC PLAN GOAL:** Oversized participation relates to the City's Goals of Safe, Efficient Travel and Safe, Livable Neighborhoods.

### SUMMARY OF ITEM

In accordance with the Subdivision Ordinance and Subdivision Improvement Agreement, reimbursement to RH of Texas Limited Partnership is due for oversize water and paving improvements in Gillespie Drive associated with the construction of Ridgeview Villas. The construction has been inspected and found to be in conformance with the executed Agreement.

Staff recommends the City Council authorize payment for the oversize participation.

List of Supporting Documents: Memo dated 01/17/06 from Chief Engineer Letter dated 12/21/05 from City Engineer Exhibits A & C Location Map	Other Departments, Boards, Commissions or Agencies n/a
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## **MEMORANDUM**

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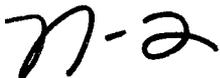
**Date:** January 17, 2005  
**To:** Melody Morgan, CIP Budget Coordinator  
**From:** Charles Davis, Chief Engineer/Private Development   
**Subject:** Ridgeview Villas (Gillespie Drive)  
Project No. 5547-1

We have now accepted the improvements subject addition. In accordance with our Subdivision Improvement Agreement dated May 24, 2005, reimbursement for oversize water and paving improvements in Gillespie Drive is due to RH of Texas Limited Partnership. Total City participation will be \$82,341.26.

<b>Water Portion:</b>	<b>\$20,350.00</b>
<b>Paving Portion:</b>	<b>\$61,991.26</b>
<b>Total City Participation:</b>	<b><u>\$82,341.26</u></b>

CD/dd

xc: Alan Upchurch, City Engineer  
Ricky Lindley, Mapping & Information Supervisor  
Charles Davis, Chief Engineer/Private Development





December 21, 2005

Velasco Ridgeview L.P.  
5700 W. Plano Parkway #1200  
Plano TX 75093

**RE:** Gillespie Drive from Ridgeview North  
Project No. 5547-1

Gentlemen:

A final inspection of the water, sanitary sewer, paving and drainage improvements, as shown on plans prepared by Kimley-Horn & Associates, has been made by the City of Plano. These improvements were found to be satisfactory and in accordance with the City of Plano specifications.

A Maintenance Bond has been received from Rodman Paving, Inc. Therefore, the improvements noted above are accepted by the City of Plano subject to the one-year maintenance requirements.

Sincerely,

Alan Upchurch, P.E.  
City Engineer

/sr

xc: Building Inspection - Keith Schmidt, Anthony Han, Charles Hart, Mamie Free, Cliff Bormann  
Planning - Charles Alexander, Melody Spencer  
Engineering - Warren Laney, Irene Pegues  
Public Works - Dale Pettit  
Utility Operations - David Ratcliff  
Parks - Jim Fox  
Verizon  
Southwestern Bell (2 locations)  
Kimley-Horn & Associates  
Rodman Paving, Inc.

SR/ALU3959

Evans  
Mayor  
Lambert  
Mayor Pro Tem  
Johnson  
Deputy Mayor Pro Tem  
Stahel  
Place 1  
Ellerbe  
Place 3  
Magnuson  
Place 4  
LaRosiliere  
Place 5  
Callison  
Place 7  
Thomas H. Muehlenbeck  
City Manager

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**EXHIBIT A - GILLESPIE DRIVE**

**EXCAVATION**

DESCRIPTION	QUANTITY	UNIT	COST/UNIT	TOTAL COST
Clearing, Grubbing/Stripping	0.6	AC.	\$ 1,225.00	\$ 735.00
Earthwork (Included in the on-site quantities)	1,025	C.Y.	\$ 5.00	\$ 5,125.00
				<b>\$ 5,860.00</b>

**EROSION CONTROL**

DESCRIPTION	QUANTITY	UNIT	COST/UNIT	TOTAL COST
Reinforced Silt Fence (along both sides of Gillespie Drive)	450	L.F.	\$ 2.10	\$ 945.00
Curb & Drop Inlet Protection	3	EA.	\$ 300.00	\$ 900.00
				<b>\$ 1,845.00</b>

**WATER**

DESCRIPTION	QUANTITY	UNIT	COST/UNIT	TOTAL COST
12" Waterpipe (Type DR18)	468	L.F.	\$ 27.25	\$ 12,739.38
6" Valve	1.5	EA.	\$ 460.00	\$ 690.00
12" Valve	1	EA.	\$ 1,200.00	\$ 1,200.00
Fire Hydrant with 6" Lead	1.5	EA.	\$ 1,600.00	\$ 2,400.00
Fittings	0.5	TON	\$ 2,550.00	\$ 1,275.00
12"x12" Tapping Sleeve and Valve	0.5	EA.	\$ 3,810.00	\$ 1,905.00
Testing & Chlorination	468	L.F.	\$ 0.15	\$ 70.13
Trench Safety	0.5	L.S.	\$ 141.00	\$ 70.50
				<b>\$ 20,350.00</b>

**STORM DRAINAGE**

DESCRIPTION	QUANTITY	UNIT	COST/UNIT	TOTAL COST
18" RCP (Class III)	30	L.F.	\$ 31.00	\$ 930.00
8'x5' RCB	177	L.F.	\$ 17.94	\$ 3,175.38
10' Curb Inlet ( 4.0' Deep )	2	EA.	\$ 2,310.00	\$ 4,620.00
Remove Ex. 3'x3' Drop Inlet	0.5	L.S.	\$ 650.00	\$ 325.00
				<b>\$ 9,050.38</b>

**PAVING**

DESCRIPTION	QUANTITY	UNIT	COST/UNIT	TOTAL COST
Subgrade Preparation	1,991.5	S.Y.	\$ 1.35	\$ 2,688.53
Lime (36 #/S.Y.)	36	TON	\$ 87.00	\$ 3,132.00
5" Reinf. Conc. Pavement - 3600 PSI (incl. base)	1,810.5	S.Y.	\$ 17.74	\$ 32,118.27
Barrier Free Ramp	1	EA.	\$ 850.00	\$ 850.00
Install Street Barricade	0.5	EA.	\$ 1,200.00	\$ 600.00
Street Header	18.5	L.F.	\$ 5.00	\$ 92.50
Connection to Exist. Pavement	0.5	EA.	\$ 1,050.00	\$ 525.00
4' Curlex Mat (along both sides of roadway)	875	L.F.	\$ 0.65	\$ 568.75
				<b>\$ 40,575.05</b>

**SUMMARY OF PROJECT COSTS**

DESCRIPTION	TOTAL COST
Excavation	\$ 5,860.00
Erosion Control	\$ 1,845.00
Water	\$ 20,350.00
Storm Drainage	\$ 9,050.38
Paving	\$ 40,575.05
6% Engineering	\$ 4,660.83
<b>GRAND TOTAL</b>	<b>\$ 82,341.26</b>

\*The City will pay 25% of the difference between an 8'x5' RCB and a 72" RCP per the Subdivision Ordinance.  
 $0.25(271.75-200.00) = \$17.94/LF$  of 8'x5' RCB

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Revised 1-09-06

**EXHIBIT C - GILLESPIE DRIVE**

**EXCAVATION**

DESCRIPTION	QUANTITY	UNIT	COST/UNIT	TOTAL COST
Clearing, Grubbing/Stripping	1.2	AC.	\$ 1,225.00	\$ 1,470.00
Earthwork	2,050	C.Y.	\$ 5.00	\$ 10,250.00
				<b>\$ 11,720.00</b>

**EROSION CONTROL**

DESCRIPTION	QUANTITY	UNIT	COST/UNIT	TOTAL COST
Reinforced Silt Fence (along both sides of Gillespie Drive)	900	L.F.	\$ 2.10	\$ 1,890.00
Curb & Drop Inlet Protection	6	EA.	\$ 300.00	\$ 1,800.00
				<b>\$ 3,690.00</b>

**WATER**

DESCRIPTION	QUANTITY	UNIT	COST/UNIT	TOTAL COST
12" Waterpipe (Type DR18)	935	L.F.	\$ 27.25	\$ 25,478.75
6" Valve	3	EA.	\$ 460.00	\$ 1,380.00
12" Valve	2	EA.	\$ 1,200.00	\$ 2,400.00
Fire Hydrant with 6" Lead	3	EA.	\$ 1,600.00	\$ 4,800.00
Fittings	1.0	TON	\$ 2,550.00	\$ 2,550.00
12"x12" Tapping Sleeve and Valve	1	EA.	\$ 3,810.00	\$ 3,810.00
Testing & Chlorination	935	L.F.	\$ 0.15	\$ 140.25
Trench Safety	1	L.S.	\$ 141.00	\$ 141.00
				<b>\$ 40,700.00</b>

**STORM DRAINAGE**

DESCRIPTION	QUANTITY	UNIT	COST/UNIT	TOTAL COST
18" RCP (Class III)	60	L.F.	\$ 31.00	\$ 1,860.00
27" RCP (Class III)	46	L.F.	\$ 45.75	\$ 2,104.50
54" RCP (Class III)	94	L.F.	\$ 133.50	\$ 12,549.00
8'x5' RCB	177	L.F.	\$ 271.75	\$ 48,099.75
10' Curb Inlet ( 4.0' Deep )	3	EA.	\$ 2,310.00	\$ 6,930.00
Remove Ex. 3'x3' Drop Inlet	1	L.S.	\$ 650.00	\$ 650.00
Remove Ex. Drop Inlet Over 8'x5' RCB	1	L.S.	\$ 1,500.00	\$ 1,500.00
Conn. To Ex. 8'x5' RCB	1	EA.	\$ 350.00	\$ 350.00
Trench Safety	1	L.S.	\$ 94.25	\$ 94.25
				<b>\$ 74,137.50</b>

**PAVING**

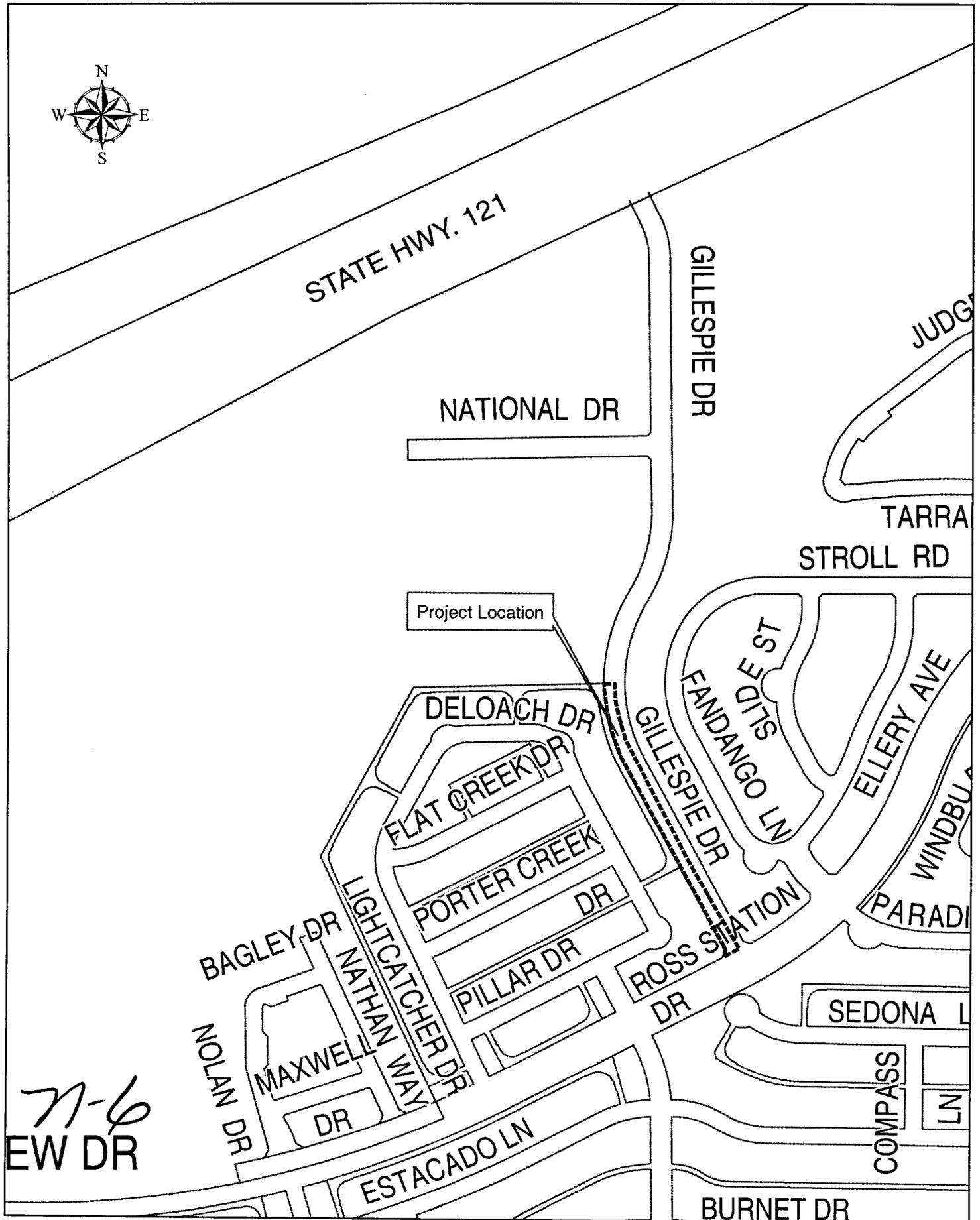
DESCRIPTION	QUANTITY	UNIT	COST/UNIT	TOTAL COST
Subgrade Preparation	3,983	S.Y.	\$ 1.35	\$ 5,377.05
Lime (36 #/S.Y.)	72	TON	\$ 87.00	\$ 6,264.00
5" Reinf. Conc. Pavement - 3600 PSI (incl. base)	3,621	S.Y.	\$ 17.74	\$ 64,236.54
Barrier Free Ramp	2	EA.	\$ 850.00	\$ 1,700.00
Install Street Barricade	1	EA.	\$ 1,200.00	\$ 1,200.00
Street Header	39	L.F.	\$ 5.00	\$ 195.00
Connection to Exist. Pavement	1	EA.	\$ 1,050.00	\$ 1,050.00
4" 3000 PSI 5' Edge to Edge Sidewalk	4,296	S.F.	\$ 3.40	\$ 14,606.40
Street Signs	2	EA.	\$ 490.00	\$ 980.00
4' Curlex Mat (along both sides of roadway)	1,750	L.F.	\$ 0.65	\$ 1,137.50
4" Double Plain Non-Reflective Round Ceramic Yellow Buttons	59	EA.	\$ 6.10	\$ 359.90
4"x4" Double Clear Reflective Acrylic Buttons	59	EA.	\$ 8.50	\$ 501.50
Reflectorized Arrow	4	EA.	\$ 450.00	\$ 1,800.00
2' Wide Reflectorized Stop Bar	40	L.F.	\$ 16.00	\$ 640.00
3'x6' Reflectorized Crosswalk Bar	3	EA.	\$ 450.00	\$ 1,350.00
				<b>\$ 101,397.89</b>

**SUMMARY OF PROJECT COSTS**

DESCRIPTION	TOTAL COST
Excavation	\$ 11,720.00
Erosion Control	\$ 3,690.00
Water	\$ 40,700.00
Storm Drainage	\$ 74,137.50
Paving	\$ 101,397.89
<b>GRAND TOTAL</b>	<b>\$ 231,645.39</b>

77-5

# GILLESPIE DRIVE



## LOCATION MAP



**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>2/13/06</b>	Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	Purchasing Division	Initials	Date	
Department Head	Mike Ryan	Executive Director		
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	<i>2/13/06</i>
Agenda Coordinator (include phone #):		<b>January Cook X7376</b>		
<b>ACTION REQUESTED:</b> <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 TERMINATION OF CONTRACT				
<b>CAPTION</b>				
Termination of contract for Bid No. 2006-52-B for the Purchase of Five (5) 12 to 14 Yard Dump Trucks awarded to Southwest International Trucks Inc. in the amount of \$300,475.				
<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
<b>BALANCE</b>	0	0	0	0
<b>FUND(s):</b>				
<b>COMMENTS</b>				
<b>SUMMARY OF ITEM</b>				
Staff recommends termination of contract for Bid No. 2006-52-B for the purchase of five (5) 12 to 14 yard dump trucks awarded to Southwest International Trucks Inc. in the amount of \$300,475. The vendor is unable to adhere to the bid price submitted due to an error in pricing and is therefore in default of the contract. Upon approval by City Council, the contract with Southwest International Trucks Inc. will be terminated and the City will re-solicit for bids at a later date.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		

*0-1*



**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>2/13/06</b>		Reviewed by Legal <i>JK</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department:	Human Resources		Initials	Date	
Department Head	LaShon Ross		Executive Director	<i>LR</i> 2-3-06	
Dept Signature:	<i>LaShon Ross</i>		City Manager	<i>DMC</i> 2/13/06	
Agenda Coordinator (include phone #):		<b>Darryl McCarthy x5216</b>			
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input checked="" type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER					
<b>CAPTION</b>					
Second Amendment of Professional Consultant Services Agreement with Tony Picchioni to provide professional consulting services during the third year of a three (3) year agreement with the option to extend the term for two (2) additional two (2) year periods.					
<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:	<b>05/06, 06/07, 07/08</b>	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	60,000	0	<b>60,000</b>
Encumbered/Expended Amount		0	-60,000	0	<b>-60,000</b>
This Item		0	-1,200	0	<b>-1,200</b>
BALANCE		0	-1,200	0	<b>-1,200</b>
FUND(S): <b>GENERAL</b>					
<b>COMMENTS:</b> This item represents an amendment to an existing contract with Tony Picchioni for professional consulting services rendered. This amendment will require an additional \$1,200 over the original budgeted amount of \$60,000 for FY 2005-06. This overage will be covered by savings in the FY 2005-06 budget. This item also allows for the option to extend the term for two (2) additional two (2) year periods.					
STRATEGIC PLAN GOAL: Professional Consulting Services related to the City's goal of "Service Excellence".					
<b>SUMMARY OF ITEM</b>					
This Amendment of Contract is to provide for additional professional consulting services by Tony Picchioni, which shall be coordinated through the Human Resources Director.					
List of Supporting Documents: Second Amendment to Agreement			Other Departments, Boards, Commissions or Agencies		

**SECOND AMENDMENT OF TONY PICCHIONI  
PROFESSIONAL CONSULTATION SERVICES AGREEMENT**

**THE STATE OF TEXAS   §**

**COUNTY OF COLLIN     §**

THIS Modification of Agreement (hereinafter "Second Amendment") is made and entered into on this the 14th day of February, 2006, by and between **TONY PICCHIONI** (hereinafter "Picchioni"), Plano, Texas and the **CITY OF PLANO, TEXAS**, a municipal corporation (hereinafter "City"), acting by and through its City Manager or his designee.

**W I T N E S S E T H :**

**WHEREAS**, City and Picchioni entered into a Professional Consultant Services Agreement (hereinafter "Agreement") on April 1, 2003; and

**WHEREAS**, City and Picchioni executed the First Amendment to the Agreement on February 23, 2005 to allow a fee increase to compensate Professional for services provided beyond the terms of the Agreement; and

**WHEREAS**, City and Picchioni desire to further amend such Agreement and First Amendment in certain respects as set forth herein in this Second Amendment; and

**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 Second Amendment, First Amendment and the Agreement, priority of interpretation shall be in the following order: Second Amendment, First Amendment, Agreement.

IN CONSIDERATION of the foregoing, and for other good and valuable consideration, the parties hereto agree as follows:

I.

Effective as of the day and year first written above, Section II. Services of the Agreement is hereby amended to read in its entirety as follows:

“All services provided by Professional shall be coordinated through the Human Resources Director or her designee. The services to be performed by Professional shall be as follows:

- Informal resolution conferences
- Mediation
- Communication and skill building
- Intervention with interpersonal conflict
- Coaching and mentoring
- Communication and negotiation skills
- Facilitation
- Training
- Establish and monitor a mentoring program and provide training, guidance and support for participants
- Serve as director and facilitator/instructor for the “Management Preparation Program of Plano”

Professional shall provide a minimum of sixty (60) hours of service each month at the rate of **FIVE THOUSAND AND 00/100 DOLLARS (\$5,000.00) per month** for the total of **SIXTY THOUSAND AND 00/100 DOLLARS (\$60,000.00) per year**. The City has a right and option to extend the Agreement by two (2) additional two (2) year periods. At the beginning of each of the two renewal periods, the fee amount of the Agreement shall be increased by four (4%) percent.”

II.

With the exception of Article I above, all other provisions of the original Agreement shall remain in full force and effect.

**IN WITNESS WHEREOF**, the parties enter into this Amendment on the date first written above.

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

\_\_\_\_\_  
Tony Picchioni

**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 \_\_\_\_\_

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2006, by **TONY PICCHIONI**.

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

STATE OF TEXAS

§  
§  
§

COUNTY OF COLLIN

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2006 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 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>2/13/06</b>		Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Library Administration (681)		Initials	Date
Department Head	Joyce Baumbach	Executive Director	<i>[Signature]</i>	1-25-06
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	1/30/06
Agenda Coordinator (include phone #):		Mary Ann Dunnivant (Ext. 4208)		
<b>ACTION REQUESTED:</b> <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>				
Approving the terms and conditions of an Interlocal Cooperation Agreement For Library Services by and between the City of Plano and Collin County, Texas providing the terms and conditions for receipt of funding in the amount of \$75,612.85 from Collin County; authorizing the City Manager or his designee to take such action and execute such documents as necessary to effectuate the agreement herein; and providing an effective date.				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input checked="" type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	2005-2006	Prior Year (CIP Only)	Current Year	Future Years
Budget		0	0	0
Encumbered/Expended Amount		0	0	0
This Item		0	75,613	0
BALANCE		0	75,613	0
FUND(s): <b>GENERAL</b>				
<b>COMMENTS:</b> Approval of this item will result in \$75,613 in revenue from Collin County Interlocal Cooperative Agreement. The total amount received will be used for the purchase of library services by and between the City of Plano and Collin County.				
<b>STRATEGIC PLAN GOAL:</b> This item relates to the City's Goal of "Service Excellence" and "Premier City for Families."				
<b>SUMMARY OF ITEM</b>				
Approval of this Interlocal Cooperation Agreement for Library Services between the City of Plano and Collin County is requested for receipt of funding in the amount of \$75,612.85 from Collin County.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
1. Interlocal Cooperation Agreement for Library Services is attached as Exhibit "A" to the Resolution.				

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN INTERLOCAL COOPERATION AGREEMENT FOR LIBRARY SERVICES BY AND BETWEEN THE CITY OF PLANO AND COLLIN COUNTY, TEXAS PROVIDING THE TERMS AND CONDITIONS FOR RECEIPT OF FUNDING IN THE AMOUNT OF \$75,612.85 FROM COLLIN COUNTY; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO TAKE SUCH ACTION AND EXECUTE SUCH DOCUMENTS AS NECESSARY TO EFFECTUATE THE AGREEMENT HEREIN; 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 government functions and services under the terms thereof; and

**WHEREAS**, the City Council has been presented a proposed Interlocal Cooperation Agreement For Library Services by and between the City of Plano, Texas, and Collin County, Texas, (see Exhibit "A") providing terms and conditions for receipt of funding from Collin County, Texas in the amount of \$75,612.85; 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.

**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.

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

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

Page 2

DULY PASSED AND APPROVED THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2006.

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

ATTEST:

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

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

Q-3

THE STATE OF TEXAS  
COUNTY OF COLLIN

**INTERLOCAL AGREEMENT BETWEEN  
THE COUNTY OF COLLIN  
AND  
THE CITY OF PLANO**

**I.**

This agreement is made and entered by and between Collin County, a political subdivision of the State of Texas, hereinafter referred to as the "**COUNTY**" and the City of Plano, a municipality of Collin County, Texas, hereinafter referred to as "**MUNICIPALITY**."

**II.**

The **COUNTY** and the **MUNICIPALITY** agree as follows:

The **COUNTY** is a duly organized political subdivision of the State of Texas engaged in the administration of County Government and related services for the benefit of the citizens and residents of Collin County.

The library, as an entity established by the **MUNICIPALITY**, is a City Council created entity established for administering and providing library services for the general public in Collin County, Texas.

The undersigned officers or agents of the **COUNTY** and the **MUNICIPALITY** are properly authorized officials and agents and each has the necessary authority to execute this contract on behalf of said agent's principal and that any necessary resolutions or orders extending said authority have been duly passed and are now in full force and effect.

The **COUNTY** agrees to fund the **MUNICIPALITY** in the amount of \$75,612.85 for the 2006 fiscal year (October 2005 through September 2006) of the **COUNTY**, under the conditions and terms set out herein.

In exchange for said funds provided by the **COUNTY**, the library as an entity of the **MUNICIPALITY**, will provide the following services to the citizens of Collin County for the year of 2006;

The library, as an entity of the **MUNICIPALITY**, shall continue to provide full library services for residents of Collin County, Texas, without distinction between those who reside within or without an incorporated area of the county.

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The library, as an entity of the **MUNICIPALITY**, shall perform such other functions and duties as may be required of it by law of by lawful authority.

All benefits and services provided by the **MUNICIPALITY** and the administration of its program or programs shall be done in conformity with all State and Federal Laws and without regard to race, religion, gender or ethnic background of the persons being served, and without regard to the immigration status of the person being served.

All funds provided to the **MUNICIPALITY** by the **COUNTY** shall be used for library services to the public.

The library, as an entity of the **MUNICIPALITY**, shall diligently prepare and keep accurate and current records of its board meetings, official actions and expenditures and shall permit inspection and copying of said records, as authorized by law, by authorized agents of the Commissioners Court, District Attorney and County Auditor of Collin County, Texas from 8:00 A.M. to 5:00 P.M. Monday through Friday of each week (except on officially recognized holidays).

Further, the library, as an entity of the **MUNICIPALITY**, agrees to submit to audits by the County Auditor in accordance with the directions of said official.

The library, as an entity of the **MUNICIPALITY**, shall comply with the Texas Open Records Act and the Texas Open Meetings Act, provided that matters and records deemed confidential by law shall not be compromised.

For the aforementioned services provided by the library, as an entity of the **MUNICIPALITY**, the **COUNTY** agrees to pay **MUNICIPALITY** for the full performance of this agreement; the sum of \$18,903.21 on a quarterly basis. The **MUNICIPALITY** understands and agrees that payment by the **COUNTY** to the **MUNICIPALITY** shall be made in accordance with the normal and customary processes and business procedures of the **COUNTY**, and in conformance with applicable state law.

Neither of the parties to this agreement waive or shall be deemed hereby to waive any immunity or defense that would otherwise be available to it against claims arising from the exercise of governmental powers and functions. The **MUNICIPALTY** is not given authority by this contract to place the **COUNTY** under any manner of legal obligation to any third party, person, entity or agency, and is not hereby made an agent of the **COUNTY** for the purpose of incurring liability. The **MUNICIPALITY** does not have under this agreement authority or legal capacity to admit or confess error or liability on behalf of the **COUNTY**.

The effective date of this agreement shall be the day that it is signed by both parties.

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This agreement and any of its terms and provisions, as well as the rights and duties of the parties hereto, shall be governed by the laws of the State of Texas.

In the event that any portion of this agreement shall be found to be contrary to law, it is the intent of the parties hereto that the remaining portions shall remain valid and in full force and effect to the extent possible.

EXECUTED in duplicate originals this, the \_\_\_\_ day of \_\_\_\_\_, 2006.

**COUNTY**

BY: \_\_\_\_\_  
Name: Ron Harris  
Title: The County Judge of Collin County, Texas  
Dated: \_\_\_\_\_

**MUNICIPALITY**

BY: \_\_\_\_\_  
Name: Thomas H. Muehlenbeck  
Title: City Manager

City Council Meeting  
Dated: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Joyce Baumbach, Director of Libraries  
Plano Public Library System

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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>2/13/06</b>	Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Library Administration		Initials	Date
Department Head	Joyce Baumbach	Executive Director	<i>JTB</i>	1-25-06
Dept Signature:	<i>Joyce Baumbach</i>	City Manager	<i>JAM</i>	1/30/06
Agenda Coordinator (include phone #):		<b>Mary Ann Dunnivant (Ext. 4208)</b>		
<b>ACTION REQUESTED:</b> <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    OTHER <input type="checkbox"/>				
<b>CAPTION</b>				
Approving receipt of funds in the amount of \$65,245.00 from the Texas State Library and Archives Commission – Loan Star Libraries to fund the following for Plano Public Library System: Purchase an LED sign for Haggard Library; computer classes in English and Spanish; and supplies for World Language, ESL and literacy materials; and authorizing the City Manager or his designee to execute all necessary documents for receipt of the funding.				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input checked="" type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	<b>2005-2006</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>
Budget		0	0	0
Encumbered/Expended Amount		0	0	0
This Item		0	65,245	0
<b>BALANCE</b>		<b>0</b>	<b>65,245</b>	<b>0</b>
<b>FUND(S): STATE LIBRARY GRANTS FUND</b>				
<b>COMMENTS:</b> The grant contract, if approved, provides funding in the amount of \$65,245 for Plano Public Library System purchases and programs.				
<b>STRATEGIC PLAN GOAL:</b> This item relates to the City's Goal of "Premier City for Families" and "Service Excellence."				
<b>SUMMARY OF ITEM</b>				
The Plano Public Library System recommends Plano City Council approve this grant from the Texas State Library and Archives Commission - Loan Star Libraries Program to fund the following for the Plano Public Library System: Purchasing an LED sign for Haggard Library; computer classes in English and Spanish; and supplies for World Language, ESL and literacy materials. The costs for the items listed above shall not exceed \$65,245.00.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
1. Letter from Loan Star Libraries dated 8/18/05				

*12-1*



August 18, 2005

To: **Plano Public Library System, Plano**  
From: Wendy Clark *WC*  
Manager, Loan Star Libraries Program  
Re: Fiscal Year 2006 Loan Star Libraries Grant Award and Further Instructions  
CC: Governing Entity for the Library

Congratulations! Your library will receive a Loan Star Libraries grant award from the Texas State Library and Archives Commission.

The award for Plano Public Library System is **\$65,245**.

Lorenzo de Zavala  
State Archives and  
Library Building

Your library's Federal-State Cooperative System (FSCS) number is **TX0228**. You will use your FSCS number to log in when submitting your library's required Plan of Action. Please keep this number handy—is it used during the grant year for submission of grant performance reports.

P.O. Box 12927  
Austin, Texas  
78711-2927

In order to obtain your award, please make certain we receive the following:

- 1) **All the Loan Star Libraries reports for FY05 from your library. Please review the FY05 contract for information on grant reporting requirements.**
- 2) **Any funds from previous Loan Star Libraries grants for your library that must be returned to the State. Again, please check the contract for information on refunds.**
- 3) **The Loan Star Libraries Plan of Action 2006 for your library—the submission deadline is October 31, 2005.**
- 4) **Properly signed FY06 LSL contracts and forms.**

1201 Brazos St.  
Austin, Texas  
78701

The **Loan Star Libraries Plan of Action 2006** form is now available on the Loan Star Libraries section of the Texas State Library and Archives Commission website at <http://www.tsl.state.tx.us/cgi-bin/ld/loanstar/poa/intro.php>. The Plan of Action tells us how you would like to spend your FY06 award. It is your library's grant application for the Loan Star Libraries program. **The deadline for receipt of the Plan of Action is October 31.**

[www.tsl.state.tx.us](http://www.tsl.state.tx.us)

*Commission Chairman*  
Sandra J. Pickett

All prior Loan Star Libraries Performance and Financial Status Reports must be received by TSLAC before your FY06 contract will be sent. Once we receive your Plan of Action and it is approved, we will prepare and send contracts to you for the appropriate signatures if all prior reports for your library have been received. We will contact you if previous reports are delinquent or if we have any questions about your FY06 Plan.

*Members*  
Chris A. Brisack  
Diana Rae Hester Cox  
Martha Doty Freeman  
Cruz G. Hernandez  
Sandra G. Holland  
Elizabeth Sanders

If you need to change your Plan of Action after the contract has been issued, you may do so with prior approval from me. If you need to make changes for payment of grant funds, please contact Sandra Justice, Grants Accountant, at 512-463-5472 or [sandra.justice@tsl.state.tx.us](mailto:sandra.justice@tsl.state.tx.us).

*Director and Librarian*  
Peggy D. Rudd

Loan Star Libraries is the direct State aid grant program for public libraries in Texas. Texas library supporters worked hard to ensure that the program receive initial funding from the Texas Legislature in 2002. All of us at the State Library are excited to announce your award for the fifth year of the program, and look forward to working with you to make Loan Star Libraries a success.

*Assistant State Librarian*  
Edward Seidenberg

Again, congratulations on your award! We hope it will be a benefit to the community you serve. If you have any questions my contact information follows:

**Phone: 512-463-5475; Fax: 512-463-8800; Email: [wendy.clark@tsl.state.tx.us](mailto:wendy.clark@tsl.state.tx.us)**

*Making  
information  
work  
for all  
Texans*

Encl: Administrative Rules; Assignment of Costs; Completing Your Performance Report; Important Dates

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING RECEIPT OF FUNDS IN THE AMOUNT OF \$65,245.00 FROM THE TEXAS STATE LIBRARY AND ARCHIVES COMMISSION – LOAN STAR LIBRARIES TO FUND THE FOLLOWING FOR PLANO PUBLIC LIBRARY SYSTEM: PURCHASE AN LED SIGN FOR HAGGARD LIBRARY; COMPUTER CLASSES IN ENGLISH AND SPANISH; AND SUPPLIES FOR WORLD LANGUAGE, ESL AND LITERACY MATERIALS; AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ALL NECESSARY DOCUMENTS FOR RECEIPT OF THE FUNDING.**

**WHEREAS**, the City of Plano Public Library System has applied for and received funds in the amount of \$65,245.00 from the Texas State Library and Archives Commission – Loan Star Libraries for the following: Purchase an LED sign for Haggard Library; computer classes in English and Spanish; and supplies for World Language, ESL and literacy materials; and

**WHEREAS**, the City of Plano Public Library System desires to sign a grant contract between the Texas State Library and Archives Commission and the City of Plano for receipt of grant funds in the amount of \$65,245.00 (see Exhibit "A"); and

**WHEREAS**, the City Council of the City of Plano, Texas, finds that the public's best interest is served by authorizing receipt of the monies from the Texas State Library and Archives Commission – Loan Star Libraries for funding of the following: Purchase an LED sign for Haggard Library; computer classes in English and Spanish; and supplies for World Language, ESL and literacy materials.

**NOW THEREFORE, THE CITY COUNCIL FOR THE CITY OF PLANO, TEXAS, RESOLVES THAT:**

**Section I.** The Plano Public Library System has approval to accept the \$65,245.00 funding grant from the Texas State Library and Archives Commission – Loan Star Libraries. The City Manager or his designee shall execute all necessary documents for receipt of the funding.

**SECTION II.** The monies from the grant shall fund the following: Purchase an LED sign for Haggard Library; computer classes in English and Spanish; and supplies for World Language, ESL and literacy materials.

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

**DULY PASSED AND APPROVED** this the \_\_\_\_\_ day of \_\_\_\_\_  
2006.

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

ATTEST:

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

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

12-4

## TEXAS STATE LIBRARY &amp; ARCHIVES COMMISSION

LOAN STAR LIBRARIES GRANT  
Grant Type A - \$50,000 and Over

Grant Number: 442-06380

## I. CONTRACTING PARTIES

Grantor: Texas State Library and Archives Commission (TSLAC)

Grantee: City of Plano, Plano Public Library System  
2501 Coit Rd  
Plano, Texas 75075

## II. TERM OF GRANT

September 1, 2005, to August 31, 2006

## III. STATEMENT OF SERVICES TO BE PERFORMED

Grant-funded activities shall provide services as outlined in the approved Plan of Action. The Grantee will comply during the period of this contract and provide services as outlined within the approved grant application (Loan Star Libraries Grant for State FY06) as approved by the Grantor. The approved grant application submitted by Grantee becomes part of this contract by this reference.

The Grantee acknowledges that the intent of the grant is to provide funds to maintain, improve, and enhance local library services, and to provide Texans who are not residents of a particular community access to and services from the many participating public libraries in Texas.

## IV. GRANT AMOUNTS AND DISBURSEMENT REQUIREMENTS

- A. The total amount of the grant shall not exceed: \$65,245.00
- B. Source of funds: General Revenue, State Fiscal Year 2006
- C. The Grantee must request payments from Grantor on the TSLAC Form, Request for Funds (RFF). Requests may be submitted to Grantor no more often than once per month, and no less often than once per quarter. Funds will be paid to the Grantee provided Grantor has received a fully executed contract and Grantee has fulfilled all requirements for preceding contracts.
- D. The Grantee is restricted to one of two methods for requesting funds from Grantor. The Grantee may request reimbursement of actual expenditures for the Grantee's normal billing cycle, or advance payment for estimated expenditures to be incurred for the upcoming 30 days. Only Grantees that provide documentation to demonstrate a lack of sufficient working capital, and the ability to minimize the time elapsing between transfer of funds from Grantor and disbursement of grant funds will be allowed to request advance payments.
- E. Payments of advance funds will be disbursed by the first working day of the advance period provided the RFF Form is received by Grantor no later than the 15<sup>th</sup> of the previous month. Should excessive cash balances be maintained, Grantee may be required to use the reimbursement process. Grantor must receive final request for advance no later than **July 15, 2006**. Grantor must receive final request for reimbursement no later than **October 15, 2006**.

- F. The Grantee may not obligate or encumber grant funds after **August 31, 2006**. All obligations and encumbrances must be liquidated or paid no later than **October 15, 2006**.
- G. Interest earned in excess of \$100 must be returned to Grantor, per requirements in the State of Texas Uniform Grant Management Standards (UGMS). All unexpended funds in excess of \$25.00 must also be returned to Grantor with the Final Financial Status Report (FSR). See Section VII. B. of this contract for FSR due dates.
- H. The Grantee will add any program income to the funds committed to the grant, using such program income for the purposes and under the conditions of the grant. The source and amount of the program income must be explained in Section 9 of the TSLAC FSR.
- I. Per the approved grant application, funds are authorized according to the following budget:

Personnel	
Fringe Benefit	
Travel	
Equipment/Property	\$35,000.00
Supplies	\$26,645.00
Contractual	\$ 3,600.00
<u>Other</u>	
Total Direct Costs	\$65,245.00
<u>Indirect Costs</u>	
Total	<b>\$65,245.00</b>

**V. WRITTEN REQUEST FOR FISCAL AND PROGRAMMATIC CHANGES**

The Grantee must request written prior approval for fiscal and/or programmatic changes as outlined in this Section. Grantee must submit request for program and/or fiscal changes on the Loan Star Libraries Grant Program Revision Form. Under no condition may a Grantee request to exceed the total grant amount. Grantor must receive all change requests no later than **July 31, 2006**. Requests received after this date will be considered on a case-by-case basis. **Grantee must receive written approval from Grantor before obligating or expending grant funds under any of the following conditions.**

- A. Fiscal changes must have an approved Budget Revision under the following conditions:
  - 1. Making cumulative transfers among budget cost categories or projects which are expected to exceed ten (10) percent of the total grant; and/or,
  - 2. Transferring any funds into a budget cost category that currently equals zero (\$0).
- B. Programmatic changes to Loan Star Libraries Grant Plan of Action for State FY06 must have an approved Program Revision under the following conditions:
  - 1. Obtaining the services of a third party to perform activities that are central to the purposes of the grant; and/or,
  - 2. Changing the scope or objectives of the approved program, regardless of whether there is an associated Budget Revision. A change in scope is a substantive difference in the approach or method used to reach program objectives.

**VI. EQUIPMENT AND PROPERTY REQUIREMENTS**

- A. All changes to items listed in the Equipment/Property category specified in Section IV. I. of this contract require written prior approval. This category includes equipment, furniture, library materials, etc., purchased wholly or in part with grant funds. The approved budget amount listed in Section IV. I. plus any subsequently approved Budget and/or Program Revisions, will be the total approved equipment expenditure amount. This

is defined as the cost of the equipment and/or property, including any cost necessary to put the item into service, such as the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make the item usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation may be included in, or excluded from the expenditure cost in accordance with the Grantee's regular accounting practices and Generally Accepted Accounting Practices (GAAP).

- B. The Grantee will comply with UGMS Part III, Subpart C, Sec. 32 (d)(3) which requires certain items of equipment to be maintained on inventory if the item's cost is above \$500.
- C. The Grantee agrees to submit the TSLAC Equipment/Property Acquired Form with the Final FSR, no later than **November 15, 2006**, for all equipment/property purchased with grant funds during the FY06 grant year. This list must balance with the equipment/property purchased under the approved grant application and all subsequently approved Budget and/or Program Revisions.
- D. Grantee must furnish a statement to Grantor certifying the governing entity's capitalization level with the approved grant application or the first RFF submitted. Grantee agrees to maintain records on all equipment/property with an acquisition cost above governing entity's capitalization level.
- E. Subject to the obligations and conditions set forth in the UGMS Part III, Subpart C, Sec. 32, title to equipment acquired under a grant will vest in the Grantee upon acquisition. Grantee must include any equipment/property acquired with grant funds in the required bi-annual property inventory, and follow the UGMS Part III, Subpart C, Sec. 32 (d) that requires the Grantee to reconcile the equipment/property records with a physical inventory of the equipment/property every two years. This bi-annual inventory does not need to be submitted to Grantor, but must be maintained by the grantee and will be subject to review by Grantor. When property is vested in the Grantee, Grantee will dispose of equipment/property in accordance with the UGMS Part III, Subpart C, Sec. 32 (e). When the Grantee has been given federally- or state-owned equipment/property, Grantee will follow the UGMS Part III, Subpart C, Sec. 32 (f).

**VII. REPORTING REQUIREMENTS**

The State Legislature has charged Grantor with submitting performance measurement reports that specify the level of services provided by its programs and services. In accepting the grant funds, the Grantee acknowledges responsibility for performing certain services on behalf of Grantor, as outlined in the approved Plan of Action. Therefore, the Grantee is responsible for submitting periodic reports that reflect the Grantee's level of performance on these services to Grantor. To comply with these requirements, the Grantee agrees to submit reports that are timely, accurate, auditable, and consistent with definitions.

- A. The Grantee agrees to submit the Loan Star Libraries Performance Report to Grantor no later than the due dates listed in the following schedule. If library materials ordered with grant funds are received by Grantee after the end of the grant year, a revised final Loan Star Libraries Performance Report may be required covering receipt of those materials. This revised final performance report will be due no later than **November 15, 2006**.

<u>Reporting Period</u>	<u>Due Date</u>
September 1, 2005 - November 30, 2005	December 7, 2005
December 1, 2005 - February 28, 2006	March 7, 2006
March 1, 2006 - May 31, 2006	June 7, 2006
June 1, 2006 - August 31, 2006	September 7, 2006

- B. The Grantee agrees to submit the TSLAC FSR form for the grant funded under this contract no later than the due dates listed in the following schedule, so long as all grant funds have not been expended. Grantee should submit a Final FSR once all grant funds have been expended and all program requirements are

accomplished. Grantee should mark the last required FSR as "Final" and not submit any subsequent FSR forms.

<u>Reporting Period</u>	<u>Due Date</u>
September 1, 2005 - November 30, 2005	December 30, 2005
December 1, 2005 - February 28, 2006	March 30, 2006
March 1, 2006 - May 31, 2006	June 30, 2006
June 1, 2006 - August 31, 2006	September 30, 2006

If necessary, a revised Final FSR must be submitted no later than **November 15, 2006**.

- C. The Grantee will send the Grantor a copy of all management letters issued by an auditor with the reporting package, UGMS Part IV, Subpart C, Sec. 320 (b), within 30 days of the audit. The audit's *Schedule of Expenditures of Federal and State Awards* must list the amount of TSLAC awards expended for each award year separately.

## VIII. GENERAL TERMS AND CONDITIONS

- A. The Grantee will comply with the Loan Star Library Grant Program Guidelines for SFY 2006.
- B. The Grantee will comply with the Loan Star Libraries Administrative Rules for State Fiscal Year 2006, *Texas Administrative Code*, Chapter 2.160 – 2.165. Loan Star Libraries Administrative Rule 2.165(c) states, "If a library has certified that it provides service to non-residents without charge or it has elected to participate in the TexShare card program, the library must maintain these services for the duration of the contract that it received." This means the library shall provide the same library services and may impose the same restrictions on non-resident customers as it does for those customers who live locally. *Texas Government Code*, Section 441.138(c), states, "State aid to a free tax-supported public library is a supplement to and not a replacement of local support."
- C. The Grantee will comply with the following parts of the Governor's Office of Budget and Planning, UGMS revised June 2004, located at:  
<http://www.governor.state.tx.us/divisions/stategrants/guidelines/files/UGMS062004.doc>
- Part I. Cost Principles for State and Local Governments and Other Affected Entities (Adapted from OMB Circular A-87)
- Part II. State Uniform Administrative Requirements for Grants and Cooperative Agreements (Adapted from OMB Circulars A-102 and A-122)
- Part III. State of Texas Single Audit Circular (Adapted from OMB Circular A-133)
- D. All publicity relating to the grant award must include acknowledgement of the Texas State Library and Archives Commission whenever possible and practical. Publicity includes, but is not limited to press releases, media events, public events, displays in the benefiting library, announcements on the Grantee's website, and materials distributed through the grant project. The Grantee will provide Grantor with one set of all public relations materials produced under this grant with the Final FSR.
- E. Grantee understands that acceptance of funds under this contract acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Grantee further agrees to cooperate fully with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing access to any information the state auditor considers relevant to the investigation or audit. Grantee will ensure that this clause concerning the authority to audit funds received indirectly by Sub-grantees through Grantee, and the requirement to cooperate, is included in any sub-grant awarded.

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- F. The Grantee agrees to maintain all financial and programmatic records, supporting documents, statistical records, and other records relating to this grant award according to Part III, Subpart C, Sec. 42 of UGMS. In general, Grantees must maintain records for a minimum of three years from latter of the date the Grantee submits to Grantor the Final FSR or the last single audit or audit report for the grant period.

## IX. ENFORCEMENT

- A. Remedies for noncompliance. If a Grantee or Sub-grantee materially fails to comply with any term of an award, whether stated in a state statute or regulation, an assurance, in a state plan or application, a notice of award, or elsewhere, Grantor may take one or more of the following actions, or impose other sanctions, as appropriate in the circumstances:
1. Temporarily withhold cash payments pending correction of the deficiency by the Grantee or Sub-grantee, or more severe enforcement action by Grantor;
  2. Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance;
  3. Wholly or partly suspend or terminate the current award for the Grantee's or Sub-grantee's program;
  4. Withhold further awards for the program; or
  5. Take other remedies that may be legally available.
- B. Hearings, appeals. In taking an enforcement action, Grantor will provide the Grantee or Sub-grantee an opportunity for such hearing, appeal, or other administrative proceeding to which the Grantee or Sub-grantee is entitled under any statute or regulation applicable to the action involved.
- C. Effects of suspension and termination. Costs of Grantee or Sub-grantee resulting from obligations incurred by the Grantee or Sub-grantee during a suspension or after termination of an award are not allowable unless Grantor expressly authorizes them in the notice of suspension or termination, or subsequently. Other Grantee or Sub-grantee costs during suspension or after termination which are necessary, and not reasonably avoidable, are allowable if:
1. The costs resulting from obligations which were properly incurred by the Grantee or Sub-grantee before the effective date of suspension or termination are not in anticipation of it and, in the case of a termination, are non-cancelable; and,
  2. The costs would be allowable if the award were not suspended, or expired normally at the end of the funding period in which the termination takes effect.
- D. Relationship to Debarment and Suspension. The enforcement remedies identified in this section, including suspension and termination, do not preclude Grantee or Sub-grantee from being subject to "Debarment and Suspension" under Executive Order 12549 (see UGMS Part III, Subpart C, Sec. 35) and state law.

## X. CONTACTS AT TSLAC

Questions or concerns about programmatic issues, budget and or program revisions and performance reports should be directed to this grant's Project Manager:

Loan Star Libraries Grant Coordinator  
Phone: 512-463-5475  
Fax: 512-463-8800  
E-mail: [wclark@tsl.state.tx.us](mailto:wclark@tsl.state.tx.us)

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Questions or concerns about regulatory or financial issues should be directed to:

Manager, Accounting and Grants Department  
 Phone: 512-463-6626  
 Fax: 512-475-0185  
 E-mail: [mmartin@tsl.state.tx.us](mailto:mmartin@tsl.state.tx.us)

Documentation relating to required Requests for Funds, Financial Status Reports, and Equipment/Property Acquired Report should be directed to:

Grants Accountant  
 Phone: 512-463-5472  
 Fax: 512-475-0185  
 E-mail: [grants.accounting@tsl.state.tx.us](mailto:grants.accounting@tsl.state.tx.us)

Payments from Grantee to Grantor, such as those for excess advanced funds or for interest earned on advanced funds, should be mailed with a revised FSR, an explanation of the purpose of the payment, and the grant number. This information shall be directed to:

Grants Accountant  
 Accounting and Grants Department  
 Texas State Library and Archives Commission  
 PO Box 12516  
 Austin, TX 78711-2516

## XI. APPLICABLE AND GOVERNING LAW

- A. The laws of the State of Texas shall govern this grant. All duties of either party shall be legally performable in Texas. The applicable law for any legal disputes arising out of this contract shall be the law of (and all actions hereunder shall be brought in) the State of Texas, and the forum and venue for such disputes shall be Travis County, District Court.
- B. This grant is subject to availability of funds.

## XII. GRANT CERTIFICATIONS

- A. Grantor certifies that: (1) the services specified in the approved grant application and this contract are necessary and essential for activities that are properly within the statutory functions and programs of the affected organizations; (2) the services, supplies or materials contracted for are not required by Section 21 of Article 16 of the Constitution of Texas to be supplied under contract given to the lowest bidder; and, (3) the grant is in compliance with Texas Government Code § 441.006, Texas Administrative Code Title XIII, §§1.91 – 1.97, Texas Government Code § 441.135 Grants (Systems Act), P.L. 104-208, the Library Services and Technology Act (LSTA), the State Plan for the LSTA in Texas and UGMS.
- B. The Grantee affirms that it has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with this contract. The Grantee further affirms that its employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to any sub-agreements.
- C. The Grantee certifies by this contract that no Federal appropriated funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any

cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement. If any funds other than Federal appropriated funds have been paid or will be paid for such purpose, the Grantee shall complete and submit OMB form SF-LLL, Disclosure of Lobbying Activities, in accordance with its instructions. The Grantee shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly, as specified in Title 31 U.S. Code, Sec. 1352.

- D. The Grantee certifies all applicable activities related to this grant will be in compliance with the Copyright Law of the United States (Title 17, U.S. Code).
- E. In addition to federal requirements, state law requires a number of assurances from applicants for federal pass-through or other state-appropriated funds. (UGMS Part III, Subpart B, Sec. 14 – State Assurances)
- (1) A subgrantee must comply with Texas Government Code, Chapter 573, Vernon's 1994, by ensuring that no officer, employee, or member of the applicant's governing body or of the applicant's contractor shall vote or confirm the employment of any person related within the second degree of affinity or the third degree of consanguinity to any member of the governing body or to any other officer or employee authorized to employ or supervise such person. This prohibition shall not prohibit the employment of a person who shall have been continuously employed for a period of two years, or such other period stipulated by local law, prior to the election or appointment of the officer, employee, or governing body member related to such person in the prohibited degree.
  - (2) A subgrantee must insure that all information collected, assembled or maintained by the applicant relative to a project will be available to the public during normal business hours in compliance with Texas Government Code, Chapter 552, Vernon's 1994, unless otherwise expressly prohibited by law.
  - (3) A subgrantee must comply with Texas Government Code, Chapter 551, Vernon's 1994, which requires all regular, special or called meeting of governmental bodies to be open to the public, except as otherwise provided by law or specifically permitted in the Texas Constitution.
  - (4) A subgrantee must comply with Section 231.006, Texas Family Code, which prohibits payments to a person who is in arrears on child support payments.
  - (5) No health and human services agency or public safety or law enforcement agency may contract with or issue a license, certificate or permit to the owner, operator or administrator of a facility if the license, permit or certificate has been revoked by another health and human services agency or public safety or law enforcement agency.
  - (6) A subgrantee that is a law enforcement agency regulated by Texas Government Code, Chapter 415, must be in compliance with all rules adopted by the Texas Commission on Law Enforcement Officer Standards and Education pursuant to Chapter 415, Texas Government Code or must provide the grantor agency with a certification from the Texas Commission on Law Enforcement Officer Standards and Education that the agency is in the process of achieving compliance with such rules.
  - (7) When incorporated into a grant award or contract, standard assurances contained in the application package become terms or conditions for receipt of grant funds. Administering state agencies and local subrecipients shall maintain an appropriate contract administration system to insure that all terms, conditions, and specifications are met. (See UGMS Part III, Subpart C, Sec. 36 for additional guidance on contract provisions.)

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- (8) A subgrantee must comply with the Texas Family Code, Section 261.101 which requires reporting of all suspected cases of child abuse to local law enforcement authorities and to the Texas Department of Child Protective and Regulatory Services. Subgrantees shall also ensure that all program personnel are properly trained and aware of this requirement.
- (9) Subgrantees will comply with all federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps and the Americans With Disabilities Act of 1990; (d) the Age Discrimination Act of 1974, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to the nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
- (10) Subgrantees will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. § 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. § 327-333), regarding labor standards for federally assisted construction subagreements.
- (11) Subgrantees will comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P. L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
- (12) Subgrantees will comply with the provisions of the Hatch Political Activity Act (5 U.S.C. § 7321-29) which limit the political activity of employees whose principal employment activities are funded in whole or in part with Federal funds.
- (13) Subgrantees will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act and the Intergovernmental Personnel Act of 1970, as applicable.
- (14) Subgrantees will insure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA. (EO 11738).
- (15) Subgrantees will comply with the flood insurance purchase requirements of 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234. Section 102 (a) requires the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition proposed for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards.

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- (16) Subgrantees will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
- (17) Subgrantees will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
- (18) Subgrantees will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
- (19) Subgrantees will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
- (20) Subgrantees will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residential structures.
- (21) Subgrantees will comply with Public Law 103-277, also known as the Pro-Children Act of 1994 (Act), which prohibits smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.
- (22) Subgrantees will comply with all federal tax laws and are solely responsible for filing all required state and federal tax forms.
- (23) Subgrantees will comply with all applicable requirements of all other federal and state laws, executive orders, regulations and policies governing this program.
- (24) The applicant must certify that they are not debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs.
- (25) Subgrantees must adopt and implement applicable provisions of the model HIV/AIDS work place guidelines of the Texas Department of Health as required by the Texas Health and Safety Code, Ann., Sec. 85.001, et seq.

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**SIGNATURES**

**GRANTOR**

**Texas State Library and Archives Commission**

\_\_\_\_\_  
Edward Seidenberg, Assistant State Librarian

Date

*Donna Osborne By: Megan Sanchez*  
\_\_\_\_\_  
Donna Osborne, Chief Fiscal Officer

\_\_\_\_\_  
Date

**GRANTEE**

**City of Plano, Plano Public Library System**

\_\_\_\_\_  
Signature (Must be an official empowered to enter into contracts)

\_\_\_\_\_  
Thomas H. Muehlenbeck, City Mgr.

\_\_\_\_\_  
Typewritten or Printed Name

\_\_\_\_\_  
Date

*12-14*



## 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>2/13/06</b>		Reviewed by Legal <i>WWS</i>	<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> 2-3-06	
Dept Signature:	<i>Don Wendell</i>		City Manager	<i>[Signature]</i> 2/13/06	
Agenda Coordinator (include phone #): <b>Linda Benoit (7255)</b>					

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

**CAPTION**

APPROVING THE SUBMISSION OF A GRANT APPLICATION TO THE TEXAS DEPARTMENT OF TRANSPORTATION FOR FUNDING ASSISTANCE THROUGH THE STATEWIDE TRANSPORTATION ENHANCEMENT PROGRAM; CERTIFYING THAT THE CITY IS ELIGIBLE TO RECEIVE FINANCIAL ASSISTANCE UNDER THE PROGRAM; CERTIFYING THAT THE CITY'S MATCHING SHARE IS READILY AVAILABLE; DESIGNATING THE DIRECTOR OF PARKS AND RECREATION AS BEING RESPONSIBLE FOR ACTING FOR, AND ON BEHALF OF THE CITY OF PLANO IN DEALING WITH THE TEXAS DEPARTMENT OF TRANSPORTATION FOR THE PURPOSE OF PARTICIPATING IN THE STATEWIDE TRANSPORTATION ENHANCEMENT PROGRAM, AND PROVIDING AN EFFECTIVE DATE.

**FINANCIAL SUMMARY**

NOT APPLICABLE     OPERATING EXPENSE     REVENUE     CIP

FISCAL YEAR: <b>2005-06</b>	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	170,883	2,524,117	1,000,000	<b>3,695,000</b>
Encumbered/Expended Amount	-170,883	-479,733	0	<b>-650,616</b>
This Item	0	-240,000	0	<b>-240,000</b>
<b>BALANCE</b>	0	1,804,384	1,000,000	<b>2,804,384</b>

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

**COMMENTS:** Funds are included in the 2005-06 Park Improvement CIP. This item, in the amount of \$240,000, will leave a current year balance of \$1,804,384 for the Trail Connections project.

**STRATEGIC PLAN GOAL:** Trail connections relate to the City's Goal of "Premier City for Families."

**SUMMARY OF ITEM**

The Texas Department of Transportation recently issued the 2005-06 Statewide Transportation Enhancement Program Call for Projects. Eligible projects include bicycle and pedestrian projects. The Cities of Allen and Frisco would like to submit a joint application with the City of Plano for a trail connection between the three cities along a portion of Rowlett Creek. The trail would begin with a connection to existing trail in Frisco down to S.H. 121, through Plano to Custer Road, and then continue in the City of Allen. This section of trail is identified on the City's Park Master Plan, Bicycle Transportation Plan, and the Six Cities Trail Plan.



## CITY OF PLANO COUNCIL AGENDA ITEM

Statewide Transportation Enhancement Grant projects require a 20% local match with 80% of the funding coming through the Texas Department of Transportation Grant.

Plano's matching share of the trail within the City of Plano will not exceed \$240,000. Funding is available in the 2005-06 Park Improvement Community Investment Program.

List of Supporting Documents:  
Location Map

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 SUBMISSION OF A GRANT APPLICATION TO THE TEXAS DEPARTMENT OF TRANSPORTATION FOR FUNDING ASSISTANCE THROUGH THE STATEWIDE TRANSPORTATION ENHANCEMENT PROGRAM; CERTIFYING THAT THE CITY IS ELIGIBLE TO RECEIVE FINANCIAL ASSISTANCE UNDER THE PROGRAM; CERTIFYING THAT THE CITY'S MATCHING SHARE IS READILY AVAILABLE; DESIGNATING THE DIRECTOR OF PARKS AND RECREATION AS BEING RESPONSIBLE FOR ACTING FOR, AND ON BEHALF OF THE CITY OF PLANO IN DEALING WITH THE TEXAS DEPARTMENT OF TRANSPORTATION FOR THE PURPOSE OF PARTICIPATING IN THE STATEWIDE TRANSPORTATION ENHANCEMENT PROGRAM AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Texas Department of Transportation recently issued the 2005-06 Statewide Transportation Enhancement Program Call for Projects; and

WHEREAS, the City of Plano wishes to apply for financial assistance through the program; and

WHEREAS, the City of Plano is fully eligible to receive financial assistance under the program; and

WHEREAS, the City of Plano desires to authorize an official to represent and act for the City of Plano in dealing with the Texas Department of Transportation concerning the program.

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

Section I. The City of Plano hereby authorizes the submission of a grant application to receive financial assistance under the program.

Section II. The City of Plano hereby certifies that the City is eligible to receive financial assistance under the program.

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**Section III.** The City of Plano hereby certifies that the matching share for this application is readily available at this time.

**Section IV.** The City Council of the City of Plano hereby authorizes and directs the Director of Parks and Recreation to act for and on behalf of the City of Plano with the Texas Department of Transportation for the purpose of participating in the program, and the Director of Parks and Recreation is hereby officially designated as the representative in this regard.

**Section V.** This Resolution shall become effective from and after its adoption.

**DULY ADOPTED** this the \_\_\_\_ day of \_\_\_\_\_, 2006.

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

ATTEST:

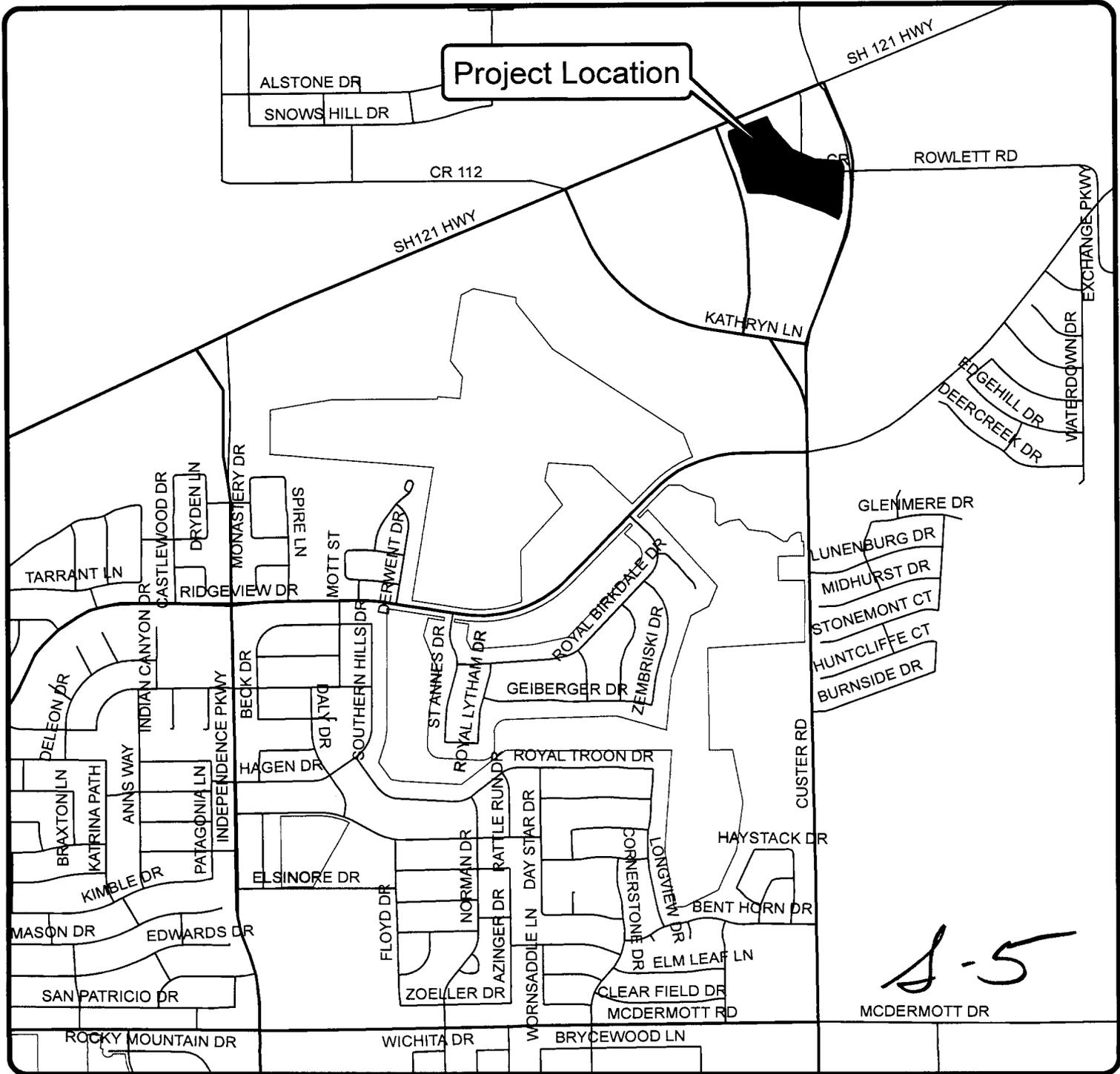
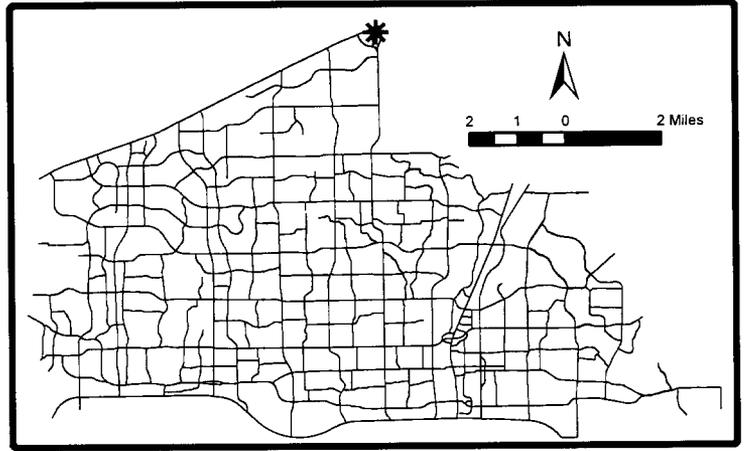
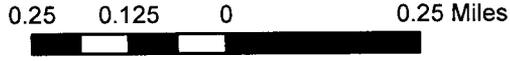
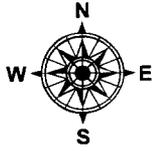
\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

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

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# Location Map S.T.E.P. Grant Application



c:\mxd\3200\_Gary\_Dr.mxd Tina B.

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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>2/13/06</b>	Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Parks and Recreation, Creative Arts Division		Initials	Date
Department Head	Don Wendell	Executive Director	<i>[Signature]</i>	2-3-06
Dept Signature:	<i>[Signature: Don Wendell]</i>	City Manager	<i>[Signature]</i>	2/13/06
Agenda Coordinator (include phone #):		Linda Benoit (7255)		
<b>ACTION REQUESTED:</b> <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>				
APPROVING THE TERMS AND CONDITIONS OF THE FUNDING AGREEMENT BETWEEN THE CITY OF PLANO, TEXAS, AND DALLAS CHINESE CHORAL SOCIETY, INC., WHICH RENDERS SERVICES THAT ARE BENEFICIAL TO THE PUBLIC AND SERVE A VALID PUBLIC PURPOSE; AUTHORIZING THE CITY MANAGER, OR IN HIS ABSENCE AN EXECUTIVE DIRECTOR, TO EXECUTE SUCH AGREEMENTS WITH THIS ORGANIZATION FOR PROVISION OF SUPPORT OF THE ARTS; AND PROVIDING AN EFFECTIVE DATE.				
<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:	<b>2005-06</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>
Budget		0	511,671	0
Encumbered/Expended Amount		0	-247,250	0
This Item		0	-1,000	0
<b>BALANCE</b>		<b>0</b>	<b>263,421</b>	<b>0</b>
<b>FUND(s): CONVENTION &amp; TOURISM</b>				
<b>COMMENTS:</b> Funds are included in the FY 2005-06 budget. The remaining funds are to be paid to various arts organizations in February and July 2006.				
<b>STRATEGIC PLAN GOAL:</b> This item relates to the City's Goal of "Premier City for Families."				
<b>SUMMARY OF ITEM</b>				
This resolution establishes the funding agreement with Dallas Chinese Choral Society, Inc. for a total of \$1,000 approved in the FY 2005-06 budget.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Funding Agreement				

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

A RESOLUTION OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF THE FUNDING AGREEMENT BETWEEN THE CITY OF PLANO, TEXAS, AND DALLAS CHINESE CHORAL SOCIETY, INC., WHICH RENDERS SERVICES THAT ARE BENEFICIAL TO THE PUBLIC AND SERVE A VALID PUBLIC PURPOSE; AUTHORIZING THE CITY MANAGER, OR IN HIS ABSENCE AN EXECUTIVE DIRECTOR, TO EXECUTE SUCH AGREEMENTS WITH THIS ORGANIZATION FOR PROVISION OF SUPPORT OF THE ARTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council established the Cultural Arts Commission for the purpose of considering funding requests from outside organizations; and

WHEREAS, this Commission considered funding requests, conducted extensive review, and made recommendation for funding to the City Council based on established criteria; and

WHEREAS, the City Council received recommendations during budget deliberations, conducted a public hearing on the proposed budget and approved and adopted the 2005-2006 budget; and

WHEREAS, pursuant to Ordinance No. 2005-9-8, the City Council has appropriated \$1,000 for such purposes and finds that the services provided by the organization are beneficial to the public and serve a valid public purpose; and

WHEREAS, the City Council desires to enter into a Funding Agreement with the art organization, a sample copy is attached hereto by reference as Exhibit "A", which establishes the terms and conditions for funding.

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

**Section I.** The terms and conditions of the Funding Agreement with the below named organization in the maximum amounts specified having been reviewed by the City Council and found to be proper and acceptable and in the best interests of the City of Plano, are hereby in all things approved:

Support of the Arts:

Dallas Chinese Choral Society, Inc.	\$1,000
-------------------------------------	---------

**Section II.** The City Manager, or in his absence the Executive Director is hereby authorized to execute such Agreements on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Agreements, and to act in behalf of the City with regard to its terms and conditions.

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**Section III.** This resolution shall become effective from and after its passage,  
**DULY PASSED AND APPROVED** this the \_\_\_\_ day of \_\_\_\_\_, 2006.

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

ATTEST:

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

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

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**FUNDING AGREEMENT BETWEEN CITY OF PLANO  
AND  
DALLAS CHINESE CHORAL SOCIETY, INC.**

**STATE OF TEXAS            )**  
**COUNTY OF COLLIN        )**       **KNOW ALL PERSONS BY THESE PRESENTS:**

**THIS AGREEMENT**, this day made and entered into by and between the **CITY OF PLANO**, a Texas home rule municipal corporation (hereinafter referred to as "City"), and **DALLAS CHINESE CHORAL SOCIETY, INC.**, a Texas non-profit corporation, acting herein through its duly authorized representative (hereinafter referred to as "Organization");

**WHEREAS**, it is deemed to be in the best interest of the residents of and the City of Plano to expend public funds for improvement, promotion, application, and encouragement of the arts and culture for organizations which provide services within the corporate limits of the City of Plano; and

**WHEREAS**, the City Council finds that expending public funds for encouragement, promotion, improvement, and application of the arts and culture are valid public purposes and will promote tourism and visitors to the City of Plano; and

**WHEREAS**, the City Council determined that up to \$1,000.00 shall be expended for the purposes as outlined in the attachment entitled "Small Grants Application 2005-06" (hereinafter referred to as "Application");

**NOW, THEREFORE**, for and in consideration of the covenants, obligations, and undertakings of each of the respective parties to the Agreement, the parties hereby agree as follows:

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**SECTION I.**  
**PURPOSES/CONSIDERATION; PRIORITY OF DOCUMENTS**

1.01 Purpose/Consideration. The purpose of this Agreement is to provide terms and conditions under which City shall make available the sum of money up to but not to exceed, \$1,000.00, to be used for the purposes set forth in the Application submitted by Organization, such purposes being those which will aid in the improvement, promotion, encouragement, and application of the arts and culture within the corporate limits of the City of Plano. City's source of these funds is general revenues derived from collection of property, sales and other taxes, as well as other sources.

In consideration of the City of Plano providing the funding specified in the 2005-06 fiscal year, Organization shall abide by the terms and conditions of this Agreement.

1.02 Priority of Documents. This Agreement consists of: Agreement Between City of Plano and Dallas Chinese Choral Society, Inc.; Application; General Conditions; and Affidavit of No Prohibited Interest . The documents are complementary, and what is called for by one shall be binding as if called for by all. In the event of inconsistency in any provisions of the documents, the inconsistency shall be resolved by giving precedence to the documents in the order in which they are listed above.

**SECTION II.**  
**PERMITTED USES OF FUNDS; CONDITIONS OF USE**

2.01 Organization shall use any and all funds furnished by City under this Agreement only for those purposes as outlined in the Application, a copy of which is attached hereto and made a part hereof as Exhibit "A". No expenditure of funds

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contrary to the funding application is permitted unless prior written approval is received from the City Manager or his designee.

2.02 Organization agrees to the general conditions of the grant as set forth in the attachment entitled "General Conditions of Agreement" (hereinafter referred to as the "General Conditions"), a copy of which is attached hereto and incorporated herein as Exhibit "B".

2.03 City funds which are remaining with Organization and which are not expended or unencumbered on September 30, 2006, will revert to the City general revenues.

**SECTION III.**  
**NON-ASSIGNMENT**

Organization shall not assign any interest in this Agreement, whether in whole or part, without prior approval of the City Council as reflected by a duly authorized resolution.

**SECTION IV.**  
**INDEPENDENT CONTRACTOR**

Organization covenants and agrees that it is an independent contractor and not an officer, agent, servant or employee of City, that Organization shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same. Organization shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants. The doctrine of respondeat superior shall not apply as between City and

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Organization, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Organization.

**SECTION V.**  
**DISBURSEMENT OF FUNDS**

5.01 Disbursement. Funds provided for under this Agreement shall be disbursed on or about March 1, 2006. Expenses incurred after the termination date will not be reimbursed under this Agreement and the City shall assume no liability for same.

5.02 Reporting Requirements. Within thirty (30) days of the close of the contract term, Organization agrees to provide financial records sufficiently describing the expenditure of funds provided by the City, as well as a description of program goals achieved and/or progress of same for the contract period. The report shall be furnished in writing to the Contract Administrator at the following address:

Jim Wear  
Creative Arts Division, Parks & Rec Department  
c/o City of Plano  
P.O. Box 860358  
Plano, Texas 75086-0358  
Telephone: 972/941-5202  
Fax: 972/941-7182

**SECTION VI.**  
**AFFIDAVIT OF NO PROHIBITED INTEREST**

Organization acknowledges and represents it is aware of all applicable laws, City Charter, and City Code of Conduct regarding prohibited interests and that the existence

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of a prohibited interest at any time will render the Contract voidable. At the time of signing this Agreement, a representative of Organization shall execute the Affidavit of No Prohibited Interest, attached and incorporated herein as Exhibit "C".

**SECTION VII**  
**INDEMNIFICATION.**

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

7.02 In its sole discretion, City shall have the right to select or to approve defense counsel to be retained by Organization 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

Organization's obligation to defend City or as a waiver of Organization's obligation to indemnify City pursuant to this Agreement. Organization 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 Organization fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Organization shall be liable for all costs incurred by City.

**SECTION VIII.**  
**TERM.**

The term of this Agreement shall begin on March 1, 2006 and expire in September 30, 2006. At the expiration of this Agreement, the Organization shall have the continuing obligation to complete any unfulfilled terms and conditions of this Agreement, including but not limited to the submission of a final report to the City.

**SECTION IX.**  
**TERMINATION**

9.01 Either party shall have the right to an early termination of this Agreement by giving the other party written notice of intention of such early termination, with such notice to be given in writing ninety (90) days before the desired early termination date. The right to early termination of this Agreement is specifically reserved to both parties. Any commitments and obligations of Organization existing prior to notice of early termination shall be honored and shall not prejudice the right of Organization to pay such costs previously incurred out of the funds furnished by City. However, City is only required to pay those previously incurred costs that are properly due and payable under

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the terms of this Agreement. In the event of such early termination, or at the end of the term of this Contract, the Organization agrees to return to City the unused balance of any funds previously disbursed to the Organization by City pursuant to this Agreement within ten (10) days of either event.

9.02 In the event Organization breaches any of the terms or conditions of this Agreement, whether in whole or part, the City shall have the right to immediately terminate this Agreement by providing thirty (30) days written notice to the Organization, notwithstanding any provisions to the contrary. In the event of termination for breach, Organization shall be solely responsible for funds expended contrary to the terms and conditions of this Agreement. Funds expended contrary to the terms and conditions of this Agreement and unexpended funds in the possession of Organization shall be returned to City within ten (10) days of termination.

**SECTION X.**  
**MISCELLANEOUS**

10.01 Entire Agreement/Agreement. This Agreement and its attachments embodies the entire agreement between the parties and may only be modified, amended or supplemented, in writing if executed by both parties.

10.02 Authorized to Execute/Binding on Organization. The undersigned represents and warrants that he or she is the duly authorized representative of the Organization and that this Agreement has been approved and accepted by the Organization.

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10.03 Binding on the City of Plano. This Agreement shall not be considered fully executed or binding on the City of Plano until the same shall have been executed by Organization, the City Manager or his designee, approved and accepted by the City Council of the City of Plano in open meeting as required by law. After such approval and acceptance, City shall deliver to Organization a certified copy of the Resolution as evidence of the authority of the City Manager or his designee to bind the City of Plano to the covenants, terms and provisions of this Agreement and to perform the same in accordance herewith.

The Parties agree that they, their officials, successors, legal representatives and administrators are bound to the terms and conditions of this Agreement.

10.04 Notice. Notice as required by this Agreement shall be in writing delivered to the parties as follows:

City  
Jim Wear  
c/o Creative Arts/MCS  
City of Plano  
P.O. Box 860358  
Telephone: 972/941-5202  
Fax: 972/941-7182

Organization  
Joan Hwa, Representative  
Dallas Chinese Choral Society, Inc.  
3809 Graphic Place  
Plano, TX 75075  
Telephone: 972/712-7546 (day)  
Fax: 972/712-4093

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

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10.06 Interpretation of Contract. 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.

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

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**IN TESTIMONY OF WHICH THE PARTIES HERETO AFFIXED THEIR SIGNATURES ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2006.**

**CITY OF PLANO, TEXAS**

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

APPROVED AS TO FORM:

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

**DALLAS CHINESE CHORAL SOCIETY, INC.**

BY: \_\_\_\_\_  
Joan Hwa  
REPRESENTATIVE

**ACKNOWLEDGMENTS**

STATE OF TEXAS        )  
                                  )  
COUNTY OF COLLIN    )

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2006 by **THOMAS H. MUEHLENBECK**, City Manager of the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, on behalf of said corporation.

\_\_\_\_\_  
Notary Public in and for the  
State of Texas

STATE OF TEXAS        )  
                                  )  
COUNTY OF            )

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2006 by **JOAN HWA** of the **DALLAS CHINESE CHORAL SOCIETY, INC.**, on behalf of said non-profit Organization.

\_\_\_\_\_  
Notary Public in and for the  
State of Texas

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<b>CITY OF PLANO</b> <b>SMALL GRANT APPLICATION 2005-06</b> <b>Deadline: Wednesday, June 1, 2005, 5pm</b>
---

**CULTURAL AFFAIRS COMMISSION**  
 c/o Jim Wear, Creative Arts Manager  
 City of Plano  
 P. O. Box 860358, Plano, TX 75086-0358  
 (972) 941.5202; jimw@plano.gov

I. Applicant/Organization Name: Dallas Chinese Choral Society, Inc.

II. Address: 3809 Graphic Place  
Plano, TX 75075

III. Contact Person: Joan Hwa

IV. Telephone: 972-7127546 (Day) same (Evening)

V. Fax: 972-7124093 VI. Email: jwhwa@hotmail.com

VII. Amount Requested: \$1,000.00

VIII. Art Form  
Please check all that apply:

- |   |                          |                   |
|---|--------------------------|-------------------|
| Crafts _____                                    | Theater _____            | Film _____        |
| Music <input checked="" type="checkbox"/> _____ | Dance _____              | Visual Arts _____ |
| Vocal <input checked="" type="checkbox"/> _____ | Classic _____            | Painting _____    |
| Instrumental _____                              | Modern _____             | Sculpture _____   |
| Classics _____                                  | Jazz _____               | Mixed _____       |
| Jazz _____                                      | Folk _____               | Media _____       |
| Traditional/ _____                              | Multi-disciplinary _____ | Photography _____ |
| Folk _____                                      |                          | Fiber _____       |

Other: \_\_\_\_\_

Is your group devoted to a specific ethnic art and cultural heritage? Yes \_\_\_\_\_

If yes, please identify: Chinese culture, traditional Chinese choral singing.

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IX. Total annual operating budget of your organization. (Please attach additional sheets if necessary.)

	<u>Expenses</u>		<u>Income</u>
Staff	100.00 _____	Earned	11,000.00 _____
Administrative	500.00 _____	Unearned	_____
Marketing	3,000.00 _____		
Contract Services	6,000.00 _____		
Space Rentals	600.00 _____		
Equipment	200.00 _____		
Transportation	200.00 _____		
<b>TOTAL</b>	<b>10,600.00</b> _____		<b>11,000.00</b>

X. Please summarize the history of the organization and its purpose in the Plano community.

\_\_\_\_\_ Please see Proposal \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

XI. Where do your programs/activities occur?

XII. Grace Presbyterian Church.

5/15/05 (Sunday) 3:00pm

4300 W Park Blvd, Plano, TX 75093  
\_\_\_\_\_  
\_\_\_\_\_

XII. a. Please describe the program or event(s) which these funds will support:

\_\_\_\_\_ Please see Proposal \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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b. Funds provided by this grant will be used for the following purpose(s):  
Check all that apply.

- X \_\_\_\_\_ Artist Fees                      X \_\_\_\_\_ Promotion                      \_\_\_\_\_ Transportation
- X \_\_\_\_\_ Production Supplies                      \_\_\_\_\_ Production Equip.                      \_\_\_\_\_ Contract Services  
(Other than artist fees)
- X \_\_\_\_\_ Performance/Exhibit Space                      \_\_\_\_\_ Programming Scholarship

**The applying organization must specify the exact use of funds.**

XIII. a. Approximately how many people are served by your organization/group?

About 500 and more for formal concerts, 100-300 for other activities \_\_\_\_\_

b. How many people will your organization reach during this grant period?

Same as above

c. If this grant request is for a specific event, who is the targeted audience and what attendance/participation level is anticipated?

The citizens of plano and surrounding cities. About 500 anticipated.

XIV. Who is ultimately responsible for this organization? If you already have a Board of Directors, please name them.

Mr: Robert Fang, Mrs: Catherine Leu, Mr: Li-Chung Jea,

Mrs: Catherine Openshaw, Mrs: Marian Gellemore

Mrs: Lily Ma, Mrs: Helen Liu

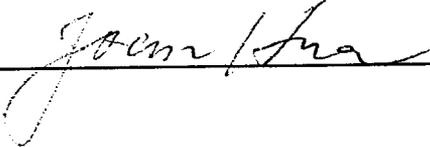
XV. If you have achieved 501c.(3) status, attach the IRS Letter of Determination certifying federal tax-exempt status under section 501c.(3) of the Internal Revenue Code to the application.

XVI. VALIDATION OF APPLICATION

The signatory declares that he/she is an authorized official of the applicant, is authorized to make this application, and certifies that the information in this application is true and correct to the best of his/her knowledge.

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Principal Authorized Official (type) Joan Hwa

Signature:  Date 5-20-2005

Title: Member

**If you have any supporting documentation that you would like to include,  
please attach.**

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Date: JUL 11 2001

DALLAS CHINESE CHORAL SOCIETY INC  
C/O CHIN PO  
1170 W CORPORATE DRIVE, SUITE 204  
ARLINGTON, TX 76006-0000

Employer Identification Number:

75-2902105

DLN:

17053026008041

Contact Person:

MRS. M. TAYLOR

ID# 52449

Contact Telephone Number:

(877) 829-5500

Accounting Period Ending:

August 31

Foundation Status Classification:

509(a)(1)

Advance Ruling Period Begins:

September 8, 2000

Advance Ruling Period Ends:

August 31, 2005

Addendum Applies:

No

Dear Applicant:

Based on information you supplied, and assuming your operations will be as stated in your application for recognition of exemption, we have determined you are exempt from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3).

Because you are a newly created organization, we are not now making a final determination of your foundation status under section 509(a) of the Code. However, we have determined that you can reasonably expect to be a publicly supported organization described in sections 509(a)(1) and 170(b)(1)(A)(vi).

Accordingly, during an advance ruling period you will be treated as a publicly supported organization, and not as a private foundation. This advance ruling period begins and ends on the dates shown above.

Within 90 days after the end of your advance ruling period, you must send us the information needed to determine whether you have met the requirements of the applicable support test during the advance ruling period. If you establish that you have been a publicly supported organization, we will classify you as a section 509(a)(1) or 509(a)(2) organization as long as you continue to meet the requirements of the applicable support test. If you do not meet the public support requirements during the advance ruling period, we will classify you as a private foundation for future periods. Also, if we classify you as a private foundation, we will treat you as a private foundation from your beginning date for purposes of section 507(d) and 4940.

Grantors and contributors may rely on our determination that you are not a private foundation until 90 days after the end of your advance ruling period. If you send us the required information within the 90 days, grantors and contributors may continue to rely on the advance determination until we make

Letter 1045 (DO/CG)

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a public charity for return filing purposes during your entire advance ruling period, you should file Form 990 for each year in your advance ruling period that you exceed the \$25,000 filing threshold even if your sources of support do not satisfy the public support test specified in the heading of this letter.

If a return is required, it must be filed by the 15th day of the fifth month after the end of your annual accounting period. A penalty of \$20 a day is charged when a return is filed late, unless there is reasonable cause for the delay. However, the maximum penalty charged cannot exceed \$10,000 or 5 percent of your gross receipts for the year, whichever is less. For organizations with gross receipts exceeding \$1,000,000 in any year, the penalty is \$100 per day per return, unless there is reasonable cause for the delay. The maximum penalty for an organization with gross receipts exceeding \$1,000,000 shall not exceed \$50,000. This penalty may also be charged if a return is not complete. So, please be sure your return is complete before you file it.

You are not required to file federal income tax returns unless you are subject to the tax on unrelated business income under section 511 of the Code. If you are subject to this tax, you must file an income tax return on Form 990-T, Exempt Organization Business Income Tax Return. In this letter we are not determining whether any of your present or proposed activities are unrelated trade or business as defined in section 513 of the Code.

You are required to make your annual information return, Form 990 or Form 990-EZ, available for public inspection for three years after the later of the due date of the return or the date the return is filed. You are also required to make available for public inspection your exemption application, any supporting documents, and your exemption letter. Copies of these documents are also required to be provided to any individual upon written or in person request without charge other than reasonable fees for copying and postage. You may fulfill this requirement by placing these documents on the Internet. Penalties may be imposed for failure to comply with these requirements. Additional information is available in Publication 557, Tax-Exempt Status for Your Organization, or you may call our toll free number shown above.

You need an employer identification number even if you have no employees. If an employer identification number was not entered on your application, we will assign a number to you and advise you of it. Please use that number on all returns you file and in all correspondence with the Internal Revenue Service.

This determination is based on evidence that your funds are dedicated to the purposes listed in section 501(c)(3) of the Code. To assure your continued exemption, you should keep records to show that funds are spent only for those purposes. If you distribute funds to other organizations, your records should show whether they are exempt under section 501(c)(3). In cases where the recipient organization is not exempt under section 501(c)(3), you must have evidence that the funds will remain dedicated to the required purposes and that the recipient will use the funds for those purposes.

Letter 1045 (DO/CG)

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If you distribute funds to individuals, you should keep case histories showing the recipients' names, addresses, purposes of awards, manner of selection, and relationship (if any) to members, officers, trustees or donors of funds to you, so that you can substantiate upon request by the Internal Revenue Service any and all distributions you made to individuals. (Revenue Ruling 56-304, C.B. 1956-2, page 306.)

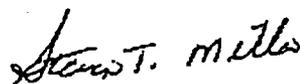
If we said in the heading of this letter that an addendum applies, the addendum enclosed is an integral part of this letter.

Because this letter could help us resolve any questions about your exempt status and foundation status, you should keep it in your permanent records.

We have sent a copy of this letter to your representative as indicated in your power of attorney.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,



Steven T. Miller  
Director, Exempt Organizations

Enclosure(s):  
Form 872-C

Letter 1045 (DO/CG)

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## Proposal to the City of Plano, Texas

5-20-2005

The DCCS is a non-profit organization based in Plano, Texas. Plano's Custer Road United Methodist Church provides us with a place to practice regularly every week for two hours each time. The church also provides us with a wonderful performing hall for our annual concert.

The DCCS was founded in 1982 by a group of students at the University of Texas in Dallas. It started as a gathering place for those students away from home and looking for comfort, friendship and support. And most of all, it's a place where they could enjoy singing as a group. Over the years, quite a few members have discovered their talents in singing, some even in conducting a choir, and made a name for themselves in the Dallas Fort Worth area.

The purpose of the DCCS has always been to share the fun and joy in group singing, to learn and improve the techniques, to discover and nurture future talents, to reach out into the community we are in as well as the surrounding communities. It is our goal to encourage cultural exchange and keep it vibrant and exciting by introducing beautiful traditional choral music-be it English, Chinese or Latin-to the older generation and the younger generation, plus to the various ethnic groups that live and work in the Plano area and beyond. Each year at our annual concert, which is open to the public free of admission charge, we can find among our audiences, many with different cultural backgrounds, different skin colors. Our biggest reward is to see their bright smiles while enjoying our program. Music always brings out the best in each person. Also, is the international language.

Beside the regular annual concert early in the summer each year, the DCCS accepts invitations to perform for other local non-profit organizations, such as the Chinese Community Center for their New Year celebration. We have participated in the Dallas Arboretum's Dallas Bloom, visited local nursing homes such as Land mark Home and retirement home such as sun Ray senior Residence Home. We collaborated with other singing groups in the area for a performance at the Chinese Community Center of the 50<sup>th</sup> Anniversary of the end of WWII. We helped in the Red Cross fund-raising immediately after the disaster of 9-11.

The DCCS is proud to keep a high standard in the art of group singing. 2002 we were honored to be selected to participate in the International Choir Competition in Taipei, hosted by the government of Taiwan, Republic of China.

The staff members who serve the DCCS volunteer their time, money and effort. Our sole source of revenues comes from donations and membership dues. In order to maintain the quality of our performances and to reach out further into the community, we do require financial assistance from the City of Plano whenever available and possible.

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April 15<sup>th</sup>, 2005

Dear Sir/Madam:

Serving the greater Dallas area for over 20 years, the Dallas Chinese Choral Society will hold their annual concert on May 15, 2005 at 3:00 p.m.

Over the years, our goals remain the same. We strive to perform high quality entertaining concerts; to present Chinese culture and music; and to encourage cultural exchange. In doing so, every member of the Dallas Chinese Choral Society enjoys singing together as a group and the pleasure of sharing music with our audience through our annual concerts.

You are cordially invited to attend. Venue below:

**22nd Annual Concert**  
**Presented by**  
**Dallas Chinese Choral Society**  
**Sunday, May 15, 2005 at 3:00 p.m.**  
**Grace Presbyterian Church**  
**4300 W. Park Blvd, Plano, Texas 75093**  
**Admission is free**

Sincerely,

*Robert C. Fang*

Robert C. Fang  
President  
Dallas Chinese Choral Society  
Tel: 972.978.5687

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Exhibit "A" to Resolution Dallas Chinese Choral Society  
 Member List 2004-2005

<u>Last Name</u>	<u>First Name</u>	<u>Address</u>	<u>City</u>	<u>Zip</u>
Guu	Cindy	18290 Meandering Way	Dallas	75252
Jea	Li-Chung	4402 Briargrove Ln	Dallas	75287
Leu	Catherine	16215 Amberwood Rd	Dallas	75248
Li	Loretta	5903 Willow Wood Ln	Dallas	75252
Hwa	Joan	5008 Spanish Oaks Dr	Frisco	75034
Chuang	Linda	2513 Pepperridge Dr	Garland	75044
Way	Christabel	6518 Omalley Court	Garland	75044
Chang	Chi Ming	5112 Laser Ln	Plano	75023
Chang	Sue	6604 Turtle Point Dr	Plano	75023
Chao	Wa-Lee	3517 Cabriolet Ct	Plano	75023
Choi	Li-Na Ma	2808 Kingston Dr	Plano	75074
Fang	Robert	3809 Graphic Place	Plano	75075
Feng	An-Lee	4445 Bentley Dr	Plano	75093
Gallemore	Marian	3116 Kingston Dr	Plano	75082
Huynh	Fran	1804 Boulder Dr	Plano	75023
Kan	Tze Kong	4029 Laser Ln	Plano	75028
Lin	Janet	1333 Seabrook Dr	Plano	75023
Liu	Helen	2077 Cumberland Trail	Plano	75023
Liu	Shen-Pai	2077 Cumberland Trail	Plano	75023
Ma	Lily	2808 Kingston Dr	Plano	75074
Openshaw	Catherine A.	3312 Leighton Ridge Dr	Plano	75025
Sung	Hung Ming	3709 Bonita Dr	Plano	75025
Sung	Claire	1716 Chester Dr	Plano	75025
Wu	Melody	7617 Brodick Way	Plano	75025
Yin	Chien-Nan	1600 Chester Dr.	Plano	75025
Lu	Jenny	502 Salem	Richardson	75080
Maa	Yann Jiun	521 Harvest Glen Dr	Richardson	75081

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Exhibit "A" to Resolution No. \_\_\_\_\_

**EXHIBIT B**

**GENERAL CONDITIONS OF AGREEMENT**

The Organization agrees to the following general conditions:

- (1) The Organization must provide the City Performing Arts Division reports of its activities as described in V.B.1. This report will be submitted on a report format acceptable to the City.
- (2) The Organization agrees to maintain accounting records in its headquarter offices for three years after the close of the fiscal year.
- (3) All accounting procedures, records, and reports shall be available for inspection by a duly authorized representative of the City of Plano.
- (4) The Organization agrees to on-site inspection of its facilities and/or programs by the City.
- (5) Improper use of funds awarded in the Agreement may result in the termination of the Agreement, forfeiture of the Agreement and/or recovery of previous payments.
- (6) Programs, activities, employment opportunities, etc. funded totally or partially by the City of Plano must be made available to all people regardless of race, color, religion, sex, age, national origin, disability, or political affiliation.
- (7) The Organization and any person or organization it contracts with shall comply with all applicable laws, regulations, ordinances, and codes of the United States of America, the State of Texas, and the City of Plano
- (8) The Organization shall comply with all Federal, State and Local conflict of interest laws, statutes, regulations, and said laws shall apply to all parties and beneficiaries under this contract as well as to all officers, employees and agents of City.
- (9) Organization shall not assign any interest in this contract without prior written consent of the City Council.
- (10) None of the funds, materials, property, or services provided directly or indirectly under this contract shall be used for any partisan political activity or to further the election or defeat of any candidate for public office, or for publicity, lobbying and/or propaganda purposes designed to support or defeat legislation pending before the Congress of the United States of America, the Legislature of the State of Texas, the City Council of the City of Plano, or any other political body.
- (11) The City shall have the right to review any and all contracts to be let by the Organization prior to execution by the Organization, and to require such terms and conditions as it deems necessary to protect the City's interests to be modified, added, or deleted.

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**EXHIBIT C**

**AFFIDAVIT OF NO PROHIBITED INTEREST**

I, the undersigned declare and affirm that no person or officer of \_\_\_\_\_  
\_\_\_\_\_ (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.

\_\_\_\_\_  
Name of Contractor

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

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

STATE OF \_\_\_\_\_ §

COUNTY OF \_\_\_\_\_ §

**SUBSCRIBED AND SWORN TO** before me this \_\_\_\_\_ day of

\_\_\_\_\_, 2006.

\_\_\_\_\_  
Notary

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Contractors performing work on City property or public right-of-way for the City of Plano shall provide the City a certificate of insurance evidencing the coverages and coverage provisions identified herein. Contractors shall provide the City evidence that all subcontractors performing work on the project have the same types and amounts of coverages as required herein or that the subcontractors are included under the contractor's policy. The City, at its own discretion, may require a certified copy of the policy.

**All insurance companies and coverages must be authorized by the Texas Department of Insurance to transact business in the State of Texas and must be acceptable to the City of Plano.**

Listed below are the types and amounts of insurance required. The City reserves the right to amend or require additional types and amounts of coverages or provisions depending on nature of the work.

Type of Insurance	Amount of Insurance	Provisions
1. Commercial General (Public) Liability to include coverage for: a) Premises/Operations b) Products/Completed Operations c) Independent Contractors d) Personal Injury e) Contractual Liability	\$500,000 each occurrence, \$1,000,000 general aggregate;  Or  \$1,000,000 combined single limits	City to be listed as additional insured and provided 30-day notice of cancellation or material change in coverage.  City prefers that insurer be rated B+VI or higher by A.M.Best or A or higher by Standard & Poors
2. Business Auto Liability	As required by State of Texas	
3. Workers' Compensation & Employers' Liability	Statutory Limits \$100,000 each accident	City to be provided a waiver of subrogation

**Questions regarding this insurance should be directed to the City of Plano Purchasing Department (972) 941-7557.**

This form must be signed and returned with your quotation to verify that you can and will meet the insurance requirements listed herein should you be selected to perform work for the City, and will provide the certificates of insurance acceptable to the City. **A PURCHASE ORDER WILL NOT BE ISSUED WITHOUT EVIDENCE OF INSURANCE.**

**AGREEMENT**

I agree to provide the above-described insurance coverages if selected to perform work for the City of Plano. I also agree to provide the City evidence of insurance coverage on any and all subcontractors performing work on the project.

Project/Bid #: Major Grant Funding Agreement for 2005-06

Organization: \_\_\_\_\_

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

Signature: \_\_\_\_\_ 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>2/13/06</b>	Reviewed by Legal <i>mu</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	City Secretary		Initials	Date
Department Head	Elaine Bealke	Executive Director	<i>[Signature]</i>	<i>[Signature]</i>
Dept Signature:	<i>Elaine Bealke</i>	City Manager	<i>[Signature]</i>	<i>[Signature]</i>
Agenda Coordinator (include phone #):		Di Zucco		
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, AUTHORIZING THE CITY MANAGER, OR IN HIS ABSENCE AN EXECUTIVE DIRECTOR, TO ENTER INTO AN AGREEMENT WITH THE PLANO INDEPENDENT SCHOOL DISTRICT, FRISCO INDEPENDENT SCHOOL DISTRICT AND COLLIN COUNTY COMMUNITY COLLEGE DISTRICT FOR THE PURPOSE OF CONDUCTING A JOINT GENERAL ELECTION AND CITY OF PLANO SPECIAL ELECTION ON MAY 13, 2006; AND PROVIDING AN EFFECTIVE DATE				
<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		

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, AUTHORIZING THE CITY MANAGER, OR IN HIS ABSENCE AN EXECUTIVE DIRECTOR, TO ENTER INTO AN AGREEMENT WITH THE PLANO INDEPENDENT SCHOOL DISTRICT, FRISCO INDEPENDENT SCHOOL DISTRICT AND COLLIN COUNTY COMMUNITY COLLEGE DISTRICT FOR THE PURPOSE OF CONDUCTING A JOINT GENERAL ELECTION AND CITY OF PLANO SPECIAL ELECTION ON MAY 13, 2006; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Plano, the Plano Independent School District, the Frisco Independent School District and the Collin County Community College District have determined that, for the convenience of the citizens of Plano, the General Election and a Special Election should it be called, of the City and the General Elections of the School Districts and the College to be held on May 13, 2006, should be combined; and

**WHEREAS**, it is necessary to enter into a Joint Election Agreement (hereinafter referred to as the "Agreement") designating responsibilities for the conduct and costs of this election, a copy of which is attached hereto as Exhibit "A" and made a part hereof; 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 the Agreement 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, are hereby in all things approved.

**Section II.** The City Manager, or in his absence an Executive Director, is hereby authorized to enter into and execute the Agreement on behalf of the City of Plano.

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

**DULY PASSED AND APPROVED THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2006.**

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

ATTEST:

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

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

JOINT ELECTION AGREEMENT

between

The City Council of the City of Plano (the City), the Board of Trustees of the Plano Independent School District (PISD) and the Board of Trustees of the Frisco Independent School District (FISD) known as the Schools and the Board of Trustees of the Collin County Community College District (the College)

BY THE TERMS OF THIS AGREEMENT, the City, the Schools and the College do hereby agree, pursuant to the provisions of the Texas Election Code, to hold a joint election for the General Election and Special Election should it be called, of the City and the General Elections of the School Districts and the College to be held on Saturday, May 13, 2006. The entities have contracted with the Collin County Elections Administrator (Election Administrator) to perform various duties and responsibilities on their behalf.

The four entities shall share equally in shared expenses applicable to all Collin County early voting locations utilized by the City with the exception of the Preston Ridge Campus of Collin County Community College and FISD shall be solely responsible for early voting expenses at this location, and, in addition, three election day polling locations which are Brinker Elementary School, Bethany Elementary School, and Robinson Middle School; three entities (City/PISD/College) shall share equally in shared expenses for election day polling locations for Collin County voters used by the City with the exception of Christopher Parr Library; and the City shall be solely responsible for expenses at Christopher Parr Library, the one election day location for the City's Denton County voters. Expenses include polling location costs, election officials, supplies, ballots and any other and all necessary expenses for the election upon receipt of satisfactory billing and invoices reflecting the total of such election. Expenses unique to one entity shall be billed solely to that entity.

Tabulation and centralized costs shall be shared equally between the number of entities holding an election on May 13, 2006. An entity canceling an election pursuant to Section 2.053 of the Texas Election Code will not be liable for costs incurred by the Elections Administrator in conducting the May 13, 2006, Joint General Election and Special Elections of the City and General Elections of the School Districts and the College; they will be liable only for the contract preparation fee of \$75.00.

**APPROVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS** in its meeting held the \_\_\_\_\_ day of \_\_\_\_\_, 2006, and executed by its authorized representative.

By: \_\_\_\_\_  
Thomas H. Muehlenbeck, City Manager

Attest: \_\_\_\_\_  
Elaine Bealke, City Secretary

Approved as to form: \_\_\_\_\_

**APPROVED BY THE TRUSTEES OF THE FRISCO INDEPENDENT SCHOOL DISTRICT** in its meeting held the \_\_\_\_\_ day of \_\_\_\_\_, 2006, and executed by its authorized representative.

By: \_\_\_\_\_  
Dr. Rick Reedy, Superintendent

Attest: \_\_\_\_\_  
Buddy Minett, President  
Board of Trustees

**APPROVED BY THE TRUSTEES OF THE PLANO INDEPENDENT SCHOOL DISTRICT** in its meeting held the \_\_\_\_\_ day of \_\_\_\_\_, 2006, and executed by its authorized representative.

By: \_\_\_\_\_  
Douglas W. Otto, Superintendent

Attest: \_\_\_\_\_  
Becky Taylor, Executive  
Assistant to the Superintendent

**APPROVED BY THE TRUSTEES OF THE COLLIN COUNTY COMMUNITY COLLEGE DISTRICT** in its meeting held the 20<sup>th</sup> day of December, 2005, and executed by its authorized representative.

By: \_\_\_\_\_  
Cary A. Israel, President

Attest: \_\_\_\_\_  
Brenda Kihl, Elections Secretary

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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>2/13/06</b>	Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Fire		(Initials)	Date
Department Head	Robert Acker	Executive Director		
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	<i>2/2/06</i>
Agenda Coordinator (include phone #):		Frank Snidow X7318		

**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	

### CAPTION

AN ORDINANCE OF THE CITY OF PLANO, TEXAS AMENDING ORDINANCE 2004-8-16, CODIFIED AS ARTICLE 11, FIRE CODE, OF CHAPTER 8 OF THE CODE OF ORDINANCES OF THE CITY OF PLANO; PROVIDING A REPEALER CLAUSE, A SEVERABILITY CLAUSE, A SAVINGS CLAUSE, A PENALTY 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

Request for Council authorization to amend Ordinance 2004-8-16 to allow police officers to assist the Fire Department with the enforcement of the Fire Code when requested by the Fire Chief.

List of Supporting Documents:

Other Departments, Boards, Commissions or Agencies



# ***Memorandum***

**Date:** February 1, 2006  
**To:** Thomas Muehlenbeck, City Manager  
**Through:** Bruce Glasscock, Executive Director  
**From:** Robert Acker, Interim Fire Chief   
**Subj:** Request for Fire Code Amendment

On August 9, 2004, the Plano City Council adopted City Ordinance 2004-8-16 which established the International Fire Code (IFC) as the official fire code for the City of Plano. The newly developed International Fire Code represented a consolidation of several "model" fire codes including the Uniform Fire Code that the City of Plano had used in the past. Unfortunately during the course of merging the various codes, a number of code provisions were deleted by the IFC developers. One of these deletions was a key provision which specifically authorized Police Officers to assist in the enforcement of the fire code when requested to do so by the Fire Department.

We are requesting that Ordinance 2004-8-16 be modified so as to restore the provision authorizing members of the Plano Police Department to assist in the enforcement of our local fire code. This provision is critical as there are many parts of the fire code that police officers regularly enforce including, but not limited to the abatement of fireworks, illegal burning, and the enforced evacuations of areas should a severe hazard exist. This recommendation is supported by both the Police and Fire Departments.

We will be pleased to provide any additional information required.

BA/ba

c: Gregory Rushin, Chief of Police  
David Kerr, Fire Marshal

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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF PLANO, TEXAS AMENDING ORDINANCE 2004-8-16, CODIFIED AS ARTICLE 11, FIRE CODE, OF CHAPTER 8 OF THE CODE OF ORDINANCES OF THE CITY OF PLANO; PROVIDING A REPEALER CLAUSE, A SEVERABILITY CLAUSE, A SAVINGS CLAUSE, A PENALTY CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, on August 9, 2004, the City Council of the City of Plano adopted Ordinance 2004-8-16, which adopted the 2003 edition of the International Fire Code; and

WHEREAS, it has been discovered that a subsection was inadvertently omitted from this Ordinance; and

WHEREAS, this Ordinance will amend Ordinance 2004-8-16 by adding the subsection relating to fire prevention bureau personnel and police.

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

**Section I.** Ordinance 2004-8-16, codified as Article 11, Fire Code, of Chapter 8 of the Code of Ordinances of the City of Plano, is hereby amended to add the following subsection to read in its entirety as follows:

**“Sec. 104. General Authority and Responsibilities**

**1.04.12. 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.”

**Section II.** 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 III.** 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.

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**Section IV.** 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.

**Section V.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**DULY PASSED AND APPROVED** this the \_\_\_\_ day of \_\_\_\_\_, 2006.

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

ATTEST:

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

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

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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>02-13-06</b>		Reviewed by Legal <i>aw</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	City Secretary		Initials	Date
Department Head	Elaine Bealke	Executive Director		
Dept Signature:	<i>Elaine Bealke</i>	City Manager	<i>aw</i>	<i>1/30/06</i>
Agenda Coordinator (include phone #):		Di Zucco - x7551		
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>				
<p><b>AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, ORDERING AN ELECTION TO BE HELD ON MAY 13, 2006 FOR THE PURPOSE OF ELECTING FOUR (4) MEMBERS OF COUNCIL, PLACE NO. 2 (DISTRICT 2), PLACE NO. 4 (DISTRICT 4), PLACE NO. 6 (MAYOR), AND PLACE NO. 8, TO THE CITY COUNCIL TO HOLD OFFICE FOR A PERIOD OF THREE YEARS; DESIGNATING LOCATIONS OF POLLING PLACES; ORDERING NOTICES OF ELECTION TO BE GIVEN AS PRESCRIBED BY LAW IN CONNECTION WITH SUCH ELECTION; AND PROVIDING AN EFFECTIVE DATE.</b></p>				
<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
<b>FUND(S):</b> FISCAL IMPACT WILL BE PLACED ON THE AGENDA WITH RESOLUTION AUTHORIZING A CONTRACT WITH THE COLLIN COUNTY ELECTION ADMINISTRATOR				
<b>COMMENTS:</b>				
<b>SUMMARY OF ITEM</b>				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		

*W-1*

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, ORDERING AN ELECTION TO BE HELD ON MAY 13, 2006 FOR THE PURPOSE OF ELECTING FOUR (4) MEMBERS OF COUNCIL, PLACE NO. 2 (DISTRICT 2), PLACE NO. 4 (DISTRICT 4), PLACE NO. 6 (MAYOR), AND PLACE NO. 8, TO THE CITY COUNCIL TO HOLD OFFICE FOR A PERIOD OF THREE YEARS; DESIGNATING LOCATIONS OF POLLING PLACES; ORDERING NOTICES OF ELECTION TO BE GIVEN AS PRESCRIBED BY LAW IN CONNECTION WITH SUCH ELECTION; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT;

**Section I.** A General Election be and is hereby ordered to be held on Saturday, May 13, 2006, for the purpose of electing four (4) City Council Members to fill the following expiring terms on the Plano City Council: Place No. 2 (District 2), Place No. 4 (District 4), Place No. 6 (Mayor), and Place No. 8, each such term being for a period of three (3) years.

**Section II.** The filing deadline for candidates for Place No. 2 (District 2), Place No. 4 (District 4), Place No. 6 (Mayor), and Place No. 8 shall be March 13, 2006.

**Section III.** The polling places and the county election precincts whose qualified voters shall cast ballots at such locations in the City of Plano for the 2006 General Election are as follows:

<b>COLLIN COUNTY ELECTION PRECINCTS</b>	<b>POLLING PLACE</b>
52, 61, 68, 103 and 141;	Armstrong Middle School 3805 Timberline Drive, Plano, Texas 75074
34, 107, 119, 121, 135 and 139	Bethany Elementary School 2418 Micarta Drive, Plano, Texas 75025
23, 46, 47, 50, 51, 152 and 158	Bowman Middle School 2501 Jupiter Road, Plano, Texas 75074
90, 109, 116, 123 and 137	Brinker Elementary School 3800 John Clark Parkway, Plano, Texas 75093
21, 54, 62 and 66	Carpenter Middle School 1501 Cross Bend Road, Plano, Texas 75023
15, 19, 53, 65, 70 and 71	Haggard Middle School 2401 Westside Drive, Plano, Texas 75075
58, 77 and 91	Hendrick Middle School 7400 Red River Drive, Plano, Texas 75025
31, 32, 63 and 76	Hughston Elementary School 2601 Cross Bend Road, Plano, Texas 75023

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14, 81, 86, 89, 108, 112 and 124	Robinson Middle School 6701 Preston Meadow Drive, Plano, Texas 75024
64 and 69	Schimelpfenig Middle School 2400 Maumelle Drive, Plano, Texas 75023
28, 75, 105 and 143	Shepton High School 5505 Plano Parkway, Plano, Texas 75093
39 and 85	Thomas Elementary School 6537 Blue Ridge Trail, Plano, Texas 75023
26, 49, 67, 72 and 138	Wilson Middle School 1001 Custer Road, Plano, Texas 75075
<b>DENTON COUNTY ELECTION PRECINCTS</b>	<b>POLLING PLACE</b>
229	Christopher A. Parr Library (temporary location) 6200 Windhaven Parkway, Plano, Texas 75093

Polling places on May 13, 2006 shall be open from 7:00 a.m. until 7:00 p.m.

Section IV. Votes for said election shall be cast utilizing touch-screen devices with Diebold's ACCUVOTE TS R6v.4.5.2 direct recording devices (DRE's) for early voting and election day and optical-scan ballots with Diebold's ACCUVOTE OS ROM v.1.96.4 for early voting by mail.

Section V. Early voting by personal appearance for the above-designated election shall be conducted at the following locations:

Main Early Voting Location

Collin County Elections Office  
2010 Redbud Boulevard  
Suite 102  
McKinney, TX 75069

Branch Early Voting Locations

Carpenter Park Recreation Center  
6701 Coit Road  
Plano, Texas 75024

Christ United Methodist Church  
3101 Coit Road  
Plano, Texas 75075

Collin County Community College – Preston Ridge Campus (temporary location)  
9700 Wade Boulevard  
Frisco, Texas 75035

Harrington Library  
1501 18th Street  
Plano, Texas 75074

Plano Independent School District Administration Center  
2700 West 15th Street  
Plano, Texas 75075

Christopher A. Parr Library  
6200 Windhaven Parkway  
Plano, Texas 75093

Collin County Community College – Spring Creek Campus  
2800 East Spring Creek Parkway  
Plano, Texas 75074

Early voting will be conducted on the following dates and times:

May 1, 2006 through May 3, 2006	8:00 a.m. – 5:00 p.m.
May 4, 2006	8:00 a.m. – 7:00 p.m.
May 5, 2006 and May 6, 2006	8:00 a.m. – 5:00 p.m.
May 8, 2006 and May 9, 2006	7:00 a.m. – 7:00 p.m.

Applications for ballots by mail shall be mailed to:

Sharon Rowe, Elections Administrator  
Collin County Elections Administration Office  
2010 Redbud Boulevard  
Suite 102  
McKinney, TX 75069

Applications for ballots by mail must be received no later than the close of business on Friday, May 5, 2006.

**Section VI.** The recommendations of the City, the School District(s), and the College will be the accepted guidelines of four (4) clerks to be secured to work in each polling place. The presiding election judge of each polling place, however, will use his/her discretion to determine when additional manpower is needed during peak voting hours.

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**Section VII.** The City Secretary is hereby authorized and directed to publish and/or post, in the time and manner prescribed by law, all notices required to be so published and/or posted in connection with the conduct of this election.

**Section VIII.** This ordinance shall become effective immediately upon its passage.

Duly passed and approved this the \_\_\_\_\_ day of \_\_\_\_\_, 2006.

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

ATTEST:

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

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

W-5



**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	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date:	<b>2/13/06</b>	Reviewed by Legal <i>JYS</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	City Secretary		Initials	Date
Department Head	Elaine Bealke	Executive Director		
Dept Signature:		City Manager	<i>[Signature]</i>	<i>[Signature]</i>
Agenda Coordinator (include phone #):		<b>Sharon Kotwitz - x7120</b>		
<b>ACTION REQUESTED:</b> <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>				
To adopt and enact Supplement Number 72 Rev. to the Code of Ordinances for the City of Plano; providing for amendment to certain sections of the Code; 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				
<b>FISCAL YEAR:</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	0	0
<b>BALANCE</b>	0	0	0	0
<b>FUND(s):</b>				
<b>COMMENTS:</b> This item has no fiscal impact				
<b>SUMMARY OF ITEM</b>				
Adoption of this ordinance enables this supplement to be admissible in court.				
<b>List of Supporting Documents:</b>		<b>Other Departments, Boards, Commissions or Agencies</b>		

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS ADOPTING AND ENACTING SUPPLEMENT NUMBER 72 REV. TO THE CODE OF ORDINANCES FOR THE CITY OF PLANO; PROVIDING FOR AMENDMENT TO CERTAIN SECTIONS OF THE CODE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Plano, Texas adopted a new Code of Ordinances upon adoption of Ordinance No. 87-3-14, on March 9, 1987; and

**WHEREAS**, Sections V and VI of Ordinance No. 87-3-14 provide for amendment to said Code of Ordinances; and

**WHEREAS**, §3.11 of the City of Plano Charter provides that the City Council has the power to have its ordinances codified and printed in Code form, and that such printed form shall have full force and effect without the necessity of publishing the same or any part thereof in a newspaper; and

**WHEREAS**, the Code of Ordinances of the City of Plano, Texas has been revised by previous amendments duly passed as individual ordinances by the City Council and such amendments are reflected on Supplement Number 72 Rev.;

**WHEREAS**, The City Council wishes to adopt the ordinance codification version appearing in Supplement 72 Rev. of the Plano Code of Ordinances in order for the printed Code form to be considered identical to the original ordinance and to eliminate any confusion or differences in the format of the original ordinance.

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

**Section I.** The City Council hereby adopts the printed Code form of the ordinances contained in Supplement 72 Rev. as prepared by the codifier.

**Section II.** This Ordinance shall become effective immediately upon its passage.

**DULY PASSED AND APPROVED** this the 13<sup>th</sup> day of February, 2006.

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

ATTEST:

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

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

X-2

M:ord-supplement72rev



**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>2/13/06</b>	Reviewed by Legal <i>JW</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	FINANCE		Initials	Date
Department Head	JOHN MCGRANE	Asst City Manager		
Dept Signature:	<i>John McGrane</i>	City Manager	<i>JM</i>	<i>2/13/06</i>
Agenda Coordinator (include phone #):	<b>DONNA WHITE - X7135</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 PUBLIC HEARING				
<b>CAPTION</b>				
AN ORDINANCE OF THE CITY OF PLANO, TEXAS, TO CONSIDER AND TAKE ACTION ON AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF CITY OF PLANO, TEXAS, GENERAL OBLIGATION BONDS, SERIES 2006; LEVYING A TAX IN PAYMENT THEREOF; AWARDED THE SALE THEREOF; APPROVING THE OFFICIAL STATEMENT; AND ENACTING OTHER PROVISIONS RELATING THERETO.				
<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>2006-2007</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	42,190,000	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>				
The sale of \$42,190,000 in General Obligation Bonds Series 2006 for the purpose of improving our technical infrastructure and public art.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		

*1-1*

Ordinance No. \_\_\_\_\_

BOND ORDINANCE

CITY OF PLANO, TEXAS  
GENERAL OBLIGATION BONDS  
SERIES 2006

Adopted: February 13, 2006

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**AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF CITY OF PLANO, TEXAS, GENERAL OBLIGATION BONDS, SERIES 2006; LEVYING A TAX IN PAYMENT THEREOF; AWARDING THE SALE THEREOF; APPROVING THE OFFICIAL STATEMENT; AND ENACTING OTHER PROVISIONS RELATING THERETO.**

**WHEREAS**, the bonds hereinafter authorized were duly and favorably voted, as required by the Constitution and laws of the State of Texas, at elections held in the City of Plano, Texas (the "City"), on May 5, 2001 and May 7, 2005; and

**WHEREAS**, at said elections, the following are among the purposes and amounts of the bonds which were authorized, reflecting any amount previously issued pursuant to each voted authorization, the amount therefrom being issued pursuant to this ordinance (this "Ordinance"), and the balance that remains unissued after the issuance of the bonds herein authorized, to wit:

<u>Purpose</u>	<u>Amount Voted</u>	<u>Amount Previously Issued</u>	<u>Amount Being Issued</u>	<u>Unissued Balance</u>
<u>1998 Election</u>				
Creative and Performing Arts Facilities	\$19,402,000	\$5,210,000	\$ -0-	\$14,192,000
1998 Subtotal	\$19,402,000	\$5,210,000	\$ -0-	\$14,192,000
<u>2001 Election</u>				
Street Improvements	\$48,835,000	\$45,000,000	\$3,835,000	\$ -0-
Fire Fighting Facilities	5,250,000	5,160,000	90,000	-0-
Park and Athletic Facilities	35,050,000	19,950,000	14,890,000	210,000
Recreation Center	10,500,000	900,000	9,600,000	-0-
Preston & Legacy Overpass	<u>3,500,000</u>	<u>-0-</u>	<u>-0-</u>	<u>3,500,000</u>
2001 Subtotal	\$103,135,000	\$71,010,000	\$28,415,000	\$3,710,000
<u>2005 Election</u>				
Fire Fighting, Emergency and Logistics Facilities	\$21,700,000	\$ -0-	\$2,410,000	\$19,290,000
Library Facilities	2,000,000	-0-	1,000,000	1,000,000

<u>Purpose</u>	<u>Amount Voted</u>	<u>Amount Previously Issued</u>	<u>Amount Being Issued</u>	<u>Unissued Balance</u>
Animal Shelter	1,355,000	-0-	200,000	1,155,000
Parks & Recreation Facilities	57,775,000	-0-	-0-	57,775,000
Recreation Center	6,600,000	-0-	-0-	6,600,000
Street Improvements	<u>55,372,000</u>	<u>-0-</u>	<u>10,165,000</u>	<u>45,207,000</u>
2005 Subtotal	<u>\$144,802,000</u>	<u>\$ -0-</u>	<u>\$13,775,000</u>	<u>\$131,027,000</u>
Total	<u>\$267,339,000</u>	<u>\$76,220,000<sup>1</sup></u>	<u>\$42,190,000<sup>2</sup></u>	<u>\$148,929,000</u>

**WHEREAS**, the City Council has found and determined that it is necessary and in the best interest of the City and its citizens that it authorize by this Ordinance the issuance and delivery of its bonds in a single series at this time; and

**WHEREAS**, the meeting at which this Ordinance is considered is open to the public as required by law, and the public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code, as amended; therefore

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS:**

**ARTICLE I**

**DEFINITIONS AND OTHER PRELIMINARY MATTERS**

**Section 1.01. Definitions.**

Unless otherwise expressly provided or unless the context clearly requires otherwise in this Ordinance, the following terms shall have the meanings specified below:

“Bond” means any of the Bonds.

“Bond Date” means the date designated as the date of the Bonds by Section 3.02(a) of this Ordinance.

“Bonds” means the City’s bonds authorized to be issued by Section 3.01 of this Ordinance and designated as “City of Plano, Texas, General Obligation Bonds, Series 2006.”

<sup>1</sup> Includes premium received with respect to the City’s General Obligation Bonds, Series 2002 General Obligation Bonds, Series 2004, and General Obligation Refunding and Improvement Bonds, Series 2005, allocated on a pro rata basis among all projects for which such bonds were issued.

<sup>2</sup> Includes a portion of the premium received with respect to the Bonds in the amount of \$ \_\_\_\_\_ and allocated on a pro rata basis among all projects.

1-7

“Business Day” means any day other than a Saturday, Sunday or legal holiday or other day on which banking institutions in the State of Texas are generally authorized or obligated by law or executive order to close.

“Closing Date” means the date of the initial delivery of and payment for the Bonds.

“Code” means the Internal Revenue Code of 1986, as amended, including applicable regulations, published rulings and court decisions.

“Designated Payment/Transfer Office” means (i) with respect to the initial Paying Agent/Registrar named herein, its office in East Syracuse, New York, or at such other location designated by the Paying Agent/Registrar and (ii) with respect to any successor Paying Agent/Registrar, the office of such successor designated and located as may be agreed upon by the City and such successor.

“DTC” shall mean The Depository Trust Company of New York, New York, or any successor securities depository.

“DTC Participant” shall mean brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

“Event of Default” means any event of default as defined in Section 10.01 of this Ordinance.

“Initial Bond” means the Initial Bond authorized by Section 3.04(d) of this Ordinance.

“Interest and Sinking Fund” means the interest and sinking fund established by Section 2.02 of this Ordinance.

“Interest Payment Date” means the date or dates on which interest on the Bonds is scheduled to be paid until their respective dates of maturity or prior redemption, such dates being March 1 and September 1, commencing September 1, 2006.

“Letter of Representations” means the Blanket Letter of Representations between the City and DTC.

“MSRB” means the Municipal Securities Rulemaking Board.

“NRMSIR” means each person whom the SEC or its staff has determined to be a nationally recognized municipal securities information repository within the meaning of the Rule from time to time.

“Owner” means the person who is the registered owner of a Bond or Bonds, as shown in the Register.

“Paying Agent/Registrar” means initially The Bank of New York Trust Company, N.A., Jacksonville, Florida, or any successor thereto as provided in this Ordinance.

“Purchaser” has the meaning given to such term in Section 7.01(a).

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“Record Date” means the fifteenth day of the month next preceding an Interest Payment Date.

“Register” means the bond register specified in Section 3.06(a) of this Ordinance.

“Rule” means SEC Rule 15c2-12, as amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

“SID” means any person designated by the State of Texas or an authorized department, officer or agency thereof, as and determined by the SEC or its staff to be a state information depository within the meaning of the Rule from time to time.

“Special Record Date” means the Special Record Date prescribed by Section 3.03(b).

“Unclaimed Payments” means money deposited with the Paying Agent/Registrar for the payment of the principal of or interest on Bonds as the same become due and payable and remaining unclaimed by the Owners of such Bonds for 90 days after the applicable payment or redemption date.

**Section 1.02. Findings.**

The declarations, determinations and findings declared, made and found in the preamble to this Ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

**Section 1.03. Table of Contents, Titles and Headings.**

The table of contents, titles and headings of the Articles and Sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Ordinance or any provision hereof or in ascertaining intent, if any question of intent should arise.

**Section 1.04. Interpretation.**

(a) If the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa.

(b) Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein.

**ARTICLE II**

**SECURITY FOR THE BONDS; INTEREST AND SINKING FUND**

1-9

**Section 2.01. Tax Levy.**

(a) Pursuant to the authority granted by the Texas Constitution and the laws of the State of Texas, there shall be levied and there is hereby levied for the current year and for each succeeding year hereafter while any of the Bonds or any interest thereon is outstanding and unpaid, an ad valorem tax on each one hundred dollars' valuation of taxable property within the City, at a rate sufficient, within the limit prescribed by law, to pay the debt service requirements of the Bonds, being (i) the interest on the Bonds, and (ii) a sinking fund for their redemption at maturity or a sinking fund of 2% per annum (whichever amount is greater), when due and payable, full allowance being made for delinquencies and costs of collection.

(b) The ad valorem tax thus levied shall be assessed and collected each year against all property appearing on the tax rolls of the City most recently approved in accordance with law and the money thus collected shall be deposited as collected to the Interest and Sinking Fund.

(c) Said ad valorem tax, the collections therefrom, and all amounts on deposit in or required hereby to be deposited to the Interest and Sinking Fund are hereby pledged and committed irrevocably to the payment of the principal of and interest on the Bonds when and as due and payable in accordance with their terms and this Ordinance.

(d) If the lien and provisions of this Ordinance shall be released in a manner permitted by Article XI hereof, then the collection of such ad valorem tax may be suspended or appropriately reduced, as the facts may permit, and further deposits to the Interest and Sinking Fund may be suspended or appropriately reduced, as the facts may permit. In determining the aggregate principal amount of outstanding Bonds, there shall be subtracted the amount of any Bonds that have been duly called for redemption and for which money has been deposited with the Paying Agent/Registrar for such redemption.

**Section 2.02. Interest and Sinking Fund.**

(a) The City hereby establishes a special fund or account, to be designated the "City of Plano, Texas, General Obligation Bonds, Series 2006, Interest and Sinking Fund," said fund to be maintained at an official depository bank of the City.

(b) Money on deposit in or required by this Ordinance to be deposited to the Interest and Sinking Fund shall be used solely for the purpose of paying the interest on and principal of the Bonds when and as due and payable in accordance with their terms and this Ordinance.

**ARTICLE III**

**AUTHORIZATION; GENERAL TERMS AND PROVISIONS  
REGARDING THE BONDS**

**Section 3.01. Authorization.**

The City's bonds to be designated "City of Plano, Texas, General Obligation Bonds, Series 2006," are hereby authorized to be issued and delivered in accordance with Chapter 1331, Texas Government Code, as amended, and Section 9.22 of the Charter of the City.

1-10

The Bonds shall be issued in the aggregate principal amount of \$40,765,000 to pay the costs of issuing the Bonds and to make the following permanent public improvements authorized in the following amounts: (a) from the 2001 authorization (i) \$3,835,000 for developing, engineering, constructing, reconstructing, improving, repairing, extending, expanding and enhancing streets, thoroughfares, alleys, sidewalks, bridges, intersections, and other public ways of the City, including participation in joint projects with Collin County, the State of Texas and North Texas Tollway Authority, computerized signalization and monitoring equipment and other traffic controls, grade separations, street lighting, landscaping and noise abatements, necessary and related storm drainage facilities and improvements, and the acquisition of any needed rights-of-way therefor; (ii) \$90,000 for acquiring, constructing and equipping new fire stations, improving, expanding, renovating, reconfiguring and equipping existing fire stations; purchasing fire fighting vehicles and equipment; the acquisition of land; (iii) \$14,890,000 for renovating, constructing, developing, improving, expanding, equipping and acquiring land for parks and recreation facilities throughout the City; and (iv) \$9,600,000 for constructing, furnishing and equipping a new recreation center; and (b) from the 2005 authorization (i) \$2,410,000 for acquiring, constructing and equipping new fire stations, a logistics facility and emergency operations facilities; improving, expanding, renovating, reconfiguring and equipping existing fire stations and emergency operations facilities; purchasing fire fighting vehicles and equipment; the acquisition of land; (ii) \$1,000,000 for improving, renovating, expanding, furnishing and equipping library facilities; (iii) \$200,000 for renovating, constructing, improving, expanding and equipping the Plano Animal Shelter; and (iv) \$10,165,000 for developing, engineering, constructing, reconstructing, improving, repairing, extending, expanding and enhancing streets, thoroughfares, alleys, sidewalks, bridges, intersections, and other public ways, including participation in joint projects with federal, state and local public entities and agencies, computerized signalization and monitoring equipment and other traffic controls, grade separations, street lighting, noise abatements, necessary and related storm drainage facilities and improvements, and the acquisition of any needed rights-of-way therefor (collectively, the "Project").

**Section 3.02. Date, Denomination, Maturities and Interest.**

(a) The Bonds shall be dated February 1, 2006. The Bonds shall be in fully registered form, without coupons, in the denomination of \$5,000 or any integral multiple thereof, and shall be numbered separately from one upward, except the Initial Bond, which shall be numbered T-1.

(b) The Bonds shall mature on September 1 in the years and in the principal amounts set forth in the following schedule:

<u>Years</u>	<u>Principal Amount</u>	<u>Interest Rates</u>	<u>Years</u>	<u>Principal Amount</u>	<u>Interest Rates</u>
2007	\$ 330,000		2017	\$2,020,000	
2008	1,435,000		2018	2,120,000	
2009	1,480,000		2019	2,230,000	
2010	1,540,000		2020	2,340,000	
2011	1,595,000		2021	2,455,000	
2012	1,660,000		2022	2,580,000	
2013	1,725,000		2023	2,705,000	
2014	1,790,000		2024	2,840,000	

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2015	1,865,000	2025	2,980,000
2016	1,940,000	2026	3,135,000

(c) Interest shall accrue and be paid on each Bond respectively until its maturity or prior redemption, from the later of the Bond Date or the most recent Interest Payment Date to which interest has been paid or provided for at the rates per annum for each respective maturity specified in the schedule contained in subsection (b) above. Such interest shall be payable on each Interest Payment Date until maturity or prior redemption. Interest on the Bonds shall be calculated on the basis of a 360-day year composed of twelve 30-day months.

**Section 3.03. Medium, Method and Place of Payment.**

(a) The principal of and interest on the Bonds shall be paid in lawful money of the United States of America.

(b) Interest on the Bonds shall be payable to the Owners as shown in the Register at the close of business on the Record Date; provided, however, in the event of nonpayment of interest on a scheduled Interest Payment Date and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") shall be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date," which shall be 15 days after the Special Record Date) shall be given at least five Business Days prior to the Special Record Date to each Owner of a Bond appearing on the Register at the close of business on the last Business Day next preceding the date of such notice either by (i) electronic means to the electronic address, if any, on file with the Paying Agent/Registrar, or (ii) first-class United States mail, postage prepaid, at the physical address shown on the Register.

(c) Interest on each Bond shall be paid by to each Owner by (i) wire transfer to the bank account, if any, for such Owner on file with the Paying Agent/Registrar pursuant to such Owner's written instructions and at the risk and expense of such Owner, (ii) by check dated as of the Interest Payment Date, and sent on or before the Interest Payment Date by first-class United States mail, postage prepaid, by the Paying Agent/Registrar to each Owner at the address of each Owner as such appears in the Register or (iii) by such other customary banking arrangements acceptable to the Paying Agent/Registrar and the person to whom interest is to be paid at the risk and expense of such Owner.

(d) The principal of each Bond shall be paid to the Owner thereof on the due date (whether at the maturity date or the date of prior redemption thereof) upon presentation and surrender of such Bond at the Designated Payment/Transfer Office of the Paying Agent/Registrar.

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(e) If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Designated Payment/Transfer Office is located are required or authorized by law or executive order to close, the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday, or day on which banking institutions are required or authorized to close, and payment on such date shall have the same force and effect as if made on the original date payment was due and no additional interest shall be due by reason of nonpayment on the date on which such payment is otherwise stated to be due and payable.

(f) Unclaimed Payments of amounts due hereunder shall be segregated in a special account and held in trust, uninvested by the Paying Agent/Registrar, for the account of the Owner of the Bonds to which such Unclaimed Payments pertain. Subject to Title 6 of the Texas Property Code, any Unclaimed Payments remaining unclaimed by the Owners entitled thereto for three years after the applicable payment or redemption date shall be applied to the next payment or payments on the Bonds thereafter coming due and, to the extent any such money remains after the retirement of all outstanding Bonds, shall be paid to the City to be used for any lawful purpose. Thereafter, neither the City, the Paying Agent/Registrar nor any other person shall be liable or responsible to any holders of such Bonds for any further payment of such unclaimed moneys or on account of any such Bonds, subject to Title 6 of the Texas Property Code.

**Section 3.04. Execution and Registration of Bonds.**

(a) The Bonds shall be executed on behalf of the City by the Mayor and the City Secretary, by their manual or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Bonds shall have the same effect as if each of the Bonds had been signed manually and in person by each of said officers, and such facsimile seal on the Bonds shall have the same effect as if the official seal of the City had been manually impressed upon each of the Bonds.

(b) In the event that any officer of the City whose manual or facsimile signature appears on the Bonds ceases to be such officer before the authentication of such Bonds or before the delivery thereof, such manual or facsimile signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in such office.

(c) Except as provided below, no Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Ordinance unless and until there appears thereon the Certificate of Paying Agent/Registrar substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Paying Agent/Registrar. It shall not be required that the same officer or authorized signatory of the Paying Agent/Registrar sign the Certificate of Paying Agent/Registrar on all of the Bonds. In lieu of the executed Certificate of Paying Agent/Registrar described above, the Initial Bond delivered at the Closing Date shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller of Public Accounts of the State of Texas, or by his duly authorized agent, which Certificate shall be evidence that the Bond has been duly approved by the Attorney General of the State of Texas and that it is a valid and binding obligation of the City, and has been registered by the Comptroller of Public Accounts of the State of Texas.

(d) On the Closing Date, one initial Bond (the "Initial Bond") representing the entire principal amount of all Bonds, payable in stated installments to the Purchaser, or its designee, manually signed by the Mayor and City Secretary of the City, approved by the Attorney General, and registered and manually signed by the Comptroller of Public Accounts, will be delivered to the Purchaser or its designee. Upon payment for the Initial Bond, the Paying Agent/Registrar shall cancel the Initial Bond and deliver to DTC on behalf of the Purchaser one registered definitive Bond for each year of maturity of the Bonds in the aggregate principal amount of all Bonds for such maturity, registered in the name of Cede & Co., as nominee of DTC.

**Section 3.05. Ownership.**

(a) The City, the Paying Agent/Registrar and any other person may treat the person in whose name any Bond is registered as the absolute owner of such Bond for the purpose of making and receiving payment of the principal thereof for the further purpose of making and receiving payment of the interest thereon, and for all other purposes (except interest will be paid to the person in whose name such bond is registered on the Record Date or Special Record Date, as applicable), whether or not such Bond is overdue, and neither the City nor the Paying Agent/Registrar shall be bound by any notice or knowledge to the contrary.

(b) All payments made to the Owner of a Bond shall be valid and effectual and shall discharge the liability of the City and the Paying Agent/Registrar upon such Bond to the extent of the sums paid.

**Section 3.06. Registration, Transfer and Exchange.**

(a) So long as any Bonds remain outstanding, the City shall cause the Paying Agent/Registrar to keep at the Designated Payment/Transfer Office a register (the "Register") in which, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of Bonds in accordance with this Ordinance.

(b) The ownership of a Bond may be transferred only upon the presentation and surrender of the Bond at the Designated Payment/Transfer Office with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar. No transfer of any Bond shall be effective until entered in the Register.

(c) The Bonds shall be exchangeable upon the presentation and surrender thereof at the Designated Payment/Transfer Office for a Bond or Bonds of the same maturity and interest rate and in any denomination or denominations of any integral multiple of \$5,000 and in an aggregate principal amount equal to the unpaid principal amount of the Bonds presented for exchange. The Paying Agent/Registrar is hereby authorized to authenticate and deliver Bonds exchanged for other Bonds in accordance with this Section.

(d) Each exchange Bond delivered by the Paying Agent/Registrar in accordance with this Section shall constitute an original contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such exchange Bond is delivered.

(e) No service charge shall be made to the Owner for the initial registration, subsequent transfer, or exchange for a different denomination of any of the Bonds.

The Paying Agent/Registrar, however, may require the Owner to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection with the registration, transfer or exchange of a Bond.

(f) Neither the City nor the Paying Agent/Registrar shall be required to issue, transfer, or exchange any Bond called for redemption, in whole or in part, within 45 calendar days prior to the date fixed for redemption; provided, however, such limitation shall not be applicable to an exchange by the Owner of the uncalled principal balance of a Bond.

**Section 3.07. Cancellation.**

All Bonds paid or redeemed before scheduled maturity in accordance with this Ordinance, and all Bonds in lieu of which exchange Bonds or replacement Bonds are authenticated and delivered in accordance with this Ordinance, shall be cancelled and proper records shall be made regarding such payment, redemption, exchange or replacement. The Paying Agent/Registrar shall dispose of cancelled Bonds in accordance with the Securities Exchange Act of 1934.

**Section 3.08. Temporary Bonds.**

(a) Following the delivery and registration of the Initial Bond and pending the preparation of definitive Bonds, the proper officers of the City may execute and, upon the City's request, the Paying Agent/Registrar shall authenticate and deliver, one or more temporary Bonds that are printed, lithographed, typewritten, mimeographed or otherwise produced, in any denomination, substantially of the tenor of the definitive Bonds in lieu of which they are delivered, without coupons, and with such appropriate insertions, omissions, substitutions and other variations as the officers of the City executing such temporary Bonds may determine, as evidenced by their signing of such temporary Bonds.

(b) Until exchanged for Bonds in definitive form, such Bonds in temporary form shall be entitled to the benefit and security of this Ordinance.

(c) The City, without unreasonable delay, shall prepare, execute and deliver to the Paying Agent/Registrar the Bonds in definitive form; then, upon the presentation and surrender of the Bonds in temporary form to the Paying Agent/Registrar, the Paying Agent/Registrar shall cancel the Bonds in temporary form and shall authenticate and deliver in exchange therefor Bonds of the same maturity and series, in definitive form, in the authorized denomination, and in the same aggregate principal amount, as the Bonds in temporary form surrendered. Such exchange shall be made without the making of any charge therefor to any Owner.

**Section 3.09. Replacement Bonds.**

(a) Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Bond, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a replacement Bond of like tenor and principal amount, bearing a number not contemporaneously outstanding. The City or the Paying Agent/Registrar may require the Owner of such Bond to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection therewith and any other expenses connected therewith.

(b) In the event that any Bond is lost, apparently destroyed or wrongfully taken, the Paying Agent/Registrar, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Bond has been acquired by a bona fide purchaser, shall authenticate and deliver a replacement Bond of like tenor and principal amount, bearing a number not contemporaneously outstanding, provided that the Owner first:

(i) furnishes to the Paying Agent/Registrar satisfactory evidence of his or her ownership of and the circumstances of the loss, destruction or theft of such Bond;

(ii) furnishes such security or indemnity as may be required by the Paying Agent/Registrar to save it and the City harmless;

(iii) pays all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Paying Agent/Registrar and any tax or other governmental charge that is authorized to be imposed; and

(iv) satisfies any other reasonable requirements imposed by the City and the Paying Agent/Registrar.

(c) If, after the delivery of such replacement Bond, a bona fide purchaser of the original Bond in lieu of which such replacement Bond was issued presents for payment such original Bond, the City and the Paying Agent/Registrar shall be entitled to recover such replacement Bond from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the City or the Paying Agent/Registrar in connection therewith.

(d) In the event that any such mutilated, lost, apparently destroyed or wrongfully taken Bond has become or is about to become due and payable, the Paying Agent/Registrar, in its discretion, instead of issuing a replacement Bond, may pay such Bond if it has become due and payable or may pay such Bond when it becomes due and payable.

(e) Each replacement Bond delivered in accordance with this Section shall constitute an original additional contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such replacement Bond is delivered.

**Section 3.10. Book Entry Only System.**

(a) The definitive Bonds shall be initially issued in the form of a separate typewritten fully registered Bond for each of the maturities thereof. Upon initial issuance, the ownership of such Bonds shall be registered in the name of Cede & Co., as nominee of DTC, and except as provided in Section 3.11 hereof, all of the outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

(b) With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds.

Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than a Bondholder, as shown on the Register, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than a Bondholder, as shown in the Register of any amount with respect to principal of or interest on the Bonds. Notwithstanding any other provision of this Ordinance to the contrary, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Register as the absolute owner of such Bond for the purpose of payment of principal of and interest on the Bonds, for the purpose of all matters with respect to such Bond, for the purpose of registering transfer with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Bonds only to or upon the order of the respective owners, as shown in the Register as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of interest on the Bonds to the extent of the sum or sums so paid. No person other than an owner, as shown in the Register, shall receive a Bond certificate evidencing the obligation of the City to make payments of amounts due pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(c) The Letter of Representations previously executed and delivered by the City, and applicable to the City's obligations delivered in book-entry-only form to DTC as securities depository, is hereby ratified and approved for the Bonds.

**Section 3.11. Successor Securities Depository; Transfer Outside Book Entry Only System.**

In the event that the City or the Paying Agent/Registrar determines that DTC is incapable of discharging its responsibilities described herein and in the Letter of Representations of the City to DTC, and that it is in the best interest of the beneficial owners of the Bonds that they be able to obtain certificated Bonds, or in the event DTC discontinues the services described herein, the Issuer or the Paying Agent/Registrar shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.

**Section 3.12. Payments to Cede & Co.**

Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of and interest on such Bonds, and all notices with respect to such Bonds, shall be made and given, respectively, in the manner provided in the Letter of Representations.

**ARTICLE IV****REDEMPTION OF BONDS BEFORE MATURITY****Section 4.01. Limitation on Redemption.**

The Bonds shall be subject to redemption before scheduled maturity only as provided in this Article IV.

**Section 4.02. Optional Redemption.**

(a) The City reserves the option to redeem Bonds maturing on and after September 1, 2017, in whole or any part, before their respective scheduled maturity dates, on September 1, 2016, or on any date thereafter, such redemption date or dates to be fixed by the City, at a price equal to the principal amount of the Bonds called for redemption plus accrued interest to the date fixed for redemption.

(b) If less than all of the Bonds are to be redeemed pursuant to an optional redemption, the City shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot the Bonds, or portions thereof, within such maturity or maturities and in such principal amounts for redemption.

(c) The City, at least 45 days before the redemption date, unless a shorter period shall be satisfactory to the Paying Agent/Registrar, shall notify the Paying Agent/Registrar of such redemption date and of the principal amount of Bonds to be redeemed.

**Section 4.03. Partial Redemption.**

(a) A portion of a single Bond of a denomination greater than \$5,000 may be redeemed, but only in a principal amount equal to \$5,000 or any integral multiple thereof. If such a Bond is to be partially redeemed, the Paying Agent/Registrar shall treat each \$5,000 portion of the Bond as though it were a single Bond for purposes of selection for redemption.

(b) Upon surrender of any Bond for redemption in part, the Paying Agent/Registrar, in accordance with Section 3.06 of this Ordinance, shall authenticate and deliver an exchange Bond or Bonds in an aggregate principal amount equal to the unredeemed portion of the Bond so surrendered, such exchange being without charge.

(c) The Paying Agent/Registrar shall promptly notify the City in writing of the principal amount to be redeemed of any Bond as to which only a portion thereof is to be redeemed.

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**Section 4.04. Notice of Redemption to Owners.**

(a) The Paying Agent/Registrar shall give notice of any redemption of Bonds by sending notice, not less than 30 days before the date fixed for redemption, to the Owner of each Bond or portion thereof to be redeemed either by (i) electronic means to the electronic address, if any, on file with the Paying Agent/Registrar, or (ii) first-class United States mail, postage prepaid, at the physical address shown on the Register.

(b) The notice shall state the redemption date, the redemption price, the place at which the Bonds are to be surrendered for payment, and, if less than all the Bonds outstanding are to be redeemed, an identification of the Bonds or portions thereof to be redeemed.

(c) Any notice given as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice.

**Section 4.05. Payment Upon Redemption.**

(a) Before or on each redemption date, the City shall deposit with the Paying Agent/Registrar money sufficient to pay all amounts due on the redemption date and the Paying Agent/Registrar shall make provision for the payment of the Bonds to be redeemed on such date by setting aside and holding in trust such amounts as are received by the Paying Agent/Registrar from the City and shall use such funds solely for the purpose of paying the principal of and accrued interest on the Bonds being redeemed.

(b) Upon presentation and surrender of any Bond called for redemption at the Designated Payment/Transfer Office on or after the date fixed for redemption, the Paying Agent/Registrar shall pay the principal of and accrued interest on such Bond to the date of redemption from the money set aside for such purpose.

**Section 4.06. Effect of Redemption.**

(a) Notice of redemption having been given as provided in Section 4.04 of this Ordinance, the Bonds or portions thereof called for redemption shall become due and payable on the date fixed for redemption and, unless the City defaults in its obligation to make provision for the payment of the principal thereof or accrued interest thereon, such Bonds or portions thereof shall cease to bear interest from and after the date fixed for redemption, whether or not such Bonds are presented and surrendered for payment on such date.

(b) If the City shall fail to make provision for payment of all sums due on a redemption date, then any Bond or portion thereof called for redemption shall continue to bear interest at the rate stated on the Bond until due provision is made for the payment of same by the City.

**Section 4.07. Lapse of Payment.**

Money set aside for the redemption of Bonds and remaining unclaimed by the Holders of such Bonds shall be subject to the provisions of Section 3.03(f) hereof.

**ARTICLE V**

**PAYING AGENT/REGISTRAR**

**Section 5.01. Appointment of Initial Paying Agent/Registrar.**

The Bank of New York Trust Company, N.A., Jacksonville, Florida, is hereby appointed as the initial Paying Agent/Registrar for the Bonds.

**Section 5.02. Qualifications.**

Each Paying Agent/Registrar shall be a commercial bank, a trust company organized under the laws of the State of Texas, or any other entity duly qualified and legally authorized to serve as and perform the duties and services of paying agent and registrar for the Bonds.

**Section 5.03. Maintaining Paying Agent/Registrar**

(a) At all times while any Bonds are outstanding, the City will maintain a Paying Agent/Registrar that is qualified under Section 5.02 of this Ordinance. The Mayor is hereby authorized to execute an agreement with the Paying Agent/Registrar specifying the duties and responsibilities of the City and the Paying Agent/Registrar. The signature of the Mayor shall be attested by the City Secretary of the City.

(b) If the Paying Agent/Registrar resigns or otherwise ceases to serve as such, the City will promptly appoint a replacement.

**Section 5.04. Termination.**

The City, upon not less than 60 days notice, reserves the right to terminate the appointment of any Paying Agent/Registrar by delivering to the entity whose appointment is to be terminated written notice of such termination.

**Section 5.05. Notice of Change to Owners.**

Promptly upon each change in the entity serving as Paying Agent/Registrar, the City will cause notice of the change to be sent to each Owner by one or more of the methods for giving notice of redemption set forth in Section 4.04(a), stating the effective date of the change and the name and mailing address of the replacement Paying Agent/Registrar.

**Section 5.06. Agreement to Perform Duties and Functions.**

By accepting the appointment as Paying Agent/Registrar and executing the Paying Agent/Registrar Agreement, the Paying Agent/Registrar is deemed to have agreed to the provisions of this Ordinance and that it will perform the duties and functions of Paying Agent/Registrar prescribed thereby.

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**Section 5.07. Delivery of Records to Successor.**

If a Paying Agent/Registrar is replaced, such Paying Agent/Registrar, promptly upon the appointment of the successor, will deliver the Register (or a copy thereof) and all other pertinent books and records relating to the Bonds to the successor Paying Agent/Registrar.

**ARTICLE VI**

**FORM OF THE BONDS**

**Section 6.01. Form Generally.**

(a) The Bonds, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Certificate of the Paying Agent/Registrar, and the Assignment form to appear on each of the Bonds, (i) shall be substantially in the form set forth in this Article, with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance, and (ii) may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association (“CUSIP Numbers”)) and such legends and endorsements (including any reproduction of an opinion of counsel) thereon as, consistently herewith, may be determined by the City or by the officers executing such Bonds, as evidenced by their execution thereof.

(b) Any portion of the text of any Bonds may be set forth on the reverse side thereof, with an appropriate reference thereto on the face of the Bonds.

(c) The definitive Bonds shall be typewritten, printed, lithographed, or engraved, and may be produced by any combination of these methods or produced in any other similar manner, all as determined by the officers executing such Bonds, as evidenced by their execution thereof.

(d) The Initial Bond submitted to the Attorney General of the State of Texas may be typewritten and photocopied or otherwise reproduced.

**Section 6.02. Form of the Bonds.**

The form of the Bond, including the form of the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the form of Certificate of the Paying Agent/Registrar and the form of Assignment appearing on the Bonds, shall be substantially as follows:

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(a) Form of Bond.

REGISTERED

REGISTERED

No. \_\_\_\_\_

\$ \_\_\_\_\_

**United States of America  
State of Texas  
CITY OF PLANO, TEXAS  
GENERAL OBLIGATION BONDS  
SERIES 2006**

INTEREST RATE: \_\_\_\_\_ MATURITY DATE: September 1, \_\_\_\_\_ BOND DATE: February 1, 2006 CUSIP NUMBER: \_\_\_\_\_

The City of Plano, Texas (the "City"), in the Counties of Collin and Denton, State of Texas, for value received, hereby promises to pay to \_\_\_\_\_ or registered assigns, on the Maturity Date specified above, the sum of \_\_\_\_\_ DOLLARS unless this Bond shall have been sooner called for redemption and the payment of the principal hereof shall have been paid or provided for, and to pay interest on such principal amount from the later of the Bond Date specified above or the most recent interest payment date to which interest has been paid or provided for until payment of such principal amount has been paid or provided for, at the per annum rate of interest specified above, computed on the basis of a 360-day year of twelve 30-day months, such interest to be paid semiannually on March 1 and September 1 of each year, commencing September 1, 2006.

The principal of this Bond shall be payable without exchange or collection charges in lawful money of the United States of America upon presentation and surrender of this Bond at the designated office in East Syracuse, New York, of The Bank of New York Trust Company, N.A., as Paying Agent/Registrar (the "Designated Payment/Transfer Office"), or, with respect to a successor paying agent/registrar, at the Designated Payment/Transfer Office of such successor. Interest on this Bond shall be paid either by (i) wire transfer to the bank account, if any, of the registered owner on file with the Paying Agent/Registrar pursuant to such registered owner's written instructions and at the risk and expense of such registered owner, (ii), by check dated as of the interest payment date, and sent on or before the interest payment date by first-class United States mail, postage prepaid, by the Paying Agent/Registrar to the registered owner at the physical address of such owner as appears in the registration books of the Paying Agent/Registrar or (iii) by such other customary banking arrangements acceptable to the Paying Agent/Registrar and the person to whom interest is to be paid, provided that the registered owner shall bear all risk and expense of such interest payment method.

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For the purpose of the payment of interest on this Bond, the registered owner shall be the person in whose name this Bond is registered at the close of business on the "Record Date," which shall be the fifteenth day of the month next preceding such interest payment date; provided, however, that in the event of nonpayment of interest on a scheduled payment date and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date," which shall be 15 days after the Special Record Date) shall be given at least five Business Days prior to the Special Record Date to each owner of a Bond appearing in the registration books of the Paying Agent/Registrar at the close of business on the last Business Day next preceding the date of such notice either by (i) electronic means to the electronic address, if any, on file with the Paying Agent/Registrar, or (ii) first-class United States mail, postage prepaid, at the physical address shown on the registration books of the Paying Agent/Registrar.

If the date for the payment of the principal of or interest on this Bond shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Designated Payment/Transfer Office is located are required or authorized by law or executive order to close, the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday, or day on which banking institutions are required or authorized to close, and payment on such date shall have the same force and effect as if made on the original date payment was due and no additional interest shall be due by reason of nonpayment on the date on which such payment is otherwise stated to be due and payable.

This Bond is one of a series of fully registered bonds specified in the title hereof issued in the aggregate principal amount of \$40,765,000 (herein referred to as the "Bonds"), issued pursuant to this ordinance (the "Ordinance") for the purpose of providing funds to make certain permanent public improvements and to pay the costs of issuing the Bonds.

The City has reserved the option to redeem the Bonds maturing on or after September 1, 2017, in whole or in part before their respective scheduled maturity dates, on September 1, 2016, or on any date thereafter, at a price equal to the principal amount of the Bonds so called for redemption plus accrued interest to the date fixed for redemption. If less than all of the Bonds are to be redeemed, the City shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot the Bonds, or portions thereof, within such maturity and in such principal amounts, for redemption.

The Paying Agent/Registrar shall give notice of any redemption of Bonds by sending notice, not less than 30 days before the date fixed for redemption, to the registered owner of each Bond or portion thereof to be redeemed either by (i) electronic means to the electronic address, if any, on file with the Paying Agent/Registrar, or (ii) first-class United States mail, postage prepaid, at the physical address shown on the Register. Notice having been so given, the Bonds or portions thereof designated for redemption shall become due and payable on the redemption date specified in such notice, and from and after such date, notwithstanding that any of the Bonds or portions thereof so called for redemption shall not have been surrendered for payment, interest on such Bonds or portions thereof shall cease to accrue.

As provided in the Ordinance, and subject to certain limitations therein set forth, this Bond is transferable upon surrender of this Bond for transfer at the Designated Payment/Transfer

Office with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar; then, one or more new fully registered Bonds of the same stated maturity, of authorized denominations, bearing the same rate of interest, and for the same aggregate principal amount will be issued to the designated transferee or transferees.

Neither the City nor the Paying Agent/Registrar shall be required to issue, transfer or exchange any Bond called for redemption where such redemption is scheduled to occur within 45 calendar days of the date fixed for redemption; provided, however, such limitation shall not be applicable to an exchange by the registered owner of the uncalled principal balance of a Bond.

The City, the Paying Agent/Registrar, and any other person may treat the person in whose name this Bond is registered as the owner hereof for the purpose of receiving payment as herein provided (except interest shall be paid to the person in whose name this Bond is registered on the Record Date or Special Record Date, as applicable) and for all other purposes, whether or not this Bond be overdue, and neither the City nor the Paying Agent/Registrar shall be affected by notice to the contrary.

**IT IS HEREBY CERTIFIED AND RECITED** that the issuance of this Bond and the series of which it is a part is duly authorized by law and has been authorized by a vote of the properly qualified electors of the City; that all acts, conditions and things required to be done precedent to and in the issuance of the Bonds have been properly done and performed and have happened in regular and due time, form and manner, as required by law; and that ad valorem taxes upon all taxable property in the City have been levied for and pledged to the payment of the debt service requirements of the Bonds, within the limit prescribed by law.

**IN WITNESS WHEREOF**, the City has caused this Bond to be executed by the manual or facsimile signature of the Mayor of the City and countersigned by the manual or facsimile signature of the City Secretary of the City, and the official seal of the City has been duly impressed or placed in facsimile on this Bond.

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

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

[SEAL]

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M:Treasury

(b) Form of Comptroller's Registration Certificate.

The following Comptroller's Registration Certificate may be deleted from the definitive Bonds if such certificate on the Initial Bond is fully executed.

OFFICE OF THE COMPTROLLER	§	
OF PUBLIC ACCOUNTS	§	REGISTER NO. _____
OF THE STATE OF TEXAS	§	

I hereby certify that there is on file and of record in my office a certificate of the Attorney General of the State of Texas to the effect that this Bond has been examined by him as required by law, that he finds that it has been issued in conformity with the Constitution and laws of the State of Texas, and that it is a valid and binding obligation of the City of Plano, Texas, and that this Bond has this day been registered by me.

Witness my hand and seal of office at Austin, Texas, \_\_\_\_\_.

---

Comptroller of Public Accounts  
of the State of Texas

[SEAL]

(c) Form of Certificate of Paying Agent/Registrar.

The following Certificate of Paying Agent/Registrar may be deleted from the Initial Bond if the executed Comptroller's Registration Certificate appears thereon.

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**CERTIFICATE OF PAYING AGENT/REGISTRAR**

The records of the Paying Agent/Registrar show that the Initial Bond of this series of bonds was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas, and that this is one of the Bonds referred to in the within-mentioned Ordinance.

THE BANK OF NEW YORK TRUST COMPANY, N.A., as Paying Agent/Registrar

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Authorized Signatory

(d) Form of Assignment.

**ASSIGNMENT**

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto (print or typewrite name, address and Zip Code of transferee):

\_\_\_\_\_  
\_\_\_\_\_

(Social Security or other identifying number: \_\_\_\_\_) the within Bond and all rights hereunder and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Bond on the books kept for registration hereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature Guaranteed By:  
\_\_\_\_\_

\_\_\_\_\_  
Authorized Signatory

NOTICE: The signature on this Assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular and must be guaranteed in a manner acceptable to the Paying Agent/Registrar.

(e) The Initial Bond shall be in the form set forth in paragraphs (a) through (d) of this Section, except for the following alterations:

(i) immediately under the name of the Bond, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As shown below" and the words "CUSIP NUMBER:" shall be deleted;

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(ii) in the first paragraph of the Bond, the words “on the Maturity Date specified above” shall be deleted and the following will be inserted: “on September 1 in each of the years, in the principal installments and bearing interest at the per annum rates in accordance with the following schedule:

<u>Years</u>	<u>Principal Installments</u>	<u>Interest Rate</u>
--------------	-------------------------------	----------------------

(Information to be inserted from schedule  
in Section 3.02 of this Ordinance)

(iii) the Initial Bond shall be numbered T-1.

**Section 6.03. CUSIP Registration.**

The City may secure identification numbers through the CUSIP Service Bureau Division of Standard & Poor’s Corporation, New York, New York, and may authorize the printing of such numbers on the face of the Bonds. It is expressly provided, however, that the presence or absence of CUSIP Numbers on the Bonds shall be of no significance or effect as regards the legality thereof and neither the City nor the attorneys approving said Bonds as to legality are to be held responsible for CUSIP Numbers incorrectly printed on the Bonds.

**Section 6.04. Legal Opinion.**

The approving legal opinions of Vinson & Elkins L.L.P., Dallas, Texas, Bond Counsel, may be printed on the reverse side of or attached to each Bond over the certification of the City Secretary of the City, which may be executed in facsimile.

**ARTICLE VII**

**SALE AND DELIVERY OF BONDS, DEPOSIT OF PROCEEDS**

**Section 7.01. Sale of Bonds, Official Statement.**

(a) The Bonds, having been duly advertised for public sale and a bid or bids received pursuant thereto, are hereby officially sold and awarded to \_\_\_\_\_ (the “Purchaser”), having submitted the bid which produced the lowest true interest cost to the City for a purchase price equal to the principal amount thereof, plus a premium of \$\_\_\_\_\_, plus accrued interest thereon to the date of initial delivery. The Bonds shall initially be registered in the name of the Purchaser or its designee.

(b) The form and substance of the Preliminary Official Statement for the Bonds, and any addenda, supplement or amendment thereto, and the final Official Statement (the “Official Statement”) presented to and considered at this meeting, are hereby in all respects approved and adopted and the Preliminary Official Statement is hereby deemed final as of its date within the meaning and for the purposes of paragraph (b)(1) of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended.

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The Mayor and City Secretary of the City are each hereby authorized and directed to execute the same and deliver appropriate numbers of executed copies thereof to the Purchaser. The Official Statement as thus approved, executed and delivered, with such appropriate variations as shall be approved by the Mayor of the City and the Purchaser, may be used by the Purchaser in the public offering and sale thereof. The City Secretary of the City is hereby authorized and directed to include and maintain a copy of the Official Statement and any addenda, supplement or amendment thereto thus approved among the permanent records of this meeting. The use and distribution of the Preliminary Official Statement, and the preliminary public offering of the Bonds by the Purchaser is hereby ratified, approved and confirmed.

(c) All officers of the City are authorized to execute such documents, certificates and receipts, and to make such elections with respect to the tax-exempt status of Bonds, as they may deem appropriate in order to consummate the delivery of the Bonds in accordance with the provisions and terms of sale therefor. Further, in connection with the submission of the record of proceedings for the Bonds to the Attorney General of the State of Texas for examination and approval of such Bonds, the appropriate officer of the City is hereby authorized and directed to issue a check of the City payable to the Attorney General of the State of Texas as a nonrefundable examination fee in the amount required by Chapter 1202, Texas Government Code (such amount to be the lesser of (i) 1/10th of 1% of the principal amount of the Bonds or (ii) \$9,500).

**Section 7.02. Control and Delivery of Bonds.**

(a) The Mayor of the City is hereby authorized to have control of the Initial Bond and all necessary records and proceedings pertaining thereto pending investigation, examination and approval of the Attorney General of the State of Texas, registration by the Comptroller of Public Accounts of the State and registration with, and initial exchange or transfer by, the Paying Agent/Registrar.

(b) After registration by the Comptroller of Public Accounts, delivery of the Bonds shall be made to the Purchaser under and subject to the general supervision and direction of the Mayor, against receipt by the City of all amounts due to the City under the terms of sale.

**Section 7.03. Deposit of Proceeds.**

(a) All amounts received on the Closing Date as accrued interest on the Bonds from the Bond Date to the Closing Date shall be deposited to the Interest and Sinking Fund.

(b) The remaining proceeds of the Bonds shall be deposited to a special construction fund and shall be used to pay the costs of the Project and the costs of issuing the Bonds.

**ARTICLE VIII**

**INVESTMENTS**

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**Section 8.01. Investments.**

(a) Money in the Interest and Sinking Fund created by this Ordinance and the special construction fund for the Project, at the option of the City, may be invested in such securities or obligations as permitted under applicable law. The City’s Director of Finance, and any other officer of the City authorized to make investments on behalf of the City, are hereby authorized and directed to execute and deliver, on behalf of the City, any and all investment agreements, guaranteed investment contracts or repurchase agreements in connection with the investment of moneys on deposit in the Interest and Sinking Fund and the special construction fund for the Project, but only to the extent such investment agreements, guaranteed investment contracts or repurchase agreements are authorized investments under applicable law.

(b) Any securities or obligations in which money in either the Interest and Sinking Fund or the special construction fund for the Project is so invested shall be kept and held in trust for the benefit of the Owners and shall be sold and the proceeds of sale shall be timely applied to the making of all payments required to be made from the fund from which the investment was made.

**Section 8.02. Investment Income.**

(a) Interest and income derived from investment of the Interest and Sinking Fund shall be credited to such fund.

(b) Interest and income derived from the investment of funds deposited pursuant to Section 7.03(c) hereof shall be credited to the fund or account where deposited until completion of the Project; thereafter, to the extent such interest and income are present, such interest and income shall be deposited to the Interest and Sinking Fund.

**ARTICLE IX**

**PARTICULAR REPRESENTATIONS AND COVENANTS**

**Section 9.01. Payment of the Bonds.**

On or before each Interest Payment Date for the Bonds and while any of the Bonds are outstanding and unpaid, there shall be made available to the Paying Agent/Registrar, out of the Interest and Sinking Fund, money sufficient to pay such interest on and principal of the Bonds as will accrue or mature on the applicable Interest Payment Date, maturity date or date of prior redemption.

**Section 9.02. Other Representatives and Covenants.**

(a) The City will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in this Ordinance and in each Bond; the City will promptly pay or cause to be paid the principal of and interest on each Bond on the dates and at the places and manner prescribed in such Bond; and the City will, at the times and in the manner prescribed by this Ordinance, deposit or cause to be deposited the amounts of money specified by this Ordinance.

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(b) The City is duly authorized under the laws of the State of Texas to issue the Bonds; all action on its part for the creation and issuance of the Bonds has been duly and effectively taken; and the Bonds in the hands of the Owners thereof are and will be valid and enforceable obligations of the City in accordance with their terms.

**Section 9.03. Provisions Concerning Federal Income Tax Exclusion.**

The City intends that the interest on the Bonds shall be excludable from gross income for purposes of federal income taxation pursuant to sections 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), and the applicable Income Tax Regulations (the "Regulations"). The City covenants and agrees not to take any action, or knowingly omit to take any action within its control, that if taken or omitted, respectively, would cause the interest on the Bonds to be includable in the gross income, as defined in section 61 of the Code, for purposes of federal income tax purposes. In particular, the City covenants and agrees to comply with each requirement of Sections 9.03 through 9.10, inclusive; provided, however, that the City shall not be required to comply with any particular requirement of Sections 9.03 through 9.10, inclusive, if the City has received an opinion of nationally recognized bond counsel ("Counsel's Opinion") that such noncompliance will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds or if the City has received a Counsel's Opinion to the effect that compliance with some other requirement set forth in Sections 9.03 through 9.10, inclusive, will satisfy the applicable requirements of the Code and the Regulations, in which case compliance with such other requirement specified in such Counsel's Opinion shall constitute compliance with the corresponding requirement specified in Sections 9.03 through 9.10, inclusive.

**Section 9.04. No Private Use or Payment and No Private Loan Financing.**

The City shall certify, through an authorized officer, employee or agent, that, based upon all facts and estimates known or reasonably expected to be in existence on the date the Bonds are delivered, that the proceeds of the Bonds will not be used in a manner that would cause the Bonds to be "private activity bonds" within the meaning of section 141 of the Code and the Regulations promulgated thereunder. Moreover the City covenants and agrees that it will make such use of the proceeds of the Bonds, including interest or other investment income derived from Bond proceeds, regulate the use of property financed, directly or indirectly, with such proceeds, and take such other and further action as may be required so that the Bonds will not be "private activity bonds" within the meaning of section 141 of the Code and the Regulations and the Regulations promulgated thereunder.

**Section 9.05. No Federal Guarantee.**

The City covenants and agrees not to take any action, or knowingly omit to take any action within its control, that, if taken or omitted, respectively, would cause the Bonds to be "federally guaranteed" within the meaning of section 149(b) of the Code and the applicable Regulations thereunder, except as permitted by section 149(b)(3) of the Code and such Regulations.

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**Section 9.06. No Hedge Bonds**

The City covenants and agrees not to take any action, or knowingly omit to take any action, and has not knowingly omitted and will not knowingly omit to take any action, within its control, that, if taken or omitted, respectively, would cause the Bonds to be “hedge bonds” within the meaning of section 149(g) of the Code and the applicable Regulations thereunder.

**Section 9.07. No Arbitrage Covenant.**

The City shall certify, through an authorized officer, employee or agent, that, based upon all facts and estimates known or reasonably expected to be in existence on the date the Bonds are delivered, the City will reasonably expect that the proceeds of the Bonds will not be used in a manner that would cause the Bonds to be “arbitrage bonds” within the meaning of section 148(a) of the Code and the applicable Regulations promulgated thereunder. Moreover, the City covenants and agrees that it will make such use of the proceeds of the Bonds including interest or other investment income derived from Bond proceeds, regulate investments of proceeds of the Bonds, and take such other and further action as may be required so that the Bonds will not be “arbitrage bonds” within the meaning of section 148(a) of the Code and the applicable Regulations promulgated thereunder.

**Section 9.08. Arbitrage Rebate.**

If the City does not qualify for an exception to the requirements of Section 148(f) of the Code, the City will take all necessary steps to comply with the requirement that certain amounts earned by the City on the investment of the “gross proceeds” of the Bonds (within the meaning of section 148(f)(6)(B) of the Code), be rebated to the federal government. Specifically, the City will (i) maintain records regarding the investment of the gross proceeds of the Bonds as may be required to calculate the amount earned on the investment of the gross proceeds of the Bonds separately from records of amounts on deposit in the funds and accounts of the City allocable to other bond issues of the City or moneys which do not represent gross proceeds of any bonds of the City, (ii) calculate at such times as are required by the Regulations, the amount earned from the investment of the gross proceeds of the Bonds which is required to be rebated to the federal government, and (iii) pay, not less often than every fifth anniversary date of the delivery of the Bonds or on such other dates as may be permitted under the Regulations, all amounts required to be rebated to the federal government. Further, the City will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the gross proceeds of the Bonds that might result in a reduction in the amount required to be paid to the federal government because such arrangement results in a smaller profit or a larger loss than would have resulted if the arrangement had been at arm’s length and had the yield on the issue not been relevant to either party.

**Section 9.09. Information Reporting.**

The City covenants and agrees to file or cause to be filed with the Secretary of the Treasury, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the Bonds are issued, an information statement concerning the Bonds, all under and in accordance with section 149(e) of the Code and the applicable Regulations promulgated thereunder.

**Section 9.10 Continuing Obligation.**

Notwithstanding any other provision of this Ordinance, the City’s obligations under the covenants and provisions of Sections 9.03 through 9.09, inclusive, shall survive the defeasance and discharge of the Bonds.

**ARTICLE X**

**DEFAULT AND REMEDIES**

**Section 10.01. Events of Default.**

Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

- (i) the failure to make payment of the principal of or interest on any of the Bonds when the same becomes due and payable; or
- (ii) default in the performance or observance of any other covenant, agreement or obligation of the City, which default materially and adversely affects the rights of the Owners, including but not limited to, their prospect or ability to be repaid in accordance with this Ordinance, and the continuation thereof for a period of 60 days after notice of such default is given by any Owner to the City.

**Section 10.02. Remedies for Default.**

(a) Upon the happening of any Event of Default, then any Owner or an authorized representative thereof, including but not limited to, a trustee or trustees therefor, may proceed against the City for the purpose of protecting and enforcing the rights of the Owners under this Ordinance, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Owners hereunder or any combination of such remedies.

(b) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Owners of Bonds then outstanding.

**Section 10.03. Remedies Not Exclusive.**

(a) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Bonds or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Bonds shall not be available as a remedy under this Ordinance.

(b) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

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**ARTICLE XI**

**DISCHARGE**

**Section 11.01. Discharge.**

The Bonds may be defeased, discharged or refunded in any manner permitted by applicable law.

**ARTICLE XII**

**CONTINUING DISCLOSURE UNDERTAKING**

**Section 12.01. Annual Reports.**

(a) The City shall provide annually to each NRMSIR and to any SID, within six (6) months after the end of each fiscal year, financial information and operating data with respect to the City of the general type included in the final Official Statement, being the information described in Exhibit A hereto. Any financial statements so to be provided shall be (i) prepared in accordance with the accounting principles described in Exhibit A hereto, and (ii) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within such period, then the City shall provide notice that audited financial statements are not available and shall provide unaudited financial statements for the applicable fiscal year to each NRMSIR and any SID. Thereafter, when and if audited financial statements become available, the City shall provide such audited financial statements as required to each NRMSIR and to any SID.

(b) If the City changes its fiscal year, it will notify each NRMSIR and any SID of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

(c) The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document (including an official statement or other offering document, if it is available from the MSRB) that theretofore has been provided to each NRMSIR and any SID or filed with the SEC.

(d) Any filing required to be made pursuant to this Article may be made through the facilities of DisclosureUSA or such other central post office as may be approved in writing by the SEC for such purpose. Any such filing made through such central post office will be deemed to have been filed with each NRMSIR and SID or MSRB as if such filing had been made directly to such entity.

**Section 12.02. Material Event Notices.**

(a) The City shall notify any SID and either each NRMSIR or the MSRB, in a timely manner, of any of the following events with respect to the Bonds, if such event is material within the meaning of the federal securities laws:

- (i) principal and interest payment delinquencies;
  - (ii) nonpayment related defaults;
  - (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
  - (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
  - (v) substitution of credit or liquidity providers, or their failure to perform;
  - (vi) adverse tax opinions or events affecting the tax exempt status of the Bonds;
  - (vii) modifications to rights of Owners;
  - (viii) bond calls;
  - (ix) defeasance;
  - (x) release, substitution, or sale of property securing repayment of the Bonds;
- and
- (xi) rating changes.

(b) The City shall notify any SID and either each NRMSIR or the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with Section 12.02 of this Ordinance by the time required by such Section.

**Section 12.03. Limitations, Disclaimers and Amendments.**

(a) The City shall be obligated to observe and perform the covenants specified in this Article for so long as, but only for so long as, the City remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the City in any event will give notice of any deposit made in accordance with Article XI that causes Bonds no longer to be Outstanding.

(b) The provisions of this Article are for the sole benefit of the Owners and beneficial owners of the Bonds, and nothing in this Article, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Article and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City’s financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Article or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

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**UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS ARTICLE, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.**

(c) No default by the City in observing or performing its obligations under this Article shall comprise a breach of or default under the Ordinance for purposes of any other provisions of this Ordinance.

(d) Nothing in this Article is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

(e) The provisions of this Article may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (i) the provisions of this Article, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (ii) either (a) the Owners of a majority in aggregate principal amount (or any greater amount required by any other provisions of this Ordinance that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Owners and beneficial owners of the Bonds. If the City so amends the provisions of this Article, it shall include with any amended financial information or operating data next provided in accordance with Section 12.02 an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

### **ARTICLE XIII**

#### **AMENDMENTS; ATTORNEY GENERAL MODIFICATION**

##### **Section 13.01. Amendments.**

This Ordinance shall constitute a contract with the Owners, be binding on the City, and shall not be amended or repealed by the City so long as any Bond remains outstanding except as permitted in this Section and Section 12.03(e). The City may, without consent of or notice to any Owners, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Owners, including the curing of any ambiguity, inconsistency, or formal defect or omission herein.

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In addition, the City may, with the written consent of the Owners of the Bonds holding a majority in aggregate principal amount of the Bonds then outstanding, amend, add to, or rescind any of the provisions of this Ordinance; provided that, without the consent of all Owners of outstanding Bonds, no such amendment, addition, or rescission shall (i) extend the time or times of payment of the principal of and interest on the Bonds, reduce the principal amount thereof, the redemption price, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of or interest on the Bonds, (ii) give any preference to any Bond over any other Bond, or (iii) reduce the aggregate principal amount of Bonds required to be held by Owners for consent to any such amendment, addition, or rescission.

**Section 13.02. Attorney General Modification.**

In order to obtain the approval of the Bonds by the Attorney General of the State of Texas, any provision of this Ordinance may be modified, altered or amended after the date of its adoption if required by the Attorney General in connection with the Attorney General's examination as to the legality of the Bonds and approval thereof in accordance with the applicable law. Such changes, if any, shall be provided to the City Secretary of the City and the City Secretary of the City shall insert such changes into this Ordinance as if approved on the date hereof.

**FINALLY PASSED, APPROVED AND EFFECTIVE** this February 13, 2006.

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

ATTEST:

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

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

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**EXHIBIT A**

**DESCRIPTION OF ANNUAL DISCLOSURE OF FINANCIAL INFORMATION**

The following information is referred to in Article XII of this Ordinance.

**Annual Financial Statements and Operating Data**

The financial information and operating data with respect to the City to be provided annually in accordance with such Article are as specified (and included in the Appendix or other headings of the Official Statement referred to) below:

1. The portions of the financial statements of the City appended to the Official Statement as Appendix B, but for the most recently concluded fiscal year.
2. Statistical and financial data set forth in Tables numbered 1 through 6 and 8 through 13, each inclusive.

**Accounting Principles**

The accounting principles referred to in such Article are the accounting principles described in the notes to the financial statements referred to in Paragraph 1 above.

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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>2/13/06</b>	Reviewed by Legal <i>JST</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	FINANCE		Initials	Date
Department Head	JOHN MCGRANE	Asst City Manager		
Dept Signature:	<i>John McGrane</i>	City Manager	<i>JW</i>	<i>2/13/06</i>
Agenda Coordinator (include phone #):	<b>DONNA WHITE - X7135</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 PUBLIC HEARING				
<b>CAPTION</b>				
AN ORDINANCE OF THE CITY OF PLANO, TEXAS, TO CONSIDER AND TAKE ACTION ON AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF CITY OF PLANO, TEXAS, COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2006; LEVYING A TAX IN PAYMENT THEREOF AND PLEDGING SURPLUS MUNICIPAL DRAINAGE SYSTEM REVENUES IN PAYMENT THEREOF; AWARDED THE SALE THEREOF; APPROVING THE OFFICIAL STATEMENT; AND ENACTING OTHER PROVISIONS RELATING THERETO.				
<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>2006-2007</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>
Budget		0	3,765,000	0
Encumbered/Expended Amount		0	0	0
This Item		0	0	0
BALANCE		0	0	0
FUND(S):				
COMMENTS:				
<b>SUMMARY OF ITEM</b>				
The sale of \$3,765,000 in Certificate of Obligation Bonds Series 2006 for the purpose of improving our technical infrastructure and public art.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		

Ordinance No. \_\_\_\_\_

CERTIFICATES OF OBLIGATION ORDINANCE

CITY OF PLANO, TEXAS  
COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION  
SERIES 2006

Adopted: February 13, 2006

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**CONSIDER AND TAKE ACTION ON AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF CITY OF PLANO, TEXAS, COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2006; LEVYING A TAX IN PAYMENT THEREOF AND PLEDGING SURPLUS MUNICIPAL DRAINAGE SYSTEM REVENUES IN PAYMENT THEREOF; AWARDED THE SALE THEREOF; APPROVING THE OFFICIAL STATEMENT; AND ENACTING OTHER PROVISIONS RELATING THERETO.**

**WHEREAS**, under the provisions of Subchapter C of Chapter 271, Texas Local Government Code, as amended (the "Act"), the City of Plano, Texas (the "City"), is authorized to issue certificates of obligation for the purposes specified in this Ordinance and for the payment of all or a portion of the costs of professional services, including that of engineers, attorneys, and financial advisors in connection therewith, and to sell the same for cash as herein provided; and

**WHEREAS**, the City is authorized to provide that such obligations will be payable from and secured by the levy of a direct and continuing ad valorem tax against all taxable property within the City, in combination with all or a part of any "Surplus Revenues" (as defined herein) of the City's Municipal Drainage System remaining after payment of any obligations of the City payable in whole or in part from a lien or pledge of such revenues, pursuant to Section 402.041 et seq., Texas Local Government Code, such pledge of Surplus Revenues, however, being limited to \$1,000; and

**WHEREAS**, the governing body (the "City Council") of the City has found and determined that it is necessary and in the best interests of the City and its citizens that it issue the certificates of obligation (the "Certificates") authorized by this Ordinance for the purposes specified in this Ordinance; and

**WHEREAS**, pursuant to a resolution passed by this City Council, notice of intention to issue the Certificates was published in a newspaper of general circulation in the City at the times and in the manner required by the Act; and

**WHEREAS**, no petition of any kind has been filed with the City Secretary, any member of the City Council or any other official of the City, protesting the issuance of the Certificates; and

**WHEREAS**, this City Council is now authorized and empowered to proceed with the issuance of the Certificates and to sell the same for cash; and

**WHEREAS**, the meeting at which this Ordinance is considered is open to the public as required by law, and the public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code, as amended; therefore

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS:**

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## ARTICLE I

### DEFINITIONS AND OTHER PRELIMINARY MATTERS

#### **Section 1.01. Definitions.**

Unless otherwise expressly provided or unless the context clearly requires otherwise in this Ordinance, the following terms shall have the meanings specified below:

“Business Day” means any day other than a Saturday, Sunday or legal holiday or other day on which banking institutions in the State of Texas are generally authorized or obligated by law or executive order to close.

“Certificate” means any of the Certificates.

“Certificate Date” means the date designated as the date of the Certificates by Section 3.02(a) of this Ordinance.

“Certificates” means the City’s certificates of obligation authorized to be issued by Section 3.01 of this Ordinance and designated as “City of Plano, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2006.”

“Closing Date” means the date of the initial delivery of and payment for the Certificates.

“Code” means the Internal Revenue Code of 1986, as amended, including applicable regulations, published rulings and court decisions.

“Designated Payment/Transfer Office” means (i) with respect to the initial Paying Agent/Registrar named herein, its office in East Syracuse, New York, or at such other location designated by the Paying Agent/Registrar and (ii) with respect to any successor Paying Agent/Registrar, the office of such successor designated and located as may be agreed upon by the City and such successor.

“DTC” shall mean The Depository Trust Company of New York, New York, or any successor securities depository.

“DTC Participant” shall mean brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

“Event of Default” means any event of default as defined in Section 10.01 of this Ordinance.

“Fiscal Year” means the fiscal year of the City ending on September 30 of each year.

“Initial Certificate” means the Initial Certificate authorized by Section 3.04(d) of this Ordinance.

“Interest and Sinking Fund” means the interest and sinking fund established by Section 7.03(a) of this Ordinance.

“Interest Payment Date” means the date or dates on which interest on the Certificates is scheduled to be paid until their respective dates of maturity or prior redemption, such dates being March 1 and September 1, commencing September 1, 2006.

“Letter of Representations” means the Blanket Letter of Representations between the City and DTC.

“MSRB” means the Municipal Securities Rulemaking Board.

“NRMSIR” means each person whom the SEC or its staff has determined to be a nationally recognized municipal securities information repository within the meaning of the Rule from time to time.

“Owner” means the person who is the registered owner of a Certificate or Certificates, as shown in the Register.

“Paying Agent/Registrar” means initially The Bank of New York Trust Company, N.A., or any successor thereto as provided in this Ordinance.

“Project” means (i) acquisition, vendor implementation and installation of software, hardware and other equipment for technology projects including enhanced network security, increased network storage capacity, redundant system implementation, telecommunications upgrades, mesh network for wireless infrastructure and web browser improvements, and (ii) improving and enhancing the City’s public buildings and public grounds, including parks, libraries, animal control facilities and public safety facilities with architectural elements, features and artist-designed enhancements that are a part of the City’s Capital Improvement Plan.

“Purchaser” has the meaning given to such term in Section 7.01(a).

“Record Date” means the fifteenth day of the month next preceding an Interest Payment Date.

“Register” means the certificate register specified in Section 3.06(a) of this Ordinance.

“Rule” means SEC Rule 15c2-12, as amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

“SID” means any person designated by the State of Texas or an authorized department, officer or agency thereof, as and determined by the SEC or its staff to be a state information depository within the meaning of the Rule from time to time.

“Special Record Date” means the Special Record Date prescribed by Section 3.03(b).

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“Surplus Revenues” means an amount not to exceed \$1,000, of the revenues of the System available after deduction of the reasonable expense of operation and maintenance of the System and payment of all debt service, reserve and other requirements with respect to all of the City’s revenue bonds and other obligations heretofore or hereafter issued that are payable from and secured by a lien on and pledge of all or part of the net revenues of the System.

“Surplus Revenues Fund” means the surplus revenues fund established by Section 7.01(c) of this Ordinance.

“System” means the City’s Municipal Drainage System.

“Unclaimed Payments” means money deposited with the Paying Agent/Registrar for the payment of the principal of or interest on Certificates as the same become due and payable and remaining unclaimed by the Owners of such Certificates for 90 days after the applicable payment or redemption date.

**Section 1.02. Findings.**

The declarations, determinations and findings declared, made and found in the preamble to this Ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

**Section 1.03. Table of Contents, Titles and Headings.**

The table of contents, titles and headings of the Articles and Sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Ordinance or any provision hereof or in ascertaining intent, if any question of intent should arise.

**Section 1.04. Interpretation.**

(a) If the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa.

(b) Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein.

**ARTICLE II**

**SECURITY FOR THE CERTIFICATES**

**Section 2.01. Tax Levy and Other Security for Payment of the Certificates.**

(a) The City Council hereby declares and covenants that it will provide and levy a tax legally and fully sufficient for payment of the Certificates, it having been determined that the existing and available taxing authority of the City for such purpose is adequate to permit a legally sufficient tax in consideration of all other outstanding obligations of the City.

(b) In order to provide for the payment of the debt service requirements on the Certificates, being (i) the interest on the Certificates, and (ii) a sinking fund for their payment at maturity or a sinking fund of two percent per annum (whichever amount is the greater), there is hereby levied for the current year and each succeeding year thereafter while the Certificates or interest thereon remain outstanding and unpaid, a tax within legal limitations on each \$100 assessed valuation of taxable property in the City that is sufficient to pay such debt service requirements, full allowance being made for delinquencies and costs of collection.

(c) The tax levied by this Section shall be assessed and collected each year and applied to the payment of the debt service requirements on the Certificates, and the tax shall not be diverted to any other purpose.

(d) Said ad valorem tax, the collections therefrom, and all amounts on deposit in or required hereby to be deposited to the Interest and Sinking Fund are hereby pledged and committed irrevocably to the payment of the principal of and interest on the Certificates when and as due and payable in accordance with their terms and this Ordinance.

The amount of taxes to be provided annually for the payment of principal of and interest on the Certificates shall be determined and accomplished in the following manner:

(i) the City's annual budget shall reflect (A) the amount of debt service to become due on the Certificates in the next succeeding Fiscal Year of the City, (B) the amount on deposit in the Surplus Revenues Fund available to pay the debt service on the Certificates and the Interest and Sinking Fund, as of the date the budget is prepared (after giving effect to any payments required to be made during the remainder of the then current Fiscal Year), and (C) the amount of Surplus Revenues estimated to be collected and available for the payment of such debt service requirements on the Certificates during the succeeding Fiscal Year of the City;

(ii) the amount required to be provided in the succeeding Fiscal Year of the City from ad valorem taxes shall be the amount, if any, that the debt service requirements to be paid on the Certificates in the next succeeding Fiscal Year exceeds the sum of (A) the amount shown to be on deposit in the Surplus Revenues Fund and the Interest and Sinking Fund (after giving effect to the payments required to be made during the remainder of the then current Fiscal Year) at the time the annual budget is prepared, and (B) the Surplus Revenues shown to be budgeted and available for payment of debt service on the Certificates.

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(iii) Following the final approval of the annual budget of the City, the governing body of the City shall, by ordinance, levy an ad valorem tax at a rate sufficient to produce taxes in the amount determined in paragraph (ii) above, to be utilized for purposes of paying the principal of and interest on the Certificates in the next succeeding Fiscal Year of the City.

(e) If the liens and provisions of this Ordinance shall be released in a manner permitted by Article XI hereof, then the collection of such ad valorem tax may be suspended or appropriately reduced, as the facts may permit, and further deposits to the Interest and Sinking Fund may be suspended or appropriately reduced, as the facts may permit. In determining the aggregate principal amount of outstanding Certificates, there shall be subtracted the amount of any Certificates for which money has been deposited in accordance with Article XI herein.

**Section 2.02. Revenue Pledge.**

The City hereby covenants and agrees that the Surplus Revenues are hereby irrevocably pledged to the payment of the principal of and interest on the Certificates as the same become due.

**ARTICLE III**

**AUTHORIZATION; GENERAL TERMS AND PROVISIONS  
REGARDING THE CERTIFICATES**

**Section 3.01. Authorization.**

The City's certificates of obligation to be designated "City of Plano, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2006" (the "Certificates"), are hereby authorized to be issued and delivered in accordance with the Constitution and laws of the State of Texas and the Charter of the City. The Certificates shall be issued in the aggregate principal amount of \$3,735,000 for the public purpose of (i) paying the costs of the Project and (ii) paying for professional services of attorneys, financial advisors and other professionals in connection with the Project and the issuance of the Certificates, all as set forth in the preamble hereof, under and by virtue of the Act and pursuant to Chapter 9.22 of the Charter of the City.

**Section 3.02. Date, Denomination, Maturities and Interest.**

(a) The Certificates shall be dated February 1, 2006. The Certificates shall be in fully registered form, without coupons, in the denomination of \$5,000 or any integral multiple thereof, and shall be numbered separately from one upward, except the Initial Certificate, which shall be numbered T-1.

(b) The Certificates shall mature on September 1 in the years and in the principal amounts set forth in the following schedule:

<u>Years</u>	<u>Principal Amount</u>	<u>Interest Rates</u>	<u>Years</u>	<u>Principal Amount</u>	<u>Interest Rates</u>
2007	\$ 25,000		2017	\$190,000	
2008	125,000		2018	200,000	
2009	130,000		2019	205,000	
2010	140,000		2020	215,000	
2011	145,000		2021	225,000	
2012	150,000		2022	240,000	
2013	160,000		2023	250,000	
2014	165,000		2024	260,000	
2015	175,000		2025	270,000	
2016	180,000		2026	285,000	

(c) Interest shall accrue and be paid on each Certificate respectively until its maturity or prior redemption, from the later of the Certificate Date or the most recent Interest Payment Date to which interest has been paid or provided for at the rates per annum for each respective maturity specified in the schedule contained in subsection (b) above. Such interest shall be payable on each Interest Payment Date until maturity or prior redemption. Interest on the Certificates shall be calculated on the basis of a 360-day year composed of twelve 30-day months.

**Section 3.03. Medium, Method and Place of Payment.**

(a) The principal of and interest on the Certificates shall be paid in lawful money of the United States of America.

(b) Interest on the Certificates shall be payable to the Owners as shown in the Register at the close of business on the Record Date; provided, however, in the event of nonpayment of interest on a scheduled Interest Payment Date and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") shall be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date," which shall be 15 days after the Special Record Date) shall be given at least five Business Days prior to the Special Record Date to each Owner of a Certificate appearing on the Register at the close of business on the last Business Day next preceding the date of such notice either by (i) electronic means to the electronic address, if any, on file with the Paying Agent/Registrar, or (ii) first-class United States mail, postage prepaid, at the physical address shown on the Register.

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(c) Interest on each Certificate shall be paid by to each Owner by (i) wire transfer to the bank account, if any, for such Owner on file with the Paying Agent/Registrar pursuant to such Owner's written instructions and at the risk and expense of such Owner, (ii) by check dated as of the Interest Payment Date, and sent on or before the Interest Payment Date by first-class United States mail, postage prepaid, by the Paying Agent/Registrar to each Owner at the address of each Owner as such appears in the Register or (iii) by such other customary banking arrangements acceptable to the Paying Agent/Registrar and the person to whom interest is to be paid at the risk and expense of such Owner.

(d) The principal of each Certificate shall be paid to the Owner thereof on the due date (whether at the maturity date or the date of prior redemption thereof) upon presentation and surrender of such Certificate at the Designated Payment/Transfer Office of the Paying Agent/Registrar.

(e) If the date for the payment of the principal of or interest on the Certificates shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Designated Payment/Transfer Office is located are required or authorized by law or executive order to close, the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday, or day on which banking institutions are required or authorized to close, and payment on such date shall have the same force and effect as if made on the original date payment was due and no additional interest shall be due by reason of nonpayment on the date on which such payment is otherwise stated to be due and payable.

(f) Unclaimed Payments of amounts due hereunder shall be segregated in a special account and held in trust, uninvested by the Paying Agent/Registrar, for the account of the Owner of the Certificates to which such Unclaimed Payments pertain. Subject to Title 6 of the Texas Property Code, any Unclaimed Payments remaining unclaimed by the Owners entitled thereto for three years after the applicable payment or redemption date shall be applied to the next payment or payments on the Certificates thereafter coming due and, to the extent any such money remains after the retirement of all outstanding Certificates, shall be paid to the City to be used for any lawful purpose. Thereafter, neither the City, the Paying Agent/Registrar nor any other person shall be liable or responsible to any holders of such Certificates for any further payment of such unclaimed moneys or on account of any such Certificates, subject to Title 6 of the Texas Property Code.

#### **Section 3.04. Execution and Registration of Certificates.**

(a) The Certificates shall be executed on behalf of the City by the Mayor and the City Secretary, by their manual or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Certificates shall have the same effect as if each of the Certificates had been signed manually and in person by each of said officers, and such facsimile seal on the Certificates shall have the same effect as if the official seal of the City had been manually impressed upon each of the Certificates.

(b) In the event that any officer of the City whose manual or facsimile signature appears on the Certificates ceases to be such officer before the authentication of such Certificates or before the delivery thereof, such manual or facsimile signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in such office.

(c) Except as provided below, no Certificate shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Ordinance unless and until there appears thereon the Certificate of Paying Agent/Registrar substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Paying Agent/Registrar. It shall not be required that the same officer or authorized signatory of the Paying Agent/Registrar sign the Certificate of Paying Agent/Registrar on all of the Certificates. In lieu of the executed Certificate of Paying Agent/Registrar described above, the Initial Certificate delivered at the Closing Date shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller of Public Accounts of the State of Texas, or by his duly authorized agent, which Certificate shall be evidence that the Certificate has been duly approved by the Attorney General of the State of Texas and that it is a valid and binding obligation of the City, and has been registered by the Comptroller of Public Accounts of the State of Texas.

(d) On the Closing Date, one initial Certificate (the "Initial Certificate") representing the entire principal amount of all Certificates, payable in stated installments to the Purchaser, or its designee, manually signed by the Mayor and City Secretary of the City, approved by the Attorney General, and registered and manually signed by the Comptroller of Public Accounts, will be delivered to the Purchaser or its designee. Upon payment for the Initial Certificate, the Paying Agent/Registrar shall cancel the Initial Certificate and deliver to DTC on behalf of the Purchaser one registered definitive Certificate for each year of maturity of the Certificates in the aggregate principal amount of all Certificates for such maturity, registered in the name of Cede & Co., as nominee of DTC.

### **Section 3.05. Ownership.**

(a) The City, the Paying Agent/Registrar and any other person may treat the person in whose name any Certificate is registered as the absolute owner of such Certificate for the purpose of making and receiving payment of the principal thereof, for the further purpose of making and receiving payment of the interest thereon, and for all other purposes (except interest will be paid to the person in whose name such Certificate is registered on the Record Date or Special Record Date, as applicable), whether or not such Certificate is overdue, and neither the City nor the Paying Agent/Registrar shall be bound by any notice or knowledge to the contrary.

(b) All payments made to the Owner of a Certificate shall be valid and effectual and shall discharge the liability of the City and the Paying Agent/Registrar upon such Certificate to the extent of the sums paid.

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**Section 3.06. Registration, Transfer and Exchange.**

(a) So long as any Certificates remain outstanding, the City shall cause the Paying Agent/Registrar to keep at the Designated Payment/Transfer Office a register (the "Register") in which, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of Certificates in accordance with this Ordinance.

(b) The ownership of a Certificate may be transferred only upon the presentation and surrender of the Certificate at the Designated Payment/Transfer Office with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar. No transfer of any Certificate shall be effective until entered in the Register.

(c) The Certificates shall be exchangeable upon the presentation and surrender thereof at the Designated Payment/Transfer Office for a Certificate or Certificates of the same maturity and interest rate and in any denomination or denominations of any integral multiple of \$5,000 and in an aggregate principal amount equal to the unpaid principal amount of the Certificates presented for exchange. The Paying Agent/Registrar is hereby authorized to authenticate and deliver Certificates exchanged for other Certificates in accordance with this Section.

(d) Each exchange Certificate delivered by the Paying Agent/Registrar in accordance with this Section shall constitute an original contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Certificate or Certificates in lieu of which such exchange Certificate is delivered.

(e) No service charge shall be made to the Owner for the initial registration, subsequent transfer, or exchange for a different denomination of any of the Certificates. The Paying Agent/Registrar, however, may require the Owner to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection with the registration, transfer or exchange of a Certificate.

(f) Neither the City nor the Paying Agent/Registrar shall be required to issue, transfer, or exchange any Certificate called for redemption, in whole or in part, within 45 calendar days prior to the date fixed for redemption; provided, however, such limitation shall not be applicable to an exchange by the Owner of the uncalled principal balance of a Certificate.

**Section 3.07. Cancellation.**

All Certificates paid or redeemed before scheduled maturity in accordance with this Ordinance, and all Certificates in lieu of which exchange Certificates or replacement Certificates are authenticated and delivered in accordance with this Ordinance, shall be cancelled and proper records shall be made regarding such payment, redemption, exchange or replacement. The Paying Agent/Registrar shall dispose of cancelled Certificates in accordance with the Securities Exchange Act of 1934.

**Section 3.08. Temporary Certificates.**

(a) Following the delivery and registration of the Initial Certificate and pending the preparation of definitive Certificates, the proper officers of the City may execute and, upon the City's request, the Paying Agent/Registrar shall authenticate and deliver, one or more temporary Certificates that are printed, lithographed, typewritten, mimeographed or otherwise produced, in any denomination, substantially of the tenor of the definitive Certificates in lieu of which they are delivered, without coupons, and with such appropriate insertions, omissions, substitutions and other variations as the officers of the City executing such temporary Certificates may determine, as evidenced by their signing of such temporary Certificates.

(b) Until exchanged for Certificates in definitive form, such Certificates in temporary form shall be entitled to the benefit and security of this Ordinance.

(c) The City, without unreasonable delay, shall prepare, execute and deliver to the Paying Agent/Registrar the Certificates in definitive form; then, upon the presentation and surrender of the Certificates in temporary form to the Paying Agent/Registrar, the Paying Agent/Registrar shall cancel the Certificates in temporary form and shall authenticate and deliver in exchange therefor Certificates of the same maturity and series, in definitive form, in the authorized denomination, and in the same aggregate principal amount, as the Certificates in temporary form surrendered. Such exchange shall be made without the making of any charge therefor to any Owner.

**Section 3.09. Replacement Certificates.**

(a) Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Certificate, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a replacement Certificate of like tenor and principal amount, bearing a number not contemporaneously outstanding. The City or the Paying Agent/Registrar may require the Owner of such Certificate to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection therewith and any other expenses connected therewith.

(b) In the event that any Certificate is lost, apparently destroyed or wrongfully taken, the Paying Agent/Registrar, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Certificate has been acquired by a bona fide purchaser, shall authenticate and deliver a replacement Certificate of like tenor and principal amount, bearing a number not contemporaneously outstanding, provided that the Owner first:

(i) furnishes to the Paying Agent/Registrar satisfactory evidence of his or her ownership of and the circumstances of the loss, destruction or theft of such Certificate;

(ii) furnishes such security or indemnity as may be required by the Paying Agent/Registrar to save it and the City harmless;

(iii) pays all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Paying Agent/Registrar and any tax or other governmental charge that is authorized to be imposed; and

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(iv) satisfies any other reasonable requirements imposed by the City and the Paying Agent/Registrar.

(c) If, after the delivery of such replacement Certificate, a bona fide purchaser of the original Certificate in lieu of which such replacement Certificate was issued presents for payment such original Certificate, the City and the Paying Agent/Registrar shall be entitled to recover such replacement Certificate from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the City or the Paying Agent/Registrar in connection therewith.

(d) In the event that any such mutilated, lost, apparently destroyed or wrongfully taken Certificate has become or is about to become due and payable, the Paying Agent/Registrar, in its discretion, instead of issuing a replacement Certificate, may pay such Certificate if it has become due and payable or may pay such Certificate when it becomes due and payable.

(e) Each replacement Certificate delivered in accordance with this Section shall constitute an original additional contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Certificate or Certificates in lieu of which such replacement Certificate is delivered.

**Section 3.10. Book Entry Only System.**

(a) The definitive Certificates shall be initially issued in the form of a separate typewritten fully registered Certificate for each of the maturities thereof. Upon initial issuance, the ownership of such Certificates shall be registered in the name of Cede & Co., as nominee of DTC, and except as provided in Section 3.11 hereof, all of the outstanding Certificates shall be registered in the name of Cede & Co., as nominee of DTC.

(b) With respect to Certificates registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such a DTC Participant holds an interest in the Certificates. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Certificates, (ii) the delivery to any DTC Participant or any other person, other than a Certificateholder, as shown on the Register, of any notice with respect to the Certificates, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than a Certificateholder, as shown in the Register of any amount with respect to principal of or interest on the Certificates. Notwithstanding any other provision of this Ordinance to the contrary, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Certificate is registered in the Register as the absolute owner of such Certificate for the purpose of payment of principal of and interest on the Certificates, for the purpose of all matters with respect to such Certificate, for the purpose of registering transfer with respect to such Certificate, and for all other purposes whatsoever.

The Paying Agent/Registrar shall pay all principal of and interest on the Certificates only to or upon the order of the respective owners, as shown in the Register as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of interest on the Certificates to the extent of the sum or sums so paid. No person other than an owner, as shown in the Register, shall receive a certificate evidencing the obligation of the City to make payments of amounts due pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(c) The Letter of Representations previously executed and delivered by the City, and applicable to the City's obligations delivered in book-entry-only form to DTC as securities depository, is hereby ratified and approved for the Certificates.

**Section 3.11. Successor Securities Depository, Transfer Outside Book Entry Only System.**

In the event that the City or the Paying Agent/Registrar determines that DTC is incapable of discharging its responsibilities described herein and in the Letter of Representations of the City to DTC, and that it is in the best interest of the beneficial owners of the Certificates that they be able to obtain certificated Certificates, or in the event DTC discontinues the services described herein, the Issuer or the Paying Agent/Registrar shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Certificates to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Certificates and transfer one or more separate Certificates to DTC Participants having Certificates credited to their DTC accounts. In such event, the Certificates shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners transferring or exchanging Certificates shall designate, in accordance with the provisions of this Ordinance.

**Section 3.12. Payments to Cede & Co.**

Notwithstanding any other provision of this Ordinance to the contrary, so long as any Certificates are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of and interest on such Certificates, and all notices with respect to such Certificates, shall be made and given, respectively, in the manner provided in the Letter of Representations.

**ARTICLE IV**

**REDEMPTION OF CERTIFICATES BEFORE MATURITY**

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**Section 4.01. Limitation on Redemption**

The Certificates shall be subject to redemption before scheduled maturity only as provided in this Article IV.

**Section 4.02. Optional Redemption.**

(a) The City reserves the option to redeem Certificates maturing on and after September 1, 2017, in whole or any part, before their respective scheduled maturity dates, on September 1, 2016, or on any date thereafter, such redemption date or dates to be fixed by the City, at a price equal to the principal amount of the Certificates called for redemption plus accrued interest to the date fixed for redemption.

(b) If less than all of the Certificates are to be redeemed pursuant to an optional redemption, the City shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot the Certificates, or portions thereof, within such maturity or maturities and in such principal amounts for redemption.

(c) The City, at least 45 days before the redemption date, unless a shorter period shall be satisfactory to the Paying Agent/Registrar, shall notify the Paying Agent/Registrar of such redemption date and of the principal amount of Certificates to be redeemed.

**Section 4.03. Partial Redemption.**

(a) A portion of a single Certificate of a denomination greater than \$5,000 may be redeemed, but only in a principal amount equal to \$5,000 or any integral multiple thereof. If such a Certificate is to be partially redeemed, the Paying Agent/Registrar shall treat each \$5,000 portion of the Certificate as though it were a single Certificate for purposes of selection for redemption.

(b) Upon surrender of any Certificate for redemption in part, the Paying Agent/Registrar, in accordance with Section 3.06 of this Ordinance, shall authenticate and deliver an exchange Certificate or Certificates in an aggregate principal amount equal to the unredeemed portion of the Certificate so surrendered, such exchange being without charge.

(c) The Paying Agent/Registrar shall promptly notify the City in writing of the principal amount to be redeemed of any Certificate as to which only a portion thereof is to be redeemed.

**Section 4.04. Notice of Redemption to Owners.**

(a) The Paying Agent/Registrar shall give notice of any redemption of Certificates by sending notice, not less than 30 days before the date fixed for redemption, to the Owner of each Certificate or portion thereof to be redeemed either by (i) electronic means to the electronic address, if any, on file with the Paying Agent/Registrar, or (ii) first-class United States mail, postage prepaid, at the physical address shown on the Register.

(b) The notice shall state the redemption date, the redemption price, the place at which the Certificates are to be surrendered for payment, and, if less than all the Certificates outstanding are to be redeemed, an identification of the Certificates or portions thereof to be redeemed.

(c) Any notice given as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice.

**Section 4.05. Payment Upon Redemption.**

(a) Before or on each redemption date, the City shall deposit with the Paying Agent/Registrar money sufficient to pay all amounts due on the redemption date and the Paying Agent/Registrar shall make provision for the payment of the Certificates to be redeemed on such date by setting aside and holding in trust such amounts as are received by the Paying Agent/Registrar from the City and shall use such funds solely for the purpose of paying the principal of and accrued interest on the Certificates being redeemed.

(b) Upon presentation and surrender of any Certificate called for redemption at the Designated Payment/Transfer Office on or after the date fixed for redemption, the Paying Agent/Registrar shall pay the principal of and accrued interest on such Certificate to the date of redemption from the money set aside for such purpose.

**Section 4.06. Effect of Redemption.**

(a) Notice of redemption having been given as provided in Section 4.04 of this Ordinance, the Certificates or portions thereof called for redemption shall become due and payable on the date fixed for redemption and, unless the City defaults in its obligation to make provision for the payment of the principal thereof or accrued interest thereon, such Certificates or portions thereof shall cease to bear interest from and after the date fixed for redemption, whether or not such Certificates are presented and surrendered for payment on such date.

(b) If the City shall fail to make provision for payment of all sums due on a redemption date, then any Certificate or portion thereof called for redemption shall continue to bear interest at the rate stated on the Certificate until due provision is made for the payment of same by the City.

**Section 4.07. Lapse of Payment.**

Money set aside for the redemption of Certificates and remaining unclaimed by the Holders of such Certificates shall be subject to the provisions of Section 3.03(f) hereof.

**ARTICLE V**

**PAYING AGENT/REGISTRAR**

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**Section 5.01. Appointment of Initial Paying Agent/Registrar.**

The Bank of New York Trust Company, N.A., Jacksonville, Florida, is hereby appointed as the initial Paying Agent/Registrar for the Certificates.

**Section 5.02. Qualifications.**

Each Paying Agent/Registrar shall be a commercial bank, a trust company organized under the laws of the State of Texas, or any other entity duly qualified and legally authorized to serve as and perform the duties and services of paying agent and registrar for the Certificates.

**Section 5.03. Maintaining Paying Agent/Registrar.**

(a) At all times while any Certificates are outstanding, the City will maintain a Paying Agent/Registrar that is qualified under Section 5.02 of this Ordinance. The Mayor is hereby authorized to execute an agreement with the Paying Agent/Registrar specifying the duties and responsibilities of the City and the Paying Agent/Registrar. The signature of the Mayor shall be attested by the City Secretary of the City.

(b) If the Paying Agent/Registrar resigns or otherwise ceases to serve as such, the City will promptly appoint a replacement.

**Section 5.04. Termination.**

The City, upon not less than 60 days notice, reserves the right to terminate the appointment of any Paying Agent/Registrar by delivering to the entity whose appointment is to be terminated written notice of such termination.

**Section 5.05. Notice of Change to Owners.**

Promptly upon each change in the entity serving as Paying Agent/Registrar, the City will cause notice of the change to be sent to each Owner by one or more of the methods for giving notice of redemption set forth in Section 4.04(a), stating the effective date of the change and the name and mailing address of the replacement Paying Agent/Registrar.

**Section 5.06. Agreement to Perform Duties and Functions.**

By accepting the appointment as Paying Agent/Registrar and executing the Paying Agent/Registrar Agreement, the Paying Agent/Registrar is deemed to have agreed to the provisions of this Ordinance and that it will perform the duties and functions of Paying Agent/Registrar prescribed thereby.

**Section 5.07. Delivery of Records to Successor.**

If a Paying Agent/Registrar is replaced, such Paying Agent/Registrar, promptly upon the appointment of the successor, will deliver the Register (or a copy thereof) and all other pertinent books and records relating to the Certificates to the successor Paying Agent/Registrar.

**ARTICLE VI**

**FORM OF THE CERTIFICATES**

**Section 6.01. Form Generally.**

(a) The Certificates, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Certificate of the Paying Agent/Registrar, and the Assignment form to appear on each of the Certificates, (i) shall be substantially in the form set forth in this Article, with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance, and (ii) may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association (“CUSIP Numbers”)) and such legends and endorsements (including any reproduction of an opinion of counsel) thereon as, consistently herewith, may be determined by the City or by the officers executing such Certificates, as evidenced by their execution thereof.

(b) Any portion of the text of any Certificates may be set forth on the reverse side thereof, with an appropriate reference thereto on the face of the Certificates.

(c) The definitive Certificates shall be typewritten, printed, lithographed, or engraved, and may be produced by any combination of these methods or produced in any other similar manner, all as determined by the officers executing such Certificates, as evidenced by their execution thereof.

(d) The Initial Certificate submitted to the Attorney General of the State of Texas may be typewritten and photocopied or otherwise reproduced.

**Section 6.02. Form of the Certificates.**

The form of the Certificate, including the form of the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the form of Certificate of the Paying Agent/Registrar and the form of Assignment appearing on the Certificates, shall be substantially as follows:

(a) Form of Certificate.

REGISTERED

REGISTERED

No. \_\_\_\_\_

\$ \_\_\_\_\_



M:Treasury

**United States of America  
State of Texas  
CITY OF PLANO, TEXAS  
COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION  
SERIES 2006**

INTEREST RATE: \_\_\_\_\_ MATURITY DATE: September 1, \_\_\_\_\_ CERTIFICATE DATE: February 1, 2006 CUSIP NUMBER: \_\_\_\_\_

The City of Plano, Texas (the "City"), in the Counties of Collin and Denton, State of Texas, for value received, hereby promises to pay to \_\_\_\_\_ or registered assigns, on the Maturity Date specified above, the sum of \_\_\_\_\_ DOLLARS unless this Certificate shall have been sooner called for redemption and the payment of the principal hereof shall have been paid or provided for, and to pay interest on such principal amount from the later of the Certificate Date specified above or the most recent interest payment date to which interest has been paid or provided for until payment of such principal amount has been paid or provided for, at the per annum rate of interest specified above, computed on the basis of a 360-day year of twelve 30-day months, such interest to be paid semiannually on March 1 and September 1 of each year, commencing September 1, 2006.

The principal of this Certificate shall be payable without exchange or collection charges in lawful money of the United States of America upon presentation and surrender of this Certificate at the designated office in East Syracuse, New York, of The Bank of New York Trust Company, N.A., as Paying Agent/Registrar (the "Designated Payment/Transfer Office"), or, with respect to a successor paying agent/registrar, at the Designated Payment/Transfer Office of such successor. Interest on this Certificate shall be paid either by (i) wire transfer to the bank account, if any, of the registered owner on file with the Paying Agent/Registrar pursuant to such registered owner's written instructions and at the risk and expense of such registered owner, (ii), by check dated as of the interest payment date, and sent on or before the interest payment date by first-class United States mail, postage prepaid, by the Paying Agent/Registrar to the registered owner at the physical address of such owner as appears in the registration books of the Paying Agent/Registrar or (iii) by such other customary banking arrangements acceptable to the Paying Agent/Registrar and the person to whom interest is to be paid, provided that the registered owner shall bear all risk and expense of such interest payment method. For the purpose of the payment of interest on this Certificate, the registered owner shall be the person in whose name this Certificate is registered at the close of business on the "Record Date," which shall be the fifteenth day of the month next preceding such interest payment date; provided, however, that in the event of nonpayment of interest on a scheduled payment date and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City.

Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date," which shall be 15 days after the Special Record Date) shall be given at least five Business Days prior to the Special Record Date to each owner of a Certificate appearing in the registration books of the Paying Agent/Registrar at the close of business on the last Business Day next preceding the date of such notice either by (i) electronic means to the electronic address, if any, on file with the Paying Agent/Registrar, or (ii) first-class United States mail, postage prepaid, at the physical address shown on the registration books of the Paying Agent/Registrar.

If the date for the payment of the principal of or interest on this Certificate shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Designated Payment/Transfer Office is located are required or authorized by law or executive order to close, the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday, or day on which banking institutions are required or authorized to close, and payment on such date shall have the same force and effect as if made on the original date payment was due and no additional interest shall be due by reason of nonpayment on the date on which such payment is otherwise stated to be due and payable.

This Certificate is one of a series of fully registered certificates specified in the title hereof issued in the aggregate principal amount of \$3,735,000 (herein referred to as the "Certificates"), issued pursuant to a certain ordinance of the City Council of the City (the "Ordinance") for the purpose of paying the costs of the Project as described in the Ordinance and (ii) for the payment of professional services of attorneys, financial advisors and other professionals in connection with the Project and the issuance of the Certificates.

The Certificates and the interest thereon are payable from the levy of a direct and continuing ad valorem tax, within the limit prescribed by law, against all taxable property in the City and from a pledge of Surplus Revenues, derived by the City from the operation of the City's Municipal Drainage System, limited to an amount not to exceed \$1,000, all as described and provided in the Ordinance.

The City has reserved the option to redeem the Certificates maturing on or after September 1, 2017, in whole or in part before their respective scheduled maturity dates, on September 1, 2016, or on any date thereafter, at a price equal to the principal amount of the Certificates so called for redemption plus accrued interest to the date fixed for redemption. If less than all of the Certificates are to be redeemed, the City shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot the Certificates, or portions thereof, within such maturity and in such principal amounts, for redemption.

The Paying Agent/Registrar shall give notice of any redemption of Certificates by sending notice, not less than 30 days before the date fixed for redemption, to the registered owner of each Certificate or portion thereof to be redeemed either by (i) electronic means to the electronic address, if any, on file with the Paying Agent/Registrar, or (ii) first-class United States mail, postage prepaid, at the physical address shown on the Register.

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Notice having been so given, the Certificates or portions thereof designated for redemption shall become due and payable on the redemption date specified in such notice, and from and after such date, notwithstanding that any of the Certificates or portions thereof so called for redemption shall not have been surrendered for payment, interest on such Certificates or portions thereof shall cease to accrue.

As provided in the Ordinance, and subject to certain limitations therein set forth, this Certificate is transferable upon surrender of this Certificate for transfer at the Designated Payment/Transfer Office with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar; then, one or more new fully registered Certificates of the same stated maturity, of authorized denominations, bearing the same rate of interest, and for the same aggregate principal amount will be issued to the designated transferee or transferees.

Neither the City nor the Paying Agent/Registrar shall be required to issue, transfer or exchange any Certificate called for redemption where such redemption is scheduled to occur within 45 calendar days of the date fixed for redemption; provided, however, such limitation shall not be applicable to an exchange by the registered owner of the uncalled principal balance of a Certificate.

The City, the Paying Agent/Registrar, and any other person may treat the person in whose name this Certificate is registered as the owner hereof for the purpose of receiving payment as herein provided (except interest shall be paid to the person in whose name this Certificate is registered on the Record Date or Special Record Date, as applicable) and for all other purposes, whether or not this Certificate be overdue, and neither the City nor the Paying Agent/Registrar shall be affected by notice to the contrary.

**IT IS HEREBY CERTIFIED AND RECITED** that the issuance of this Certificate and the series of which it is a part is duly authorized by law; that all acts, conditions and things required to be done precedent to and in the issuance of the Certificates have been properly done and performed and have happened in regular and due time, form and manner, as required by law; and that ad valorem taxes upon all taxable property in the City have been levied for and pledged to the payment of the debt service requirements of the Certificates, within the limit prescribed by law; that in addition to said taxes, further provisions have been made for the payment of the debt service requirements of the Certificates by pledging to such purpose Surplus Revenues, as defined in the Ordinance, in an amount not to exceed \$1,000, of the City's Municipal Drainage System; that when so collected, such taxes and Surplus Revenues shall be appropriated to such purposes; and that the total indebtedness of the City, including the Certificates, does not exceed any constitutional or statutory limitation.

**IN WITNESS WHEREOF**, the City has caused this Certificate to be executed by the manual or facsimile signature of the Mayor of the City and countersigned by the manual or facsimile signature of the City Secretary of the City, and the official seal of the City has been duly impressed or placed in facsimile on this Certificate.

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

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

[SEAL]

Remainder of page not used.

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M:Treasury

(b) Form of Comptroller's Registration Certificate.

The following Comptroller's Registration Certificate may be deleted from the definitive Certificates if such certificate on the Initial Certificate is fully executed.

OFFICE OF THE COMPTROLLER	§	
OF PUBLIC ACCOUNTS	§	REGISTER NO. _____
OF THE STATE OF TEXAS	§	

I hereby certify that there is on file and of record in my office a certificate of the Attorney General of the State of Texas to the effect that this Certificate has been examined by him as required by law, that he finds that it has been issued in conformity with the Constitution and laws of the State of Texas, and that it is a valid and binding obligation of the City of Plano, Texas, and that this Certificate has this day been registered by me.

Witness my hand and seal of office at Austin, Texas, \_\_\_\_\_.

\_\_\_\_\_  
 Comptroller of Public Accounts  
 of the State of Texas

[SEAL]

Remainder of page not used.

(c) Form of Certificate of Paying Agent/Registrar.

The following Certificate of Paying Agent/Registrar may be deleted from the Initial Certificate if the executed Comptroller's Registration Certificate appears thereon.

CERTIFICATE OF PAYING AGENT/REGISTRAR

The records of the Paying Agent/Registrar show that the Initial Certificate of this series of certificates was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas, and that this is one of the Certificates referred to in the within-mentioned Ordinance.

THE BANK OF NEW YORK TRUST COMPANY, N.A., as Paying Agent/Registrar

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Authorized Signatory

(d) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto (print or typewrite name, address and Zip Code of transferee):

\_\_\_\_\_  
\_\_\_\_\_

(Social Security or other identifying number: \_\_\_\_\_) the within Certificate and all rights hereunder and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Certificate on the books kept for registration hereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature Guaranteed By:  
\_\_\_\_\_

\_\_\_\_\_  
Authorized Signatory

NOTICE: The signature on this Assignment must correspond with the name of the registered owner as it appears on the face of the within Certificate in every particular and must be guaranteed in a manner acceptable to the Paying Agent/Registrar.

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(e) The Initial Certificate shall be in the form set forth in paragraphs (a) through (d) of this Section, except for the following alterations:

(i) immediately under the name of the Certificate, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As shown below" and the words "CUSIP NUMBER:" shall be deleted;

(ii) in the first paragraph of the Certificate, the words "on the Maturity Date specified above" shall be deleted and the following will be inserted: "on September 1 in each of the years, in the principal installments and bearing interest at the per annum rates in accordance with the following schedule:

<u>Years</u>	<u>Principal Installments</u>	<u>Interest Rate</u>
--------------	-------------------------------	----------------------

(Information to be inserted from schedule  
in Section 3.02 of this Ordinance)

(iii) the Initial Certificate shall be numbered T-1.

**Section 6.03. CUSIP Registration.**

The City may secure identification numbers through the CUSIP Service Bureau Division of Standard & Poor's Corporation, New York, New York, and may authorize the printing of such numbers on the face of the Certificates. It is expressly provided, however, that the presence or absence of CUSIP Numbers on the Certificates shall be of no significance or effect as regards the legality thereof and neither the City nor the attorneys approving said Certificates as to legality are to be held responsible for CUSIP Numbers incorrectly printed on the Certificates.

**Section 6.04. Legal Opinion.**

The approving legal opinions of Vinson & Elkins L.L.P., Dallas, Texas, Bond Counsel, may be attached to each Certificate over the certification of the City Secretary of the City, which may be executed in facsimile.

**Section 6.05. Municipal Bond Insurance.**

If municipal bond guaranty insurance is obtained with respect to the Certificates, the Certificates, including the Initial Certificate, may bear an appropriate legend, as provided by the insurer.

**ARTICLE VII**

**SALE AND DELIVERY OF CERTIFICATES, CREATION OF FUNDS,  
DEPOSIT OF PROCEEDS**

Section 7.01. Sale of Certificates, Official Statement.

(a) The Certificates, having been duly advertised for public sale and a bid or bids received pursuant thereto, are hereby officially sold and awarded to \_\_\_\_\_ (the "Purchaser"), having submitted the bid which produced the lowest true interest cost to the City for a purchase price equal to the principal amount thereof, plus a premium of \$ \_\_\_\_\_, plus accrued interest thereon to the date of initial delivery. The Certificates shall initially be registered in the name of the Purchaser or its designee.

(b) The form and substance of the Preliminary Official Statement for the Certificates, and any addenda, supplement or amendment thereto, and the final Official Statement (the "Official Statement") presented to and considered at this meeting, are hereby in all respects approved and adopted and the Preliminary Official Statement is hereby deemed final as of its date within the meaning and for the purposes of paragraph (b)(1) of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended. The Mayor and City Secretary of the City are each hereby authorized and directed to execute the same and deliver appropriate numbers of executed copies thereof to the Purchaser. The Official Statement as thus approved, executed and delivered, with such appropriate variations as shall be approved by the Mayor of the City and the Purchaser, may be used by the Purchaser in the public offering and sale thereof. The City Secretary of the City is hereby authorized and directed to include and maintain a copy of the Official Statement and any addenda, supplement or amendment thereto thus approved among the permanent records of this meeting. The use and distribution of the Preliminary Official Statement, and the preliminary public offering of the Certificates by the Purchaser is hereby ratified, approved and confirmed.

(c) All officers of the City are authorized to execute such documents, certificates and receipts, and to make such elections with respect to the tax-exempt status of Certificates, as they may deem appropriate in order to consummate the delivery of the Certificates in accordance with the provisions and terms of sale therefor. Further, in connection with the submission of the record of proceedings for the Certificates to the Attorney General of the State of Texas for examination and approval of such Certificates, the appropriate officer of the City is hereby authorized and directed to issue a check of the City payable to the Attorney General of the State of Texas as a nonrefundable examination fee in the amount required by Chapter 1202, Texas Government Code (such amount to be the lesser of (i) 1/10th of 1% of the principal amount of the Certificates or (ii) \$9,500).

Section 7.02. Control and Delivery of Certificates.

(a) The Mayor of the City is hereby authorized to have control of the Initial Certificate and all necessary records and proceedings pertaining thereto pending investigation, examination and approval of the Attorney General of the State of Texas, registration by the Comptroller of Public Accounts of the State and registration with, and initial exchange or transfer by, the Paying Agent/Registrar.

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(b) After registration by the Comptroller of Public Accounts, delivery of the Certificates shall be made to the Purchaser under and subject to the general supervision and direction of the Mayor, against receipt by the City of all amounts due to the City under the terms of sale.

**Section 7.03. Creation of Funds.**

The City hereby establishes the following funds:

(a) the City of Plano, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2006, Interest and Sinking Fund (the "Interest and Sinking Fund");

(b) the City of Plano, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2006, Project Fund (the "Project Fund"); and

(c) the City of Plano, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2006, Surplus Revenues Fund (the "Surplus Revenues Fund").

**Section 7.04. Deposit of Proceeds.**

(a) All amounts received on the Closing Date as accrued interest on the Certificates from the Certificate Date to the Closing Date shall be deposited to the Interest and Sinking Fund.

(b) The remainder of the proceeds of the Certificates shall be deposited to a Project Fund and shall be used to pay the costs of the Project and the costs of issuing the Certificates.

**Section 7.05. Interest and Sinking Fund.**

(a) The taxes levied under Section 2.01 of this Ordinance shall be deposited to the credit of the Interest and Sinking Fund at such times and in such amounts as necessary for the timely payment of the principal of and interest on the Certificates.

(b) If the amount of money in the Interest and Sinking Fund is at least equal to the aggregate principal amount of the outstanding Certificates plus the aggregate amount of interest due and that will become due and payable on such Certificates, no further deposits to that fund need be made.

(c) Money on deposit in the Interest and Sinking Fund shall be used to pay the principal of and interest on the Certificates as such become due and payable.

**Section 7.06. Surplus Revenues Fund.**

All Surplus Revenues shall be paid over and deposited into the Surplus Revenues Fund. On or before each Interest Payment Date, the Surplus Revenues, if any, shall be appropriated and employed in the following order:

(a) First: For deposit to the Interest and Sinking Fund to provide for the payment of the debt service requirements of the Certificates in accordance with the terms and conditions of this Ordinance; and

(b) Second: After all the requirements of subparagraph (a) above have been provided for, whether by the collection of the ad valorem tax levied in this Ordinance or by the use of pledged Surplus Revenues, the Surplus Revenues may be used for any lawful purpose.

**Section 7.07. Project Fund.**

The Project Fund shall be used for the purpose of making the permanent public improvements for which the Certificates were issued (as specified in the preamble of this Ordinance) and for paying expenses incurred in connection with the issuance and delivery of the Certificates.

**Section 7.08. Excess Certificate Proceeds.**

Upon completion of the permanent public improvements financed with the Certificates any amount (exclusive of that amount retained for the payment of costs of such improvements not then due and payable) that remains in the Project Fund shall be transferred to the credit of the Interest and Sinking Fund and segregated in a special escrow account to be used to pay principal of and interest on the Certificates on the next ensuing Interest Payment Date.

**ARTICLE VIII**

**INVESTMENTS**

**Section 8.01. Investments.**

(a) Money in the Interest and Sinking Fund and the Project Fund created by this Ordinance, at the option of the City, may be invested in such securities or obligations as permitted under applicable law. The City's Director of Finance, and any other officer of the City authorized to make investments on behalf of the City, are hereby authorized and directed to execute and deliver, on behalf of the City, any and all investment agreements, guaranteed investment contracts or repurchase agreements in connection with the investment of moneys on deposit in the Interest and Sinking Fund and the Project Fund, but only to the extent such investment agreements, guaranteed investment contracts or repurchase agreements are authorized investments under applicable law.

(b) Any securities or obligations in which money in either the Interest and Sinking Fund or the Project Fund is so invested shall be kept and held in trust for the benefit of the Owners and shall be sold and the proceeds of sale shall be timely applied to the making of all payments required to be made from the fund from which the investment was made.

**Section 8.02. Investment Income.**

(a) Interest and income derived from investment of the Interest and Sinking Fund shall be credited to such fund.

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(b) Interest and income derived from the investment of funds deposited pursuant to Section 7.04(b) hereof shall be credited to the Project Fund until completion of the Project; thereafter, to the extent such interest and income are present, such interest and income shall be deposited to the Interest and Sinking Fund.

## ARTICLE IX

### PARTICULAR REPRESENTATIONS AND COVENANTS

#### **Section 9.01. Payment of the Certificates.**

On or before each Interest Payment Date for the Certificates and while any of the Certificates are outstanding and unpaid, there shall be made available to the Paying Agent/Registrar, out of the Interest and Sinking Fund, money sufficient to pay such interest on and principal of the Certificates as will accrue or mature on the applicable Interest Payment Date, maturity date or date of prior redemption.

#### **Section 9.02. Other Representations and Covenants.**

(a) The City will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in this Ordinance and in each Certificate; the City will promptly pay or cause to be paid the principal of and interest on each Certificate on the dates and at the places and manner prescribed in such Certificate; and the City will, at the times and in the manner prescribed by this Ordinance, deposit or cause to be deposited the amounts of money specified by this Ordinance.

(b) The City is duly authorized under the laws of the State of Texas to issue the Certificates; all action on its part for the creation and issuance of the Certificates has been duly and effectively taken; and the Certificates in the hands of the Owners thereof are and will be valid and enforceable obligations of the City in accordance with their terms.

#### **Section 9.03. Provisions Concerning Federal Income Tax Exclusion.**

The City intends that the interest on the Certificates shall be excludable from gross income for purposes of federal income taxation pursuant to sections 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), and the applicable Income Tax Regulations (the "Regulations"). The City covenants and agrees not to take any action, or knowingly omit to take any action within its control, that if taken or omitted, respectively, would cause the interest on the Certificates to be includable in the gross income, as defined in section 61 of the Code, for purposes of federal income tax purposes.

In particular, the City covenants and agrees to comply with each requirement of Sections 9.03 through 9.10, inclusive; provided, however, that the City shall not be required to comply with any particular requirement of Sections 9.03 through 9.10, inclusive, if the City has received an opinion of nationally recognized bond counsel (“Counsel’s Opinion”) that such noncompliance will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Certificates or if the City has received a Counsel’s Opinion to the effect that compliance with some other requirement set forth in Sections 9.03 through 9.10, inclusive, will satisfy the applicable requirements of the Code and the Regulations, in which case compliance with such other requirement specified in such Counsel’s Opinion shall constitute compliance with the corresponding requirement specified in Sections 9.03 through 9.10, inclusive.

**Section 9.04. No Private Use or Payment and No Private Loan Financing.**

The City shall certify, through an authorized officer, employee or agent, that, based upon all facts and estimates known or reasonably expected to be in existence on the date the Certificates are delivered, that the proceeds of the Certificates will not be used in a manner that would cause the Certificates to be “private activity bonds” within the meaning of section 141 of the Code and the Regulations promulgated thereunder. Moreover the City covenants and agrees that it will make such use of the proceeds of the Certificates, including interest or other investment income derived from Certificate proceeds, regulate the use of property financed, directly or indirectly, with such proceeds, and take such other and further action as may be required so that the Certificates will not be “private activity bonds” within the meaning of section 141 of the Code and the Regulations and the Regulations promulgated thereunder.

**Section 9.05. No Federal Guarantee.**

The City covenants and agrees not to take any action, or knowingly omit to take any action within its control, that, if taken or omitted, respectively, would cause the Certificates to be “federally guaranteed” within the meaning of section 149(b) of the Code and the applicable Regulations thereunder, except as permitted by section 149(b)(3) of the Code and such Regulations.

**Section 9.06. No Hedge Certificates.**

The City covenants and agrees not to take any action, or knowingly omit to take any action, and has not knowingly omitted and will not knowingly omit to take any action, within its control, that, if taken or omitted, respectively, would cause the Certificates to be “hedge bonds” within the meaning of section 149(g) of the Code and the applicable Regulations thereunder.

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**Section 9.07. No Arbitrage Covenant.**

The City shall certify, through an authorized officer, employee or agent, that, based upon all facts and estimates known or reasonably expected to be in existence on the date the Certificates are delivered, the City will reasonably expect that the proceeds of the Certificates will not be used in a manner that would cause the Certificates to be “arbitrage bonds” within the meaning of section 148(a) of the Code and the applicable Regulations promulgated thereunder. Moreover, the City covenants and agrees that it will make such use of the proceeds of the Certificates including interest or other investment income derived from Certificate proceeds, regulate investments of proceeds of the Certificates, and take such other and further action as may be required so that the Certificates will not be “arbitrage bonds” within the meaning of section 148(a) of the Code and the applicable Regulations promulgated thereunder.

**Section 9.08. Arbitrage Rebate.**

If the City does not qualify for an exception to the requirements of Section 148(f) of the Code, the City will take all necessary steps to comply with the requirement that certain amounts earned by the City on the investment of the “gross proceeds” of the Certificates (within the meaning of section 148(f)(6)(B) of the Code), be rebated to the federal government. Specifically, the City will (i) maintain records regarding the investment of the gross proceeds of the Certificates as may be required to calculate the amount earned on the investment of the gross proceeds of the Certificates separately from records of amounts on deposit in the funds and accounts of the City allocable to other bond issues of the City or moneys which do not represent gross proceeds of any bonds of the City, (ii) calculate at such times as are required by the Regulations, the amount earned from the investment of the gross proceeds of the Certificates which is required to be rebated to the federal government, and (iii) pay, not less often than every fifth anniversary date of the delivery of the Certificates or on such other dates as may be permitted under the Regulations, all amounts required to be rebated to the federal government. Further, the City will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the gross proceeds of the Certificates that might result in a reduction in the amount required to be paid to the federal government because such arrangement results in a smaller profit or a larger loss than would have resulted if the arrangement had been at arm’s length and had the yield on the issue not been relevant to either party.

**Section 9.09. Information Reporting.**

The City covenants and agrees to file or cause to be filed with the Secretary of the Treasury, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the Certificates are issued, an information statement concerning the Certificates, all under and in accordance with section 149(e) of the Code and the applicable Regulations promulgated thereunder.

**Section 9.10. Continuing Obligation.**

Notwithstanding any other provision of this Ordinance, the City’s obligations under the covenants and provisions of Sections 9.03 through 9.09, inclusive, shall survive the defeasance and discharge of the Certificates.

**ARTICLE X**

**DEFAULT AND REMEDIES**

**Section 10.01. Events of Default.**

Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

- (i) the failure to make payment of the principal of or interest on any of the Certificates when the same becomes due and payable; or
- (ii) default in the performance or observance of any other covenant, agreement or obligation of the City, which default materially and adversely affects the rights of the Owners, including but not limited to, their prospect or ability to be repaid in accordance with this Ordinance, and the continuation thereof for a period of 60 days after notice of such default is given by any Owner to the City.

**Section 10.02. Remedies for Default.**

(a) Upon the happening of any Event of Default, then any Owner or an authorized representative thereof, including but not limited to, a trustee or trustees therefor, may proceed against the City for the purpose of protecting and enforcing the rights of the Owners under this Ordinance, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Owners hereunder or any combination of such remedies.

(b) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Owners of Certificates then outstanding.

**Section 10.03. Remedies Not Exclusive.**

(a) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Certificates or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Certificates shall not be available as a remedy under this Ordinance.

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(b) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

## ARTICLE XI

### DISCHARGE

#### **Section 11.01. Discharge.**

The Certificates may be defeased, discharged or refunded in any manner permitted by applicable law.

## ARTICLE XII

### CONTINUING DISCLOSURE UNDERTAKING

#### **Section 12.01. Annual Reports.**

(a) The City shall provide annually to each NRMSIR and to any SID, within six (6) months after the end of each fiscal year, financial information and operating data with respect to the City of the general type included in the final Official Statement, being the information described in Exhibit A hereto. Any financial statements so to be provided shall be (i) prepared in accordance with the accounting principles described in Exhibit A hereto, and (ii) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within such period, then the City shall provide notice that audited financial statements are not available and shall provide unaudited financial statements for the applicable fiscal year to each NRMSIR and any SID. Thereafter, when and if audited financial statements become available, the City shall provide such audited financial statements as required to each NRMSIR and to any SID.

(b) If the City changes its fiscal year, it will notify each NRMSIR and any SID of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

(c) The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document (including an official statement or other offering document, if it is available from the MSRB) that theretofore has been provided to each NRMSIR and any SID or filed with the SEC.

(d) Any filing required to be made pursuant to this Article may be made through the facilities of DisclosureUSA or such other central post office as may be approved in writing by the SEC for such purpose. Any such filing made through such central post office will be deemed to have been filed with each NRMSIR and SID or MSRB as if such filing had been made directly to such entity.

**Section 12.02. Material Event Notices.**

(a) The City shall notify any SID and either each NRMSIR or the MSRB, in a timely manner, of any of the following events with respect to the Certificates, if such event is material within the meaning of the federal securities laws:

- (i) principal and interest payment delinquencies;
- (ii) nonpayment related defaults;
- (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) substitution of credit or liquidity providers, or their failure to perform;
- (vi) adverse tax opinions or events affecting the tax exempt status of the Certificates;
- (vii) modifications to rights of Owners;
- (viii) bond calls;
- (ix) defeasance;
- (x) release, substitution, or sale of property securing repayment of the Certificates; and
- (xi) rating changes.

(b) The City shall notify any SID and either each NRMSIR or the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with Section 12.02 of this Ordinance by the time required by such Section.

**Section 12.03. Limitations, Disclaimers and Amendments.**

(a) The City shall be obligated to observe and perform the covenants specified in this Article for so long as, but only for so long as, the City remains an “obligated person” with respect to the Certificates within the meaning of the Rule, except that the City in any event will give notice of any deposit made in accordance with Article XI that causes Certificates no longer to be Outstanding.

(b) The provisions of this Article are for the sole benefit of the Owners and beneficial owners of the Certificates, and nothing in this Article, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person.

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The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Article and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Article or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Certificates at any future date.

**UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY CERTIFICATE OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS ARTICLE, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.**

(c) No default by the City in observing or performing its obligations under this Article shall comprise a breach of or default under the Ordinance for purposes of any other provisions of this Ordinance.

(d) Nothing in this Article is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

(e) The provisions of this Article may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (i) the provisions of this Article, as so amended, would have permitted an underwriter to purchase or sell Certificates in the primary offering of the Certificates in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (ii) either (a) the Owners of a majority in aggregate principal amount (or any greater amount required by any other provisions of this Ordinance that authorizes such an amendment) of the Outstanding Certificates consent to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Owners and beneficial owners of the Certificates. If the City so amends the provisions of this Article, it shall include with any amended financial information or operating data next provided in accordance with Section 12.02 an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

### ARTICLE XIII

#### AMENDMENTS; ATTORNEY GENERAL MODIFICATION

**Section 13.01. Amendments.**

This Ordinance shall constitute a contract with the Owners, be binding on the City, and shall not be amended or repealed by the City so long as any Certificate remains outstanding except as permitted in this Section and Section 12.03(e). The City may, without consent of or notice to any Owners, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Owners, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the City may, with the written consent of the Owners of the Certificates holding a majority in aggregate principal amount of the Certificates then outstanding, amend, add to, or rescind any of the provisions of this Ordinance; provided that, without the consent of all Owners of outstanding Certificates, no such amendment, addition, or rescission shall (i) extend the time or times of payment of the principal of and interest on the Certificates, reduce the principal amount thereof, the redemption price, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of or interest on the Certificates, (ii) give any preference to any Certificate over any other Certificate, or (iii) reduce the aggregate principal amount of Certificates required to be held by Owners for consent to any such amendment, addition, or rescission.

**Section. 13.02. Attorney General Modification.**

In order to obtain the approval of the Certificates by the Attorney General of the State of Texas, any provision of this Ordinance may be modified, altered or amended after the date of its adoption if required by the Attorney General in connection with the Attorney General's examination as to the legality of the Certificates and approval thereof in accordance with the applicable law. Such changes, if any, shall be provided to the City Secretary of the City and the City Secretary of the City shall insert such changes into this Ordinance as if approved on the date hereof.

**FINALLY PASSED, APPROVED AND EFFECTIVE** this February 13, 2006.

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

ATTEST:

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

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

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**EXHIBIT A**

**DESCRIPTION OF ANNUAL DISCLOSURE OF FINANCIAL INFORMATION**

The following information is referred to in Article XII of this Ordinance.

**Annual Financial Statements and Operating Data**

The financial information and operating data with respect to the City to be provided annually in accordance with such Article are as specified (and included in the Appendix or other headings of the Official Statement referred to) below:

1. The portions of the financial statements of the City appended to the Official Statement as Appendix B, but for the most recently concluded fiscal year.
2. Statistical and financial data set forth in Tables numbered 1 through 6 and 8 through 13, each inclusive.

**Accounting Principles**

The accounting principles referred to in such Article are the accounting principles described in the notes to the financial statements referred to in Paragraph 1 above.



**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>2/13/06</b>	Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	FINANCE		Initials	Date
Department Head	JOHN MCGRANE	Asst City Manager		
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	<i>2/13/06</i>
Agenda Coordinator (include phone #):	<b>DONNA WHITE - X7135</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 PUBLIC HEARING				
<b>CAPTION</b>				
AN ORDINANCE OF THE CITY OF PLANO, TEXAS, PROVIDING FOR THE ISSUANCE AND SALE OF CITY OF PLANO, TEXAS, MUNICIPAL DRAINAGE UTILITY SYSTEM REVENUE BONDS, SERIES 2006; AWARDING THE SALE THEREOF; APPROVING THE OFFICIAL STATEMENT; AND ENACTING OTHER PROVISIONS RELATING THERETO.				
<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>2006-2007</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>
Budget		0	1,395,000	0
Encumbered/Expended Amount		0	0	0
This Item		0	0	0
BALANCE		0	0	0
FUND(S):				
COMMENTS:				
<b>SUMMARY OF ITEM</b>				
The sale of \$1,395,000 of Drainage Revenue Bonds for the purpose of funding drainage capital projects.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		

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Ordinance No. \_\_\_\_\_

BOND ORDINANCE

CITY OF PLANO, TEXAS  
MUNICIPAL DRAINAGE UTILITY SYSTEM  
REVENUE BONDS  
SERIES 2006

Adopted: February 13, 2006

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**AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF CITY OF PLANO, TEXAS, MUNICIPAL DRAINAGE UTILITY SYSTEM REVENUE BONDS, SERIES 2006 IN THE AGGREGATE PRINCIPAL AMOUNT OF \$1,395,000; AWARDED THE SALE THEREOF; APPROVING THE OFFICIAL STATEMENT; AND ENACTING OTHER PROVISIONS RELATING THERETO.**

**WHEREAS**, pursuant to authority conferred by Subchapter C of Chapter 402 of the Texas Local Government Code, the City Council (the "City Council") of the City of Plano, Texas (the "City"), established the City of Plano, Texas, Municipal Drainage Utility System (the "System");

**WHEREAS**, the City has previously issued its municipal drainage utility system revenue bonds (the "Previously Issued Bonds"), payable from the Revenues (as hereinafter defined) of the System;

**WHEREAS**, the City has reserved the right and option to issue, under certain conditions, Additional Bonds (as hereinafter defined), payable from the Revenues, on a parity as to lien and right with such Previously Issued Bonds;

**WHEREAS**, the City Council has found and determined that it is necessary and in the best interest of the City and its citizens that it authorize by this Ordinance the issuance and delivery of System revenue bonds to finance the costs of drainage improvements, including the acquisition, construction and repair of structures, equipment and facilities for the System;

**WHEREAS**, the meeting at which this Ordinance is considered is open to the public as required by law, and the public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code, as amended;

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

**ARTICLE I**

**DEFINITIONS, FINDINGS AND INTERPRETATION**

**Section 1.01. Definitions.**

Unless otherwise expressly provided or unless the context clearly requires otherwise, in this Ordinance, the following terms shall have the meanings specified below:

"Act" means Subchapter C of Chapter 402 of the Texas Local Government Code, as amended.

"Additional Bonds" means revenue bonds or other evidences of indebtedness issued or entered into, as the case may be, in the future in accordance with the terms and conditions provided in Section 9.02 hereof and, by their terms, are equally and ratably secured by a parity lien on and pledge of the Revenues of the System.

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“Average Annual Debt Service” means an amount which, at the time of computation, is derived by dividing the total amount of Debt Service to be paid over a period of years as the same is scheduled to become due and payable by the number of years taken into account in determining the total Debt Service. Capitalized interest payments provided from bond proceeds shall be excluded in making the aforementioned computation.

“Bonds” means the “City of Plano, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2006,” dated February 1, 2006, authorized by this Ordinance.

“City” means the incorporated municipality known as the City of Plano located in Collin and Denton Counties, Texas.

“Closing Date” means the date of the initial delivery of and payment for the Bonds.

“Code” means the Internal Revenue Code of 1986, as amended, including applicable regulations, published rulings and court decisions.

“Credit Facility” means (i) a policy of insurance or a surety bond, issued by an issuer of policies of insurance insuring the timely payment of debt service on governmental obligations, provided that a Rating Agency having an outstanding rating on such obligations would rate such obligations which are fully insured by a standard policy issued by the issuer in its two highest generic rating categories for such obligations; and (ii) a letter or line of credit issued by any financial institution, provided that a Rating Agency having an outstanding rating on the Bonds would rate the Bonds in its two highest generic rating categories for such obligations if the letter or line of credit proposed to be issued by such financial institution secured the timely payment of the entire principal amount of the Bonds and the interest thereon.

“Debt Service” means as of any particular date of computation, with respect to any obligations and with respect to any period, the aggregate of the amounts to be paid or set aside by the City as of such date or in such period for the payment of the principal of and interest (to the extent not capitalized) on such obligations; assuming, in the case of obligations required to be redeemed or prepaid as to principal prior to maturity, the principal amounts thereof will be redeemed prior to maturity in accordance with such applicable mandatory redemption.

“Designated Payment/Transfer Office” means (i) with respect to the initial Paying Agent/Registrar named herein, its office in East Syracuse, New York, or at such other location designated by the Paying Agent/Registrar and (ii) with respect to any successor Paying Agent/Registrar, the office of such successor designated and located as may be agreed upon by the City and such successor.

“DTC” shall mean The Depository Trust Company of New York, New York, or any successor securities depository.

“DTC Participant” shall mean brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

“Fiscal Year” means the twelve-month financial accounting period used by the City in connection with the operation of the System which may be any twelve consecutive month period established by the City.

“Government Obligations” means direct obligations of the United States of America, including obligations the principal of and interest on which are fully and unconditionally guaranteed by the United States of America, and United States Treasury obligations such as its State and Local Government Series in book-entry form.

“Initial Bond” means the initial bond authorized by Section 3.04(d) of this Ordinance.

“Interest Payment Date” means the date or dates upon which interest on the Bonds is scheduled to be paid until their respective dates of maturity or prior redemption, such dates being May 15 and November 15 of each year, commencing November 15, 2006.

“Letter of Representations” means the Blanket Letter of Representation between the City and DTC.

“Maturity Date” means the date specified in Section 3.02 hereof on which the principal of the Bonds is due and payable.

“Net Revenues” means, with respect to any period, Revenues of the System remaining after deducting the System’s Operating and Maintenance Expenses for such period.

“Operating and Maintenance Expenses” means all current expenses of operating and maintaining the System, including all salaries, labor, materials, and administrative costs, allocable under generally accepted accounting principles, to the System. Depreciation charges and other costs and disbursements which may be capitalized under generally accepted accounting principles shall not be considered Operating and Maintenance Expenses.

“Outstanding” means when used in this Ordinance with respect to Bonds, Previously Issued Bonds or any Additional Bonds, as the case may be, as of the date of determination, all Bonds, Previously Issued Bonds and any Additional Bonds theretofore sold, issued and delivered by the City, except:

- (1) Bonds, Previously Issued Bonds or any Additional Bonds cancelled or delivered to the transfer agent or registrar for cancellation in connection with the exchange or transfer of such obligations;
- (2) Bonds, Previously Issued Bonds or any Additional Bonds paid or deemed to be paid in accordance with the provisions of Section 9.08 hereof; and
- (3) Bonds, Previously Issued Bonds or any Additional Bonds that have been mutilated, destroyed, lost, or stolen and replacement bonds have been registered and delivered in lieu thereof.

“Owner” means the person who is the registered owner of a Bond or Bonds.

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“Paying Agent/Registrar” means initially The Bank of New York Trust Company, N.A., Jacksonville, Florida, or any successor thereto as provided in this Ordinance.

“Previously Issued Bonds” means the bonds of the following issues of the City to be outstanding upon the issuance of the Bonds herein authorized:

- (1) Municipal Drainage Utility System Revenue Bonds, Series 1996, dated February 1, 1996;
- (2) Municipal Drainage Utility System Revenue Bonds, Series 1997, dated January 15, 1997;
- (3) Municipal Drainage Utility System Revenue Improvement and Refunding Bonds, Series 1998, dated March 15, 1998;
- (4) Municipal Drainage Utility System Revenue Bonds, Series 1999, dated January 15, 1999;
- (5) Municipal Drainage Utility System Revenue Bonds, Series 2001, dated September 15, 2001;
- (6) Municipal Drainage Utility System Revenue Bonds, Series 2003, dated May 1, 2003; and
- (7) Municipal Drainage Utility System Revenue Refunding and Improvement Bonds, Series 2005, dated May 15, 2005.

“Purchaser” means the initial purchaser of the Bonds designated in Section 8.01(a).

“Rating Agency” means any nationally recognized securities rating agency which has assigned a rating to the Bonds.

“Record Date” means the last business day of the month next preceding an Interest Payment Date.

“Register” means the register specified in Section 3.06(a) of this Ordinance.

“Required Reserve” means the total amount required to be maintained in the Reserve Fund under the provisions of Section 7.04 hereof.

“Reserve Fund Obligations” means cash or investment securities of any of the type or types permitted under Section 7.06 of this Ordinance.

“Revenues” means all annual income, receipts and revenues of every nature derived or received from the operation and ownership (excluding restricted gifts, grants in aid of construction and any amounts received from drainage charges specifically provided by ordinance for contribution to the funding of future drainage system construction) of the System, including earnings and income derived from the investment or deposit of moneys in any special funds or accounts created and established for the payment and security of the Bonds and the Previously Issued Bonds and other obligations payable solely from and secured only by a lien on and pledge of the Revenues of the System.

“System” means all land, easements and interest in land, together with all structures, equipment and facilities used in draining benefited property (within the meaning of the Act), including, but not limited to, bridges, catch basins, channels, conduits, creeks, culverts, detention ponds, ditches, draws, flumes, pipes, pumps, sloughs, treatment works, and appurtenances to those items, whether natural or artificial, or using force or gravity, that are used to draw off surface water from land, carry the water away, collect, store, or treat the water, or divert the water into natural or artificial watercourses.

**Section 1.02. Findings.**

(a) The declarations, determinations and findings declared, made and found in the preambles to this Ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

**Section 1.03. Table of Contents, Titles and Headings.**

The table of contents, titles and headings of the Articles and Sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Ordinance or any provision hereof or in ascertaining intent, if any question of intent should arise.

**Section 1.04. Interpretation.**

(a) Unless the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa.

(b) This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein to sustain the validity of this Ordinance.

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**ARTICLE II**

**SECURITY FOR THE BONDS**

**Section 2.01. Pledge of Security.**

The City hereby covenants and agrees that all of the Revenues of the System are hereby irrevocably pledged to the payment of the Bonds, the Previously Issued Bonds and Additional Bonds, if issued, and the interest thereon, including the establishment and maintenance of the special funds created and established by this Ordinance, all as hereinafter provided. It is hereby ordained that the Previously Issued Bonds, the Bonds and the interest thereon shall constitute a first lien on such Revenues of the System and be valid and binding in accordance with the terms hereof without any filing or recording thereof (except in the official records of the City), physical delivery of such Revenues or further act by the City, and the lien created on the Revenues for the payment and security of the Bonds shall be prior in right and claim as to any other indebtedness, liability or obligation of the City or the System.

**Section 2.02. Rates and Charges.**

For the benefit of the Holders of the Previously Issued Bonds and Bonds and in accordance with the provisions of the Act and other applicable laws of the State of Texas, the City hereby expressly stipulates and agrees, while any of the Previously Issued Bonds and the Bonds are Outstanding, to establish, maintain and impose drainage charges for services afforded by the System that are reasonably expected, on the basis of available information and experience and with due allowance for contingencies, to produce Revenues in each Fiscal year sufficient to pay:

- (1) Operating and Maintenance Expenses of the System;
- (2) Debt Service on the Previously Issued Bonds, the Bonds and any Additional Bonds then Outstanding;
- (3) any required deposits to the Reserve Fund and any contingency fund created for the payment and security of the Previously Issued Bonds, the Bonds and any Additional Bonds; and
- (4) all other indebtedness payable from and/or secured in whole or in part by a lien on and pledge of the Revenues of the System.

**Section 2.03. Bonds as Special Obligations.**

The Bonds and the Previously Issued Bonds are special obligations of the City payable from the pledged Revenues and the Holders thereof shall never have the right to demand payment thereof out of funds raised or to be raised by taxation.

**ARTICLE III**

**AUTHORIZATION; GENERAL TERMS AND PROVISIONS REGARDING THE BONDS**

**Section 3.01. Authorization.**

The City’s bonds to be designated the “City of Plano, Texas, Municipal Drainage Utility System Revenue Bonds, Series 2006” are hereby authorized to be issued and delivered in accordance with the Constitution and laws of the State of Texas, including the Act and Section 9.22 of the Charter of the City. The Bonds shall be issued in the aggregate principal amount of \$1,395,000 for the purpose of providing funds to (i) pay the costs of drainage improvements, including the acquisition, construction, repair of structures, equipment and facilities for the System, (ii) make a deposit to the Reserve Fund, and (iii) pay the costs of issuing the Bonds.

**Section 3.02. Date, Denomination, Maturities and Interest.**

(a) The Bonds shall be dated February 1, 2006, shall be in fully registered form, without coupons, in the denomination of \$5,000 or any integral multiple thereof and shall be numbered separately from one upward, except the Initial Bond, which shall be numbered T-1.

(b) The Bonds shall mature on May 15 in the years and in the principal amounts and shall bear interest at the per annum rates set forth in the following schedule:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2007	\$25,000		2017	\$ 70,000	
2008	45,000		2018	75,000	
2009	50,000		2019	75,000	
2010	50,000		2020	80,000	
2011	55,000		2021	85,000	
2012	55,000		2022	90,000	
2013	60,000		2023	90,000	
2014	60,000		2024	95,000	
2015	65,000		2025	100,000	
2016	65,000		2026	105,000	

(c) Interest shall accrue and be paid on each Bond respectively until its maturity, or earlier redemption, from the later of the Bond Date or the most recent Interest Payment Date to which interest has been paid or provided for at the rate per annum for each respective maturity specified in the schedule contained in subsection (b) above. Such interest shall be payable on each Interest Payment Date until maturity or prior redemption and shall be computed on the basis of a 360-day year of twelve 30-day months.

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**Section 3.03. Medium, Method and Place of Payment.**

(a) The principal of and interest on the Bonds shall be paid in lawful money of the United States of America.

(b) Interest on the Bonds shall be payable to the Owners as shown in the Register at the close of business on the Record Date.

(c) Interest on each Bond shall be paid to each Owner by (i) wire transfer to the bank account, if any, for such Owner on file with the Paying Agent/Registrar pursuant to such Owner's written instructions and at the risk and expense of such Owner, (ii) by check dated as of the Interest Payment Date, and sent on or before the Interest Payment Date by first-class United States mail, postage prepaid, by the Paying Agent/Registrar to each Owner at the address of each Owner as such appears in the Register or (iii) by such other customary banking arrangements acceptable to the Paying Agent/Registrar and the person to whom interest is to be paid at the risk and expense of such Owner.

(d) The principal of each Bond shall be paid to the Owner thereof on the Maturity Date upon presentation and surrender of such Bond at the designated office of the Paying Agent/Registrar.

(e) If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Designated Payment/Transfer Office is located are required or authorized by law or executive order to close, the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday, or day on which banking institutions are required or authorized to close, and payment on such date shall for all purposes be deemed to have been made on the due date thereof as specified in this Section.

(f) Unclaimed payments of amounts due hereunder that remain unclaimed by the Owners after the applicable payment or redemption date shall be segregated in a special escrow account and held in trust, uninvested by the Paying Agent/Registrar, for the account of the Owners of the Bonds to which such unclaimed payments pertain. Subject to Title 6, Texas Property Code, payments remaining unclaimed by the Owners entitled thereto for two years after the applicable payment or redemption date shall be applied to the next payment on the Bonds thereafter coming due; to the extent any such moneys remain after the retirement of all outstanding Bonds, such moneys shall be paid to the City to be used for any lawful purpose. Thereafter, neither the City, the Paying Agent/Registrar, nor any other person shall be liable or responsible to any Owners of such Bonds for any further payment of such unclaimed moneys or on account of any such Bonds, subject to Title 6, Texas Property Code.

**Section 3.04. Execution and Registration of Bonds.**

(a) The Bonds shall be executed on behalf of the City by the Mayor and City Secretary of the City, by their manual or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon.

Such facsimile signatures on the Bonds shall have the same effect as if each of the Bonds had been signed manually and in person by each of said officers, and such facsimile seal on the Bonds shall have the same effect as if the official seal of the City had been manually impressed upon each of the Bonds.

(b) In the event any officer of the City whose manual or facsimile signature appears on the Bonds ceases to be such officer before the authentication of such Bonds or before the delivery thereof, such facsimile signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in such office.

(c) Except as provided below, no Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Ordinance unless and until there appears thereon the Certificate of Paying Agent/Registrar substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Paying Agent/Registrar. It shall not be required that the same officer or authorized signatory of the Paying Agent/Registrar sign the Certificate of Paying Agent/Registrar on all of the Bonds. In lieu of the executed Certificate of Paying Agent/Registrar described above, the Initial Bond delivered at the Closing Date shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller of Public Accounts of the State of Texas, or by his duly authorized agent, which certificate shall be evidence that the Initial Bonds have been duly approved by the Attorney General of the State of Texas and that they are valid and binding obligations of the City, and have been registered by the Comptroller of Public Accounts of the State of Texas.

(d) On the Closing Date, one initial Bond (the "Initial Bond"), representing the entire principal amount of the Bonds, payable in stated installments to the Purchaser or its designee, such Initial Bond to be executed by manual or facsimile signature of the Mayor and City Secretary of the City, approved by the Attorney General, and registered and manually signed by the Comptroller of Public Accounts, will be delivered to the Purchaser or its designee. Upon payment for the Initial Bond, the Paying Agent/Registrar shall cancel the Initial Bond and deliver to DTC on behalf of the Purchaser one typewritten Bond for each year of maturity of the Bonds, in the aggregate principal amount of all Bonds for such maturity, registered in the name of Cede & Co., as nominee of DTC.

### **Section 3.05. Ownership.**

(a) The City, the Paying Agent/Registrar and any other person may treat the person in whose name any Bond is registered as the absolute owner of such Bond for the purpose of making and receiving payment of the principal, for the further purpose of making and receiving payment of the interest thereon (subject to the provisions herein that for the Bonds interest is to be paid to the person in whose name the Bond is registered on the Record Date or Special Record Date, as applicable), and for all other purposes, whether or not such Bond is overdue, and neither the City nor the Paying Agent/Registrar shall be bound by any notice or knowledge to the contrary.

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(b) All payments made to the Owner of a Bond shall be valid and effectual and shall discharge the liability of the City and the Paying Agent/Registrar upon such Bond to the extent of the sums paid.

**Section 3.06. Registration, Transfer and Exchange.**

(a) So long as any Bonds remain outstanding, the City shall cause the Paying Agent/Registrar to keep at its Designated/Payment Transfer Office a register (the "Register") in which, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of Bonds in accordance with this Ordinance.

(b) The ownership of a Bond may be transferred and exchanged only upon the presentation and surrender of the Bond to the Paying Agent/Registrar. A Bond may be assigned by the execution of an assignment form on the Bond or by other instrument of transfer and assignment acceptable to the Paying Agent/Registrar. A new Bond or Bonds will be delivered by the Paying Agent/Registrar, in lieu of the Bond being transferred or exchanged, at the Designated Payment/Transfer Office of the Paying Agent/Registrar, or sent by United States mail, first class, postage prepaid, to the new registered owner or his designee. No transfer of any Bond shall be effective until entered in the Register.

(c) The Bonds shall be exchangeable upon the presentation and surrender thereof at the Designated Payment/Transfer Office of the Paying Agent/Registrar for a Bond or Bonds of the same maturity and interest rate and in any denomination or denominations of any integral multiple of \$5,000 and in an aggregate principal amount equal to the unpaid principal amount of the Bonds presented for exchange. The Paying Agent/Registrar is hereby authorized to authenticate and deliver Bonds exchanged for other Bonds in accordance with this Section.

(d) Each exchange Bond delivered by the Paying Agent/Registrar in accordance with this Section shall constitute an original contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such exchange Bond is delivered.

(e) No service charge shall be made to the Owner for the initial registration, any subsequent transfer, or exchange for a different denomination of any of the Bonds. The Paying Agent/Registrar, however, may require the Owner to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection with the registration, transfer or exchange of a Bond.

**Section 3.07. Cancellation.**

All Bonds paid or redeemed before scheduled maturity in accordance with this Ordinance, and all Bonds in lieu of which exchange Bonds or replacement Bonds are authenticated and delivered in accordance with this Ordinance, shall be cancelled upon the making of proper records regarding such payment, exchange or replacement. The Paying Agent/Registrar shall dispose of cancelled Bonds in accordance with the Securities Exchange Act of 1934.

**Section 3.08. Temporary Bonds.**

(a) Following the delivery and registration of the Initial Bond and pending the preparation of definitive Bonds, the proper officers of the City may execute and, upon the City's request, the Paying Agent/Registrar shall authenticate and deliver, one or more temporary Bonds that are printed, lithographed, typewritten, mimeographed or otherwise produced, in any denomination, substantially of the tenor of the definitive Bonds in lieu of which they are delivered, without coupons, and with such appropriate insertions, omissions, substitutions and other variations as the officers of the City executing such temporary Bonds may determine, as evidenced by their signing of such temporary Bonds.

(b) Until exchanged for Bonds in definitive form, such Bonds in temporary form shall be entitled to the benefit and security of this Ordinance.

(c) The City, without unreasonable delay, shall prepare, execute and deliver to the Paying Agent/Registrar the Bonds in definitive form; thereupon, upon the presentation and surrender of the Bond or Bonds in temporary form to the Paying Agent/Registrar, the Paying Agent/Registrar shall cancel the Bonds in temporary form and authenticate and deliver in exchange therefor a Bond or Bonds of the same maturity and series, in definitive form, in the authorized denomination, and in the same aggregate principal amount, as the Bond or Bonds in temporary form surrendered. Such exchange shall be made without the making of any charge therefor to any Owner.

**Section 3.09. Replacement Bonds.**

(a) Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Bond, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a replacement Bond of like tenor and principal amount, bearing a number not contemporaneously outstanding. The City or the Paying Agent/Registrar may require the Owner of such Bond to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection therewith and any other expenses connected therewith.

(b) In the event that any Bond is lost, apparently destroyed or wrongfully taken, the Paying Agent/Registrar, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Bond has been acquired by a bona fide purchaser, shall authenticate and deliver a replacement Bond of like tenor and principal amount, bearing a number not contemporaneously outstanding, provided that the Owner first complies with the following requirements:

(i) furnishes to the Paying Agent/Registrar satisfactory evidence of his or her ownership of and the circumstances of the loss, destruction or theft of such Bond;

(ii) furnishes such security or indemnity as may be required by the Paying Agent/Registrar to save it and the City harmless;

(iii) pays all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Paying Agent/Registrar and any tax or other governmental charge that is authorized to be imposed; and

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(iv) satisfies any other reasonable requirements imposed by the City and the Paying Agent/Registrar.

(c) After the delivery of such replacement Bond, if a bona fide purchaser of the original Bond in lieu of which such replacement Bond was issued presents for payment such original Bond, the City and the Paying Agent/Registrar shall be entitled to recover such replacement Bond from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the City or the Paying Agent/Registrar in connection therewith.

(d) In the event that any such mutilated, lost, apparently destroyed or wrongfully taken Bond has become or is about to become due and payable, the Paying Agent/Registrar, in its discretion, instead of issuing a replacement Bond, may pay such Bond if it has become due and payable or may pay such Bond when it becomes due and payable.

(e) Each replacement Bond delivered in accordance with this Section shall constitute an original additional contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such replacement Bond is delivered.

**Section 3.10. Book-Entry-Only System.**

(a) The Bonds shall initially be issued in book-entry-only form and shall be deposited with DTC, which is hereby appointed to act as the securities depository therefor, in accordance with the Letter of Representations.

(b) With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than an Owner, as shown on the Register, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than an Owner, as shown in the Register of any amount with respect to principal of or interest on the Bonds. Notwithstanding any other provision of this Ordinance to the contrary, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Register as the absolute owner of such Bond for the purpose of payment of principal of and interest on Bonds, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfer with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Bonds only to or upon the order of the respective Owners as shown in the Register, as provided in this Ordinance, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal of and interest on the Bonds to the extent of the sum or sums so paid.

No person other than an Owner, as shown in the Register, shall receive a Bond certificate evidencing the obligation of the City to make payments of amounts due pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks or drafts being mailed to the registered owner at the close of business on the Record Date, the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(c) The Letter of Representations previously executed and delivered by the City, and applicable to the City's obligations delivered in book-entry-only form to DTC as securities depository, is hereby ratified and approved for the Bonds.

**Section 3.11. Successor Securities Depository, Transfer Outside Book-Entry Only System.**

In the event that the City determines that DTC is incapable of discharging its responsibilities described herein and in the Letter of Representations, the City shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository; or (ii) notify DTC and DTC Participants of the availability through DTC of certificated Bonds and cause the Paying Agent/Registrar to transfer one or more separate registered Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.

**Section 3.12. Payments to Cede & Co.**

Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of and interest on such Bonds, and all notices with respect to such Bonds shall be made and given, respectively, in the manner provided in the Letter of Representations.

**ARTICLE IV**

**REDEMPTION OF BONDS BEFORE MATURITY**

**Section 4.01. Limitation on Redemption.**

The Bonds shall be subject to redemption before their scheduled maturity only as provided in this Article IV.

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**Section 4.02. Optional Redemption.**

(a) The City reserves the option to redeem the Bonds maturing on and after May 15, 2017, in whole or in part, before their respective scheduled maturity dates, on May 15, 2016, or on any date thereafter, such redemption date or dates to be fixed by the City, at a redemption price equal to the principal amount thereof plus accrued interest to the redemption date.

(b) The City, at least 45 days before the redemption date, unless a shorter period shall be satisfactory to the Paying Agent/Registrar, shall notify the Paying Agent/Registrar of such redemption and of the principal amount of Bonds to be redeemed.

**Section 4.03 Partial Redemption.**

(a) If less than all of the Bonds subject to redemption are to be redeemed, the City shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot the Bonds, or portions thereof, within such maturities and in such principal amounts, for redemption.

(b) A portion of a single Bond of a denomination greater than \$5,000 may be redeemed, but only in a principal amount equal to \$5,000 or any integral multiple thereof. The Paying Agent/Registrar shall treat each \$5,000 portion of such Bond as though it were a single Bond for purposes of selection for redemption.

(c) Upon surrender of any Bond for redemption in part, the Paying Agent/Registrar, in accordance with Section 3.06 of this Ordinance, shall authenticate and deliver an exchange Bond or Bonds in an aggregate principal amount equal to the unredeemed principal amount of the Bond so surrendered, such exchange being without charge.

(d) The Paying Agent/Registrar shall promptly notify the City in writing of the principal amount to be redeemed of any Bond as to which only a portion thereof is to be redeemed.

**Section 4.04. Notice of Redemption to Owners.**

(a) The Paying Agent/Registrar shall give notice of any redemption of Bonds by sending notice, not less than 30 days before the date fixed for redemption, to the Owner of each Bond or portion thereof to be redeemed either by (i) electronic means to the electronic address, if any, on file with the Paying Agent/Registrar, or (ii) first-class United States mail, postage prepaid, at the physical address shown on the Register.

(b) The notice shall state the redemption date, the redemption price, the place at which the Bonds are to be surrendered for payment, and, if less than all the Bonds outstanding are to be redeemed, an identification of the Bonds or portions thereof to be redeemed.

(c) Any notice given as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice.

(d) The Paying Agent/Registrar shall also send notice of redemption to two national information services that disseminate notices of redemption by a secured means that permits the Paying Agent/Registrar to verify the date of mailing. The Paying Agent/Registrar shall send a second notice of redemption to each Owner not more than 90 days after the redemption date, if such Owner is required to and has not presented Bonds for redemption within 30 days of the redemption date.

**Section 4.05. Payment Upon Redemption.**

(a) Before or on each redemption date, the City shall deposit with the Paying Agent/Registrar money sufficient to pay all amounts due on the redemption date, and the Paying Agent/ Registrar shall make provision for the payment of the Bonds to be redeemed on such date by setting aside and holding in trust such amounts as are received by the Paying Agent/Registrar from the City and shall use such funds solely for the purpose of paying the principal of and accrued interest on the Bonds being redeemed.

(b) Upon presentation and surrender of any Bond called for redemption at the Designated Payment/Transfer Office on or after the date fixed for redemption, the Paying Agent/Registrar shall pay the principal of such Bond to the date of redemption from the money set aside for such purpose. Interest on any such Bond called for redemption shall be paid to the Owner in accordance with the provisions of Section 3.03 of this Ordinance.

**Section 4.06. Effect of Redemption.**

(a) Notice of redemption having been given as provided in Section 4.04 of this Ordinance, the Bonds or portions thereof called for redemption shall become due and payable on the date fixed for redemption; thereafter, unless the City defaults in its obligation to make provision for the payment of the principal thereof and accrued interest thereon, such Bonds or portions thereof shall cease to bear interest from the date fixed for redemption, whether or not such Bonds are presented and surrendered for payment on such date.

(b) If the City shall fail to make provision for the payment of all sums due on a redemption date, then any Bond or portion thereof called for redemption shall continue to bear or accrue interest at the rate stated on the Bond until due provision is made for the payment of same by the City.

**Section 4.07. Limitation on Transfer.**

Neither the City nor the Paying Agent/Registrar shall be required to transfer or exchange any Bond called for redemption within 45 days of the date fixed for redemption; provided, however, that such limitation shall not apply to the uncalled principal balance of a Bond called for redemption in part.

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M:Treasury

**ARTICLE V  
PAYING AGENT/REGISTRAR**

**Section 5.01. Appointment of Initial Paying Agent/Registrar.**

The Bank of New York Trust Company, N.A., Jacksonville, Florida, is hereby appointed as the initial Paying Agent/Registrar for the Bonds.

**Section 5.02. Qualifications.**

Each Paying Agent/Registrar shall be a commercial bank, a trust company organized under the laws of the State of Texas, or any other entity duly qualified and legally authorized to serve as and perform the duties and services of paying agent and registrar for the Bonds.

**Section 5.03. Maintaining Paying Agent/Registrar.**

(a) At all times while any Bonds are outstanding, the City will maintain a Paying Agent/Registrar that is qualified under Section 5.02 of this Ordinance. The Mayor is hereby authorized to execute an agreement with the Paying Agent/Registrar specifying the duties and responsibilities of the City and the Paying Agent/Registrar. The signature of the Mayor shall be attested by the City Secretary of the City.

(b) If the Paying Agent/Registrar resigns or otherwise ceases to serve as such, the City will promptly appoint a replacement.

**Section 5.04. Termination.**

The City, upon not less than 60 days notice, reserves the right to terminate the appointment of any Paying Agent/ Registrar by delivering to the entity whose appointment is to be terminated written notice of such termination.

**Section 5.05. Notice of Change to Owners.**

Promptly upon each change in the entity serving as Paying Agent/Registrar, the City will cause notice of the change to be sent to each Owner by one or more of the methods for giving notice of redemption set forth in Section 4.04(a), stating the effective date of the change and the name and mailing address of the replacement Paying Agent/Registrar.

**Section 5.06. Agreement to Perform Duties and Functions.**

By accepting the appointment as Paying Agent/Registrar, and executing the Paying Agent/Registrar Agreement, the Paying Agent/Registrar is deemed to have agreed to the provisions of this Ordinance and that it will perform the duties and functions of Paying Agent/Registrar prescribed thereby.

**Section 5.07. Delivery of Records to Successor.**

If a Paying Agent/Registrar is replaced, such Paying Agent, promptly upon the appointment of the successor, will deliver the Register (or a copy thereof) and all other pertinent books and records relating to the Bonds to the successor Paying Agent/Registrar.

**ARTICLE VI**

**FORM OF THE BONDS**

**Section 6.01. Form Generally.**

(a) The Bonds, including the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Certificate of the Paying Agent/Registrar and the Assignment form to appear on each of the Bonds, (i) shall be substantially in the form set forth in this Article with such appropriate insertions, omissions, substitutions and other variations as are permitted or required by this Ordinance, and (ii) may have such letters, numbers or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association (“CUSIP Numbers”)) and such legends and endorsements (including any reproduction of an opinion of counsel) thereon as, consistently herewith, may be determined by the City or by the officers executing such Bonds, as evidenced by their execution thereof.

(b) Any portion of the text of any Bonds may be set forth on the reverse side thereof, with an appropriate reference thereto on the face of the Bonds.

(c) The definitive Bonds, if any, shall be typewritten, photocopied, printed, lithographed or engraved, and may be produced by any combination of these methods or produced in any other similar manner, all as determined by the officers executing such Bonds, as evidenced by their execution thereof, except that so long as DTC is the securities depository for the Bonds as described in Section 3.10 hereof, the definitive Bonds may be typewritten and photocopied or otherwise reproduced.

(d) The Initial Bond submitted to the Attorney General of the State of Texas may be typewritten and photocopied or otherwise reproduced.

**Section 6.02. Form of the Bonds.**

The form of the Bonds, including the form of the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the form of Certificate of the Paying Agent/Registrar and the form of Assignment appearing on the Bonds, shall be substantially as follows:

(a) Form of Bond.

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REGISTERED  
No. \_\_\_\_\_

REGISTERED:  
\$ \_\_\_\_\_

**United States of America  
State of Texas  
Counties of Collin and Denton  
CITY OF PLANO, TEXAS  
MUNICIPAL DRAINAGE UTILITY SYSTEM  
REVENUE BOND  
SERIES 2006**

INTEREST RATE: \_\_\_\_\_ MATURITY DATE: May 15, \_\_\_\_\_ BOND DATE: February 1, 2006 CUSIP NUMBER: \_\_\_\_\_

The City of Plano, Texas (the "City"), in the Counties of Collin and Denton, State of Texas, for value received, hereby promises to pay to

\_\_\_\_\_ or registered assigns, on the Maturity Date specified above, the sum of \_\_\_\_\_ DOLLARS

unless this Bond shall have been sooner called for redemption and the payment of the principal hereof shall have been paid or provided for, and to pay interest on such principal amount from the later of the Bond Date specified above or the most recent interest payment date to which interest has been paid or provided for until payment of such principal amount has been paid or provided for, at the per annum rate of interest specified above, computed on the basis of a 360-day year of twelve 30-day months, such interest to be paid semiannually on May 15 and November 15 of each year, commencing November 15, 2006.

The principal of this Bond shall be payable without exchange or collection charges in lawful money of the United States of America upon presentation and surrender of this Bond at the designated office in East Syracuse, New York, of The Bank of New York Trust Company, N.A., as Paying Agent/Registrar (the "Designated Payment/Transfer Office"), or, with respect to a successor paying agent/registrar, at the Designated Payment/Transfer Office of such successor.

Interest on this Bond is payable to the registered owner of this Bond on or before the interest payment date either by (i) wire transfer to the bank account, if any, for such registered owner on file with the Paying Agent/Registrar pursuant to such registered owner's written instructions and at the risk and expense of such registered owner, (ii) by check dated as of the interest payment date, and sent on or before the interest payment date by first-class United States mail, postage prepaid, by the Paying Agent/Registrar to the registered owner at the physical address of such owner as appears in the registration books of the Paying Agent/Registrar or (iii) by such other customary banking arrangements acceptable to the Paying Agent/Registrar and the person to whom interest is to be paid, provided that the registered owner shall bear all risk and expense of such interest payment method. For the purpose of the payment of interest on this Bond, the registered owner shall be the person in whose name this Bond is registered at the close of business on the "Record Date," which shall be the last business day of the month next preceding such interest payment date.

If the date for the payment of the principal of or interest on this Bond shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Designated Payment/Transfer Office is located are required or authorized by law or executive order to close, the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday, or day on which banking institutions are required or authorized to close, and payment on such date shall for all purposes be deemed to have been made on the original date payment was due.

This Bond is one of a series of fully registered bonds specified in the title hereof issued in the aggregate principal amount of \$1,395,000 (herein referred to as the "Bonds"), issued pursuant to Subchapter C, Chapter 402, Texas Local Government Code, as amended, and a certain ordinance of the City (the "Ordinance"). Capitalized terms used herein and not otherwise defined shall have the meaning assigned thereto in the Ordinance. The Bonds are being issued for the purpose of providing funds to make certain improvements to the System, to make a deposit to the reserve fund and to pay the costs of issuing the Bonds.

The Bonds, together with certain outstanding parity lien revenue bonds of the City (the "Previously Issued Bonds"), constitute special obligations of the City and are payable solely from and equally secured by a first lien on and pledge of the Revenues of the System. The Bonds and the Previously Issued Bonds do not constitute a legal or equitable pledge, charge, lien or encumbrance upon any property of the City or the System, except with respect to the Revenues.

The City expressly reserves the right to issue additional revenue obligations in all things on a parity with the Bonds and the Previously Issued Bonds, payable solely from and equally secured by a first lien on and pledge of the Revenues of the System; provided, however, that any and all such additional obligations may be so issued only in accordance with and subject to the covenants, conditions, limitations and restrictions relating thereto which are set out and contained in the Ordinance to which reference is hereby made for more complete and full particulars.

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The City has reserved the option to redeem the Bonds maturing on and after May 15, 2017, in whole or in part before their respective scheduled maturity dates, on May 15, 2016, or on any date thereafter, at a redemption price equal to the principal amount thereof plus accrued interest to the date of redemption. If less than all of the Bonds are to be redeemed, the City shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot the Bonds, or portions thereof, within such maturity and in such principal amounts, for redemption.

The Paying Agent/Registrar shall give notice of any redemption of Bonds by sending notice, not less than 30 days before the date fixed for redemption, to the Owner of each Bond or portion thereof to be redeemed either by (i) electronic means to the electronic address, if any, on file with the Paying Agent/Registrar, or (ii) first-class United States mail, postage prepaid, at the physical address shown on the Register. Notice having been so given, the Bonds or portions thereof designated for redemption shall become due and payable on the redemption date specified in such notice, and from and after such date, notwithstanding that any of the Bonds or portions thereof so called for redemption shall not have been surrendered for payment, interest on such Bonds or portions thereof shall cease to accrue.

As provided in the Ordinance, and subject to certain limitations therein set forth, this Bond is transferable upon surrender of this Bond for transfer at the Designated Payment/Transfer Office with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar; thereupon, one or more new fully registered Bonds of the same stated maturity, of authorized denominations, bearing the same rate of interest, and for the same aggregate principal amount will be issued to the designated transferee or transferees.

Neither the City nor the Paying Agent/Registrar shall be required to transfer or exchange any Bond called for redemption within 45 days of the date fixed for redemption; provided, however, that such limitation shall not apply to the uncalled principal balance of a Bond called for redemption in part.

The City, the Paying Agent/Registrar, and any other person may treat the person in whose name this Bond is registered as the owner hereof for the purpose of receiving payment as herein provided (except interest shall be paid to the person in whose name this Bond is registered on the "Record Date") and for all other purposes, whether or not this Bond be overdue, and neither the City nor the Paying Agent/Registrar shall be affected by notice to the contrary.

**IT IS HEREBY CERTIFIED AND RECITED** that the issuance of this Bond and the series of which it is a part is duly authorized by law; that all acts, conditions and things required to be done precedent to and in the issuance of the Bonds to render the same lawful and valid have been properly done and have happened in regular and due time, form and manner as required by law; that the Bonds do not exceed any constitutional or statutory limitation; and that provision has been made for the payment of the principal of and interest on the Bonds by irrevocably pledging the Revenues of the System, as hereinabove recited.

The owner hereof shall never have the right to demand payment of this Bond out of any funds raised or to be raised by taxation.

**IN WITNESS WHEREOF**, the City has caused this Bond to be executed in its name by the manual or facsimile signatures of the Mayor and City Secretary of the City, and the official seal of the City has been duly impressed or placed in facsimile on this Bond.

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

ATTEST:

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

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

[SEAL]

Remainder of page not used.

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M:Treasury

(b) Form of Comptroller's Registration Certificate.

The following Comptroller's Registration Certificate may be deleted from the definitive Bonds if such Certificate on the Initial Bond is fully executed.

OFFICE OF THE COMPTROLLER	§	
OF PUBLIC ACCOUNTS	§	REGISTER NO. _____
OF THE STATE OF TEXAS	§	

I hereby certify that there is on file and of record in my office a certificate of the Attorney General of the State of Texas to the effect that this Bond has been examined by him as required by law, that he finds that it has been issued in conformity with the Constitution and laws of the State of Texas, and that it is a valid and binding special obligation of the City of Plano, Texas, payable from the revenues pledged to its payment by and in the ordinance authorizing same, and that said Bond has this day been registered by me.

Witness my hand and seal of office at Austin, Texas, \_\_\_\_\_.

\_\_\_\_\_  
Comptroller of Public Accounts of the  
State of Texas

[SEAL]

(c) Form of Certificate of Paying Agent/Registrar.

The following Certificate of Paying Agent/Registrar may be deleted from the Initial Bond if the Comptroller's Registration Certificate appears thereon.

**CERTIFICATE OF PAYING AGENT/REGISTRAR**

The records of the Paying Agent/Registrar show that the Initial Bond of this series of Bonds was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas, and that this is one of the Bonds referred to in the within-mentioned Ordinance.

THE BANK OF NEW YORK TRUST  
COMPANY, N.A.,  
as Paying Agent/Registrar

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Authorized Signature

(d) Form of Assignment.

**ASSIGNMENT**

FOR VALUE RECEIVED \_\_\_\_\_ (the "Transferor"), the undersigned, hereby sells, assigns and transfers unto (print or typewrite name, address and zip code of transferee:

\_\_\_\_\_  
(Social Security or Federal Employer Identification No. \_\_\_\_\_) the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ as attorney to transfer the within bond on the books kept for registration therefor, with full power of substitution in the premises.

NOTICE: The signature on this Assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular and must be guaranteed in a manner satisfactory to the Paying Agent/Registrar.

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

Signature Guaranteed:

\_\_\_\_\_  
Authorized Signatory

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(e) The Initial Bond shall be in the form set forth in paragraphs (a) through (d) of this Section, except for the following alterations:

(i) immediately under the name of the Bond, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As shown below" and the words "CUSIP NUMBER:" shall be deleted;

(ii) in the first paragraph of the Bond, the words "on the Maturity Date specified above" shall be deleted and the following will be inserted: "on May 15 in each of the years, in the principal installments, and bearing interest at the per annum rates in accordance with the following schedule:

<u>Years</u>	<u>Principal Installments</u>	<u>Interest Rates</u>
--------------	-----------------------------------	---------------------------

(Information to be inserted from  
schedule in Section 3.02 of this Ordinance)

(iii) the Initial Bond shall be numbered T-1.

**Section 6.03. CUSIP Registration.**

The City may secure identification numbers through the CUSIP Service Bureau Division of Standard & Poor's Corporation, New York, New York, and may authorize the printing of such numbers on the face of the Bonds. It is expressly provided, however, that the presence or absence of CUSIP Numbers on the Bonds shall be of no significance or effect as regards the legality thereof and neither the City nor bond counsel to the City are to be held responsible for CUSIP Numbers incorrectly printed on the Bonds.

**Section 6.04. Legal Opinion.**

The approving legal opinions of Vinson & Elkins L.L.P., Dallas, Texas, may be printed on the reverse side of or attached to each Bond over the certification of the City Secretary of the City, which may be executed in facsimile.

**ARTICLE VII**

**FUNDS AND ACCOUNTS**

**Section 7.01. Creation of Funds.**

All revenues derived from the operation of the System shall be kept separate from other funds of the City. To that end, creation of the following special Funds, to be held by the City's depository bank, is hereby confirmed:

(a) "City of Plano, Texas Municipal Drainage Utility System Fund," hereinafter called the "System Fund."

(b) "City of Plano, Texas Municipal Drainage Utility System Reserve Fund," hereinafter called the "Reserve Fund."

(c) "City of Plano, Texas Municipal Drainage Utility System Bond Fund," hereinafter called the "Bond Fund."

**Section 7.02. System Fund.**

(a) The City hereby covenants and agrees that the Revenues of the System (excluding earnings and income derived from investments held in the Bond Fund and the Reserve Fund) shall be deposited as collected to the credit of the System Fund. All revenues deposited in the System Fund shall be pledged and appropriated to the extent required for the following uses and in the order of priority shown:

First: To the payment of the amounts required to be deposited in the Bond Fund for the payment of Debt Service on the Bonds and the Previously Issued Bonds as the same becomes due and payable.

Second: To the payment of the amounts required to be deposited in the Reserve Fund to maintain the Required Reserve in accordance with the provisions of this Ordinance or any other ordinance relating to the issuance of Additional Bonds.

(b) Revenues remaining in the System Fund after satisfying the foregoing payments, or making adequate and sufficient provision for the payment thereof, may be transferred to the City's general fund or used for any lawful purpose.

**Section 7.03. Bond Fund.**

(a) Moneys on deposit in the Bond Fund shall be used solely for the purpose of paying the principal of and interest on the Bonds and the Previously Issued Bonds as the same becomes due and payable.

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The City hereby covenants that there shall be deposited into the Bond Fund from the System Fund an amount sufficient to pay the principal of and interest on the Bonds and the Previously Issued Bonds when due, either at maturity or prior redemption. Deposits to the Bond Fund shall be made in substantially equal monthly installments on or before the 10th day of each month, beginning the month next following the delivery of the Bonds to the Purchaser.

(b) The required monthly deposits to the Bond Fund for the payment of principal of and interest on the Bonds shall continue to be made as hereinabove provided until (i) the total amount on deposit in the Bond Fund and the Reserve Fund is equal to the amount required to fully pay and discharge all Outstanding Bonds or (ii) the Bonds are no longer Outstanding.

(c) Accrued interest and premium, if any, received from the sale of the Bonds, as well as earnings derived from the investment of moneys in the Bond Fund, shall be deposited to the credit of the Bond Fund and taken into consideration in determining the amount of the monthly deposits hereinabove required to be deposited in the Bond Fund from the Revenues of the System.

#### **Section 7.04. Reserve Fund.**

(a) All funds deposited to the credit of the Reserve Fund (excluding investment or deposit earnings and income which may be transferred to the System Fund during such periods as there is on deposit in the Reserve Fund the Required Reserve) shall be used solely for the payment of the principal of and interest on the Bonds and the Previously Issued Bonds when due (whether at maturity or upon a mandatory redemption date) to the extent that other funds available for such purposes are insufficient, and, in addition, may be used to the extent not required to maintain the "Required Reserve," to pay, or provide for the payment of, the final principal amount of a series of Additional Bonds, if issued, that is no longer deemed to be "Outstanding" as such term is defined herein.

(b) The total amount to be maintained in the Reserve Fund by reason of the issuance of the Bonds shall be an amount equal to the Average Annual Debt Service for the Bonds and the Previously Issued Bonds (calculated on a Fiscal Year basis), and hereinafter referred to as the "Required Reserve."

(c) When Additional Bonds are issued, the Required Reserve shall be increased, if required, to an amount equal to the lesser of (i) the Average Annual Debt Service (calculated on a Fiscal Year basis) for all bonds Outstanding, as determined on the date of issuance of each series of Additional Bonds, and annually following each principal payment date or redemption date for the Bonds, the Previously Issued Bonds and any Additional Bonds Outstanding, as the case may be, or (ii) the maximum amount in a reasonably required reserve fund that can be invested without restriction as to yield pursuant to Subsection (d) of Section 148 of the Code and regulations promulgated thereunder.

(d) While cash and investments in the Reserve Fund total not less than the Required Reserve, no deposits need be made to the credit of the Reserve Fund.

If and when the Reserve Fund at any time contains less than the Required Reserve, the City covenants and agrees to cure the deficiency in the Required Reserve by making monthly deposits on or before the 10th day of each month to said Fund from the Revenues in amounts equal to not less than 1/60th of the then total Required Reserve to be maintained in said Fund until the total Required Reserve then to be maintained in said Fund has been fully restored. The City further covenants and agrees that, subject only to the payments to be made to the Bond Fund, the Revenues shall be applied and appropriated and used to maintain the Required Reserve and to cure any deficiency in such amounts as required by the terms of this Ordinance and any other ordinance pertaining to the issuance of Additional Bonds.

(e) During such time as the Reserve Fund contains the total Required Reserve, the City may, at its option, withdraw all surplus in the Reserve Fund in excess of the Required Reserve and deposit such surplus in the System Fund; provided, however, that to the extent such surplus monies constitute bond proceeds, including interest and income derived therefrom, such amounts shall not be deposited to the System Fund and shall only be used for the purposes for which bond proceeds may be used.

(f) At any time after all of the Previously Issued Bonds dated on or before May 1, 2003, have been paid, refunded or cancelled and are no longer outstanding, the provisions of subparagraphs (g) through (n) of this Section 7.04 shall apply and the provisions contained in (a) through (e) above shall be of no force and effect.

(g) The City covenants and agrees that it will continuously maintain in the Reserve Fund an amount of Reserve Fund Obligations equal to not less than the Average Annual Debt Service on the Bonds and the Previously Issued Bonds (the "Required Reserve"), and that upon issuance of Additional Bonds, the Required Reserve shall be increased, if required, to an amount equal to the lesser of (i) the Average Annual Debt Service (calculated on a Fiscal Year basis) for all bonds Outstanding, as determined on the date of issuance of each series of Additional Bonds, and annually following each principal payment date or redemption date for the Bonds, the Previously Issued Bonds and any Additional Bonds Outstanding, as the case may be, or (ii) the maximum amount in a reasonably required reserve fund that can be invested without restriction as to yield pursuant to Subsection (d) of Section 148 of the Code and regulations promulgated thereunder. For so long as the funds on deposit in the Reserve Fund are equal to the Required Reserve, no additional deposit need be made therein, but should the Reserve Fund at any time contain less than the Required Reserve, then, subject and subordinate to making the required deposits to the credit of the Bond Fund, the City shall restore such deficiency by depositing additional Reserve Fund Obligations into the Reserve Fund in monthly installments of not less than 1/60th of the Required Reserve on or before the 10th day of each month following such deficiency, termination, or expiration. The money on deposit in the Reserve Fund shall be used solely for the purpose of paying the principal of and interest on the Bonds, the Previously Issued Bonds and any Additional Bonds at any time there are not sufficient moneys on deposit in the Bond Fund.

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(h) The City may, at its option, withdraw all surplus in the Reserve Fund over the Required Reserve and deposit the same in the System Fund; provided, however, that to the extent such surplus monies constitute bond proceeds, including interest and income derived therefrom, such amounts shall not be deposited to the System Fund and shall only be used for the purposes for which bond proceeds may be used.

(i) For the purpose of determining compliance with the requirements of subsection (g) of this Section, Reserve Fund Obligations shall be valued each year as of the last day of the City's fiscal year at their cost or market value, whichever is lower, except that any direct obligations of the United States (State and Local Government Series) held for the benefit of the Reserve Fund in book-entry form shall be continuously valued at their par value or face principal amount.

(j) To the extent permitted by, and in accordance with applicable law and upon approval of the Attorney General of the State of Texas, the City may replace or substitute a Credit Facility for cash or investment securities, of any of the type or types permitted by Section 7.06 hereof, on deposit in the Reserve Fund or in substitution or replacement of any existing Credit Facility. Upon such replacement or substitution, cash or investment securities of any of the types permitted by Section 7.06 hereof, on deposit in the Reserve Fund which, taken together with the face amount of any existing Credit Facilities, are in excess of the Required Reserve may be withdrawn by the City, at its option, and transferred to the System Fund; provided that the face amount of any Credit Facility may be reduced at the option of the City in lieu of such transfer. However, to the extent such surplus monies constitute bond proceeds, including interest and income derived therefrom, such amounts shall not be deposited to the System Fund and shall only be used for the purposes for which bond proceeds may be used. Any interest due on any reimbursement obligation under the Credit Facility shall not exceed the highest lawful rate of interest which may be paid by the City.

(k) If the City is required to make a withdrawal from the Reserve Fund, the City shall promptly notify the issuer of such Credit Facility of the necessity for a withdrawal from the Reserve Fund, and shall make such withdrawal first from available moneys or investment securities then on deposit in the Reserve Fund, and next from a drawing under any Credit Facility to the extent of such deficiency.

(l) In the event of a deficiency in the Reserve Fund, or in the event that on the date of termination or expiration of any Credit Facility there is not on deposit in the Reserve Fund sufficient Reserve Fund Obligations, all in an aggregate amount at least equal to the Required Reserve, then the City shall, after making required deposits to the Bond Fund in accordance with the terms of this Ordinance, satisfy the Required Reserve by depositing additional Reserve Fund Obligations into the Reserve Fund in monthly installments of not less than 1/60th of the Required Reserve on or before the 10th day of each month following such deficiency, termination or expiration.

(m) In the event of the redemption or defeasance of any of the Outstanding Bonds, any Reserve Fund Obligations on deposit in the Reserve Fund in excess of the Required Reserve may be withdrawn and transferred, at the option of the City, to the System Fund, as a result of (i) the redemption of the Outstanding Bonds, or (ii) funds for the payment of the Outstanding Bonds having been deposited irrevocably with the paying agent or place of payment therefor in the manner described in this Ordinance, the result of such deposit being that such Outstanding Bonds no longer are deemed to be Outstanding under the terms of this Ordinance. However, to the extent such surplus monies constitute bond proceeds, including interest and income derived therefrom, such amounts shall not be deposited to the System Fund and shall only be used for the purposes for which bond proceeds may be used.

(n) In the event there is a draw upon the Credit Facility, the City shall reimburse the issuer of such Credit Facility for such draw in accordance with the terms of any agreement pursuant to which the Credit Facility is issued from Net Revenues; however, such reimbursement from Net Revenues shall be subject to the provisions of subparagraph (k) hereof, and shall be subordinate and junior in right of payment to the payment of principal of and premium, if any, and interest on the Bonds.

**Section 7.05. Deficiencies, Excess Revenues.**

(a) If on any occasion there shall not be sufficient Revenues of the System to make the required deposits into the Bond Fund and the Reserve Fund, then such deficiency shall be cured as soon as possible from the next available Revenues of the System, or from any other sources available for such purpose.

(b) Subject to making the required deposits to the Bond Fund and the Reserve Fund in accordance with the provisions of this Ordinance, the ordinances authorizing the issuance of the Previously Issued Bonds, or any ordinance authorizing the issuance of Additional Bonds, the excess Revenues may be transferred to the City's general operating fund or used by the City for any lawful purpose.

**Section 7.06. Security of Funds.**

(a) Money in any Fund may, at the option of the City, be invested in funds and obligations authorized and identified in the Public Funds Investment Act, as amended, or other applicable law; provided, however, that until such time as the Previously Issued Bonds dated on or before May 1, 2003, are no longer Outstanding, the investment of moneys held in the Bond Fund and the Reserve Fund shall be restricted to time deposits or certificates of deposit secured (to the extent not insured by the Federal Deposit Insurance Corporation) by obligations of the type hereinafter described, or be invested, including investments held in book-entry form, in direct obligations of the United States of America and obligations guaranteed or insured by the United States of America, which, in the opinion of the Attorney General of the United States, are backed by its full faith and credit or represent its general obligations.

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All deposits and investments shall be made in such a manner that the money required to be expended from any Fund will be available at the proper time or times and, until such time as the Previously Issued Bonds dated on or before May 1, 2003, are no longer Outstanding, the maximum stated maturity for any investment acquired with money in the Reserve Fund shall be limited to five (5) years from the date of the investment of such money. Investments (except State and Local Government Series investments held in book-entry form, which shall at all times be valued at cost) shall be valued in terms of current market value within 45 days of the close of each Fiscal Year and, with respect to investments held for the account of the Reserve Fund, within 30 days of the date of passage of each ordinance authorizing the issuance of Additional Bonds. All interest and income derived from deposits and investments in the Bond Fund immediately shall be credited to, and any losses debited to, the Bond Fund. All interest and interest income derived from deposits in and investments of the Reserve Fund shall, subject to the limitations provided in Section 7.04 hereof, be credited to and deposited in the System Fund. All investments shall be sold promptly when necessary to prevent any default in connection with the Bonds or any Previously Issued Bonds.

(b) To the extent amounts deposited to the credit of any Funds referenced herein are not invested, such uninvested amounts shall be secured in the manner and to the fullest extent required by laws of the State of Texas for the security of public funds.

## ARTICLE VIII

### SALE AND DELIVERY OF BONDS; DEPOSIT OF PROCEEDS

#### Section 8.01. Sale of Bonds; Official Statement

(a) The Bonds, having been duly advertised for public sale and a bid or bids received pursuant thereto, are hereby officially sold and awarded to \_\_\_\_\_ (the "Purchaser"), having submitted the bid which produces the lowest true interest cost to the City for a purchase price equal to the principal amount thereof, plus a premium of \$\_\_\_\_\_, plus accrued interest thereon to the date of initial delivery. The Bonds shall initially be registered in the name of the Purchaser or its designee.

(b) The form and substance of the Preliminary Official Statement for the Bonds, and any addenda, supplement or amendment thereto, and the final Official Statement (the "Official Statement") presented to and considered at this meeting, are hereby in all respects approved and adopted and the Preliminary Official Statement is hereby deemed final as of its date within the meaning and for the purposes of paragraph (b)(1) of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended. The Mayor and the City Secretary of the City are hereby authorized and directed to execute the same and deliver appropriate numbers of executed copies thereof to the Purchaser. The Official Statement as thus approved, executed and delivered, with such appropriate variations as shall be approved by the Mayor of the City and the Purchaser, may be used by the Purchaser in the public offering and sale thereof.

The City Secretary of the City is hereby authorized and directed to include and maintain a copy of the Official Statement and any addenda, supplement or amendment thereto thus approved among the permanent records of this meeting. The use and distribution of the Preliminary Official Statement, and the preliminary public offering of the Bonds by the Purchaser is hereby ratified, approved and confirmed.

(c) All officers of the City are authorized to execute such documents, certificates and receipts as they may deem appropriate in order to consummate the delivery of the Bonds in accordance with the terms of sale therefor. Further, in connection with the submission of the record of proceedings for the Bonds to the Attorney General of the State of Texas for examination and approval of such Bonds, the appropriate officer of the City is hereby authorized and directed to issue a check of the City payable to the Attorney General of the State of Texas as a nonrefundable examination fee in the amount required by Chapter 1202, Texas Government Code (such amount to be the lesser of (i) 1/10th of 1% of the principal amount of the Bonds or (ii) \$9,500).

(d) The obligation of the Purchaser to accept delivery of the Bonds is subject to the Purchaser being furnished with the final, approving opinion of Bond Counsel for the City, which opinions shall be dated and delivered on the Closing Date.

**Section 8.02. Control and Delivery of Bonds.**

(a) The Mayor is hereby authorized to have control of the Initial Bond and all necessary records and proceedings pertaining thereto pending investigation, examination and approval of the Attorney General of the State of Texas, registration by the Comptroller of Public Accounts of the State of Texas, and registration with, and initial exchange or transfer by, the Paying Agent/Registrar.

(b) After registration by the Comptroller of Public Accounts, delivery of the Bonds shall be made to the Purchaser under and subject to the general supervision and direction of the Mayor, against receipt by the City of all amounts due to the City under the terms of sale.

**Section 8.03. Deposit of Proceeds.**

(a) All amounts received on the Closing Date as accrued interest, if any, on the Bonds from the Bond Date to the Closing Date shall be deposited to the Bond Fund and applied to the first payment of interest due on the Bonds.

(b) An amount equal to \$\_\_\_\_\_ shall be deposited to the Reserve Fund.

(c) The remaining balance received on the Closing Date shall be deposited to a special construction account of the City and shall be used to pay the costs of drainage improvements, including the acquisition, construction, repair of structures, equipment and facilities for the System and the costs of issuing the Bonds.

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**ARTICLE IX****PARTICULAR REPRESENTATIONS AND COVENANTS****Section 9.01. Payment of Bonds.**

While any of the Bonds are Outstanding, the Director of Finance (or other designated financial officer of the City) shall cause to be transferred to the Paying Agent/Registrar, from funds on deposit in the Bond Fund, and, if necessary, in the Reserve Fund, amounts sufficient to fully pay and discharge promptly as each installment of interest and principal of the Bonds accrues or matures or comes due by reason of redemption prior to maturity; such transfer of funds to be made in such manner as will cause immediately available funds to be deposited with the Paying Agent/Registrar for the Bonds at the close of the last business day next preceding the date of payment for the Bonds.

**Section 9.02. Issuance of Additional Parity Bonds.**

(a) Subject to the provisions hereinafter appearing as to conditions precedent which must be satisfied, the City reserves the right to issue, from time to time as needed, Additional Bonds for any authorized purpose, including the issuance of refunding bonds. Such Additional Bonds may be issued in such form and manner as now or hereafter authorized by the laws of the State of Texas for the issuance of evidences or instruments, and should new methods or financing techniques be developed that differ from those now available and in normal use, the City reserves the right to employ the same in its financing arrangements provided that the following conditions precedent for the authorization and issuance of the same are satisfied, to wit:

(i) The officer of the City then having the primary responsibility for the financial affairs of the City shall have executed a certificate stating (a) that, to the best of his knowledge and belief, the City is not then in default as to any covenant, obligation or agreement contained in any ordinance or other proceeding relating to any obligations of the City payable from and secured by a lien on and pledge of the Revenues of the System that would materially affect the security or payment of such obligations and (b) either (i) payments into all special Funds maintained for the payment and security of all outstanding obligations payable from and secured by a lien on and pledge of the Revenues of the System have been made and that the amounts on deposit in such special Funds equal or exceed the amounts then required to be on deposit therein or (ii) the application of the proceeds of sale of such obligations then being issued will cure any such deficiency;

(ii) The Additional Bonds shall be scheduled to mature or be payable as to principal on May 15 or November 15 (or both) in each year the same are to be outstanding or during the term thereof; and

(iii) The Reserve Fund shall contain the Required Reserve amount on the date of issuance of the proposed Additional Bonds after giving effect to the issuance thereof.

(b) In addition to the conditions precedent that must be satisfied pursuant to Subsection (a) above, so long as the Previously Issued Bonds dated on or prior to May 1, 2003 remain Outstanding, the condition precedent set forth in subdivision (i) below must be satisfied. Once the Previously Issued Bonds dated on or prior to May 1, 2003 are no longer Outstanding, the condition precedent in subdivision (ii) below must be satisfied.

(i) The City has secured a certificate or opinion of a Certified Public Accountant to the effect that, according to the books and records of the City, the Revenues for the last completed Fiscal Year, or for 12 consecutive months out of the 18 months, immediately preceding the date of issuance of the Additional Bonds (the date of issuance being the date of delivery of all or a portion of the Additional Bonds to the initial purchasers) are at least equal to (i) 1.00 times the Operating and Maintenance Expenses during such period of review and (ii) 1.10 times the maximum annual Debt Service for all Outstanding Bonds, Outstanding Previously Issued Bonds and any Outstanding Additional Bonds after giving effect to the issuance of the Additional Bonds then being issued. In making a determination of the Revenues, the Accountant may take into consideration a change in the charges for services afforded by the System that became effective at least 60 days prior to the last day of the period for which Revenues are determined and, for purposes of satisfying the above Revenues test, make a pro forma determination of the Revenues of the System for the period of time covered by his certification or opinion based on such change in charges being in effect for the entire period covered by the certificate or opinion of the Accountant.

(ii) The City has secured a certificate or opinion of a Certified Public Accountant to the effect that, according to the books and records of the City, the Net Revenues for the last completed Fiscal Year, or for 12 consecutive months out of the 18 months immediately preceding the month in which the ordinance authorizing the issuance of the then proposed Additional Bonds is passed, are at least equal to 1.25 times the Average Annual Debt Service for all Outstanding Bonds, Outstanding Previously Issued Bonds and any Outstanding Additional Bonds after giving effect to the issuance of the Additional Bonds then being issued. In making a determination of the Net Revenues, the Accountant may take into consideration a change in the charges for services afforded by the System that became effective at least 60 days prior to the last day of the period for which Net Revenues are determined and, for purposes of satisfying the above Net Revenues test, make a pro forma determination of the Net Revenues of the System for the period of time covered by his certification or opinion based on such change in charges being in effect for the entire period covered by the certificate or opinion of the Accountant.

**Section 9.03. Issuance of Obligations of Inferior Lien and Pledge.**

The City hereby reserves the right to issue obligations payable from and secured by a lien on and pledge of the Revenues of the System, junior and subordinate in rank and dignity to the lien and pledge securing the payment of the Bonds and the Previously Issued Bonds, as may be authorized by the laws of the State of Texas.

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**Section 9.04. Refunding Bonds.** The City reserves the right to issue refunding bonds to refund all or any part of the Bonds and the Previously Issued Bonds (pursuant to any law then available) upon such terms and conditions as the City Council of the City may deem to be in the best interest of the City and its inhabitants, and if less than all of such Bonds and the Previously Issued Bonds then Outstanding are refunded, the conditions precedent prescribed (for the issuance of Additional Bonds) set forth in Section 9.02 hereof shall be satisfied and the certificate or opinion of the Accountant required in Section 9.02 shall give effect to the Debt Service of the proposed refunding bonds (and shall not give effect to the Debt Service on the bonds being refunded following their cancellation or provisions being made for their payment).

**Section 9.05. Maintenance and Operation – Insurance.**

In regard to the operations and properties of the System, the City agrees to carry and maintain liability and property damage insurance of the kind and in the amounts customarily carried by municipal corporations in Texas on such kind of properties; provided, however, the City, in lieu of and/or in combination with carrying such insurance, may self-insure against all perils and risks by establishing self-insurance reserves. Annually each year, not later than the end of each Fiscal Year, the City shall prepare or cause to be prepared by a person competent and knowledgeable in such matters a written evaluation of the adequacy of such self-insurance and/or insurance coverage and of any recommended changes in regard to the City's insurance/self-insurance policies, practices and procedures.

**Section 9.06. Records – Accounts – Accounting Reports.**

The City hereby covenants, reaffirms and agrees that so long as any of the Bonds, or any interest thereon, remain outstanding and unpaid, it will keep and maintain a proper and complete system of records and accounts pertaining to the operation of the System separate and apart from all other records and accounts in which complete and correct entries shall be made of all transactions relating to said System, and that the holder or holders of any of such Bonds or any duly authorized agent or agents of such holders shall have the right at all reasonable times to inspect all such records, accounts and data relating thereto, and to inspect the System and all properties comprising same. The City further agrees that within 60 days following the close of each Fiscal Year it will cause an audit of such books and accounts to be made by an independent firm of Certified Public Accountants, showing the receipts and disbursements for account of the System for the Fiscal Year.

Each such audit, in addition to whatever other matters may be thought proper by the Accountant, shall particularly include the following:

- (a) A detailed statement of the income and expenditures of the System for such Fiscal Year.
- (b) A balance sheet as of the end of such Fiscal Year.

(c) The Accountant's comments regarding the manner in which the City has carried out the requirements of this Ordinance and his recommendations for any changes or improvements in the operation, records and accounts of the System.

(d) A list of the insurance policies in force at the end of the Fiscal Year on the System properties, setting out as to each policy the amount thereof, the risk covered, the name of the insurer, and the policy's expiration date.

(e) Until such time as the Previously Issued Bonds dated on or prior to May 1, 2003, are no longer Outstanding, a list of the securities which have been on deposit as security for the money in the interest and sinking fund portion of the Bond Fund throughout the Fiscal Year, a list of the securities, if any, in which the reserve portion has been invested, and a statement of the manner in which money in the System Fund has been secured in such Fiscal Year.

Expenses incurred in making the audits above referred to are to be regarded as maintenance and operating expenses and paid as such. Copies of the aforesaid annual audit shall be furnished to the original purchasers of the Bonds and any subsequent holder upon written request. At the close of the first six-month period of each Fiscal Year, the City Secretary of the City is hereby directed to furnish a copy of an operating and income statement in reasonable detail covering such period to any bondholder upon written request therefor, received not more than 30 days after the close of said six-month period. Any Owner shall have the right to discuss with the Accountant making the annual audit the contents thereof and to ask for such additional information as he may reasonably require.

**Section 9.07. Sale or Lease of Properties.**

The City, to the extent and in the manner authorized by law, may sell or exchange for consideration representing the fair value thereof, as determined by the City Council of the City, any property of the System which is obsolete, damaged or worn out or otherwise unsuitable. The proceeds of any sale of properties of the System shall be deposited in the System Fund.

**Section 9.08. Satisfaction of Obligation of City.**

(a) If the City shall pay or cause to be paid, or there shall otherwise be paid to the Owners, the principal of and interest on the Bonds, at the times and in the manner stipulated in this Ordinance, then the pledge of the Revenues of the System under this Ordinance and all other obligations of the City to the holders shall thereupon cease, terminate, and become void and be discharged and satisfied.

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(b) Bonds or any principal amount thereof shall be deemed to have been paid within the meaning and with the effect expressed above in this Section when (i) money sufficient to pay in full such Bonds or the principal amount thereof at maturity or to the redemption date therefor, together with all interest due thereon, shall have been irrevocably deposited with and held in trust by the Paying Agent/Registrar, or any authorized escrow agent, or (ii) noncallable Government Obligations shall have been irrevocably deposited in trust with the Paying Agent/Registrar, or an authorized escrow agent, which Government Obligations have been certified by an independent accounting firm to mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money, together with any moneys deposited therewith, if any, to pay when due the principal of and interest on such Bonds, or the principal amount(s) thereof, on and prior to the stated maturity thereof or (if notice of redemption has been duly given or waived or if irrevocable arrangements therefor acceptable to the Paying Agent/Registrar have been made) the redemption date thereof. The City covenants that no deposit of moneys or Government Obligations will be made under this Section and no use made of any such deposit which would cause the Bonds to be treated as "arbitrage bonds" within the meaning of Section 148 of the Code or regulations adopted pursuant thereto.

(c) Any moneys so deposited with the Paying Agent/Registrar, or an authorized escrow agent, and all income from Government Obligations held in trust by the Paying Agent/Registrar or any authorized escrow agent, pursuant to this Section which is not required for the payment of the Bonds, or any principal amount(s) thereof, or interest thereon with respect to which such moneys have been so deposited shall be remitted to the City or deposited as directed by the City. Furthermore, any money held by the Paying Agent/Registrar for the payment of the principal of and interest on the Bonds and remaining unclaimed for a period of two (2) years after the stated maturity, or applicable redemption date, of the Bonds such moneys were deposited and are held in trust to pay shall, upon the request of the City, be remitted to the City against a written receipt therefor. Notwithstanding the above and foregoing, any remittance of funds from the Paying Agent/Registrar to the City shall be subject to Title 6 of the Texas Property Code.

**Section 9.09. Bonds as Negotiable Instruments.**

Each of the Bonds shall be deemed and construed to be an "Investment Security" and, as such, a negotiable instrument, within the meaning of Article 8 of the Texas Uniform Commercial Code.

**Section 9.10. Special Covenants.**

The City further covenants and agrees by and through this Ordinance as follows:

(i) It has the lawful power to pledge the Revenues of the System to the payment of the Bonds to the extent provided herein and has lawfully exercised said power under the Constitution and laws of the State of Texas, including the Act, and that the Bonds issued hereunder, together with the Previously Issued Bonds and any Additional Bonds, shall be ratably secured in such manner that no one bond shall have preference over any other bond of said issues.

(ii) The Revenues of the System have not been in any manner pledged or encumbered to the payment of any debt or obligation of the City or the System, save and except for the Bonds and the Previously Issued Bonds; provided that the City has reserved the right pursuant to Section 9.03 hereof to issue subordinate lien obligations.

(iii) To exercise and pursue with due diligence available remedies provided by law for the collection of delinquent drainage charges, including the power under Section 402.050 of the Act to discontinue all utility services, particularly water and sewer services provided by the City to a user of benefited property who is delinquent in the payment of drainage charges.

**Section 9.11. Ordinance a Contract – Amendments.**

This Ordinance shall constitute a contract with the Owners from time to time, be binding on the City, and shall not be amended or repealed by the City while any Bond remains Outstanding except as permitted in this Section and Section 11.03(e). The City, may, without the consent of or notice to any Owners, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Owners, to cure any ambiguity, inconsistency, or formal defect or omission herein and to provide additional security for the payment of the Bonds. In addition, the City may, with the written consent from the owners holding a majority in aggregate principal amount of the Bonds then Outstanding (excluding Bonds acquired by or held for the account of the City) affected thereby, amend, add to, or rescind any of the provisions of this Ordinance; provided that, without the written consent of all Owners of Bonds then Outstanding, no such amendment, addition, or rescission shall (1) extend the time or times of payment of the Bonds, reduce the principal amount thereof, the redemption price therefor, or the rate of interest thereon, or in any other way modify the terms of payment of the principal or interest on the Bonds, (2) give any preference to any Bond over any other Bond, or (3) reduce the aggregate principal amount of Bonds required to be held for consent to any such amendment, addition, or rescission.

**Section 9.12. Provisions Concerning Federal Income Tax Exclusion.**

The City intends that the interest on the Bonds shall be excludable from gross income for purposes of federal income taxation pursuant to sections 103 and 141 through 150 of the Code and the applicable regulations promulgated thereunder (the "Regulations"). The City covenants and agrees not to take any action, or knowingly omit to take any action within its control, that if taken or omitted, respectively, would cause the interest on the Bonds to be includable in the gross income, as defined in section 61 of the Code, of the holders thereof for purposes of federal income taxation.

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In particular, the City covenants and agrees to comply with each requirement of Sections 9.12 through 9.19, inclusive; provided, however, that the City shall not be required to comply with any particular requirement of Sections 9.12 through 9.19, inclusive, if the City has received an opinion of nationally recognized bond counsel (“Counsel’s Opinion”) that such noncompliance will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds or if the City has received a Counsel’s Opinion to the effect that compliance with some other requirement set forth in Sections 9.12 through 9.19 will satisfy the applicable requirements of the Code, in which case compliance with such other requirement specified in such Counsel’s Opinion shall constitute compliance with the corresponding requirement specified in such Sections.

**Section 9.13. No Private Use or Payment and No Private Loan Financing.**

The City shall certify, through an authorized officer, employee or agent, that, based upon all facts and estimates known or reasonably expected to be in existence on the date the Bonds are delivered, the proceeds of the Bonds will not be used in a manner that would cause the Bonds to be “private activity bonds” within the meaning of section 141 of the Code and the Regulations. The City covenants and agrees that it will make such use of the proceeds of the Bonds, including interest or other investment income derived from Bond proceeds, regulate the use of property financed, directly or indirectly, with such proceeds, and take such other and further action as may be required so that the Bonds will not be “private activity bonds” within the meaning of section 141 of the Code and the Regulations.

**Section 9.14. No Federal Guaranty.**

The City covenants and agrees not to take any action, or knowingly omit to take any action within its control, that, if taken or omitted, respectively, would cause the Bonds to be “federally guaranteed” within the meaning of section 149(b) of the Code and the Regulations, except as permitted by section 149(b)(3) of the Code and the Regulations.

**Section 9.15. Bonds are not Hedge Bonds.**

The City covenants and agrees not to take any action, or knowingly omit to take any action, and has not knowingly omitted and will not knowingly omit to take any action, within its control, that, if taken or omitted, respectively, would cause the Bonds to be “hedge bonds” within the meaning of section 149(g) of the Code and the Regulations.

**Section 9.16. No Arbitrage Covenant.**

The City shall certify, through an authorized officer, employee or agent, that, based upon all facts and estimates known or reasonably expected to be in existence on the date the Bonds are delivered, the City will reasonably expect that the proceeds of the Bonds will not be used in a manner that would cause the Bonds to be “arbitrage bonds” within the meaning of section 148(a) of the Code and the Regulations. Moreover, the City covenants and agrees that it will make such use of the proceeds of the Bonds including interest or other investment income derived from Bond proceeds, regulate investments of proceeds of the Bonds, and take such other and further action as may be required so that the Bonds will not be “arbitrage bonds” within the meaning of section 148(a) of the Code and the Regulations.

**Section 9.17. Arbitrage Rebate.**

If the City does not qualify for an exception to the requirements of Section 148(f) of the Code, the City will take all necessary steps to comply with the requirement that certain amounts earned by the City on the investment of the “gross proceeds” of the Bonds (within the meaning of section 148(f)(6)(B) of the Code) be rebated to the federal government. Specifically, the City will (i) maintain records regarding the investment of the gross proceeds of the Bonds as may be required to calculate the amount earned on the investment of the gross proceeds of the Bonds separately from records of amounts on deposit in the funds and accounts of the City allocable to other bond issue of the City or moneys which do not represent gross proceeds of any bonds of the City, (ii) calculate at such times as are required by the Regulations, the amount earned from the investment of the gross proceeds of the Bonds which is required to be rebated to the federal government, and (iii) pay, not less often than every fifth anniversary date of the delivery of the Bonds or on such other dates as may be permitted under the Regulations, all amounts required to be rebated to the federal government. Further, the City will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the gross proceeds of the Bonds that might result in a reduction in the amount required to be paid to the federal government because such arrangement results in a smaller profit or a larger loss than would have resulted if the arrangement had been at arm’s length and had the yield on the issue not been relevant to either party.

**Section 9.18. Information Reporting.**

The City covenants and agrees to file or cause to be filed with the Secretary of the Treasury, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the Bonds are issued, an information statement concerning the Bonds, all under and in accordance with section 149(e) of the Code and the Regulations.

**Section 9.19. Continuing Obligation.**

Notwithstanding any other provision of this Ordinance, the City’s obligations under the covenants and provisions of Section 9.12 through 9.18, inclusive, shall survive the defeasance and discharge of the Bonds.

**ARTICLE X****DEFAULT AND REMEDIES****Section 10.01. Remedies in Event of Default**

In addition to all rights and remedies provided by the laws of the State of Texas, the City covenants and agrees particularly that in the event the City:

- (a) defaults in payments to be made to the Bond Fund or the Reserve Fund as required by this Ordinance; or

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(b) defaults in the observance or performance of any other of the covenants, conditions or obligations set forth in this Ordinance,

the Owners of any of the Bonds shall be entitled to a writ of mandamus issued by a court of property jurisdiction, compelling and requiring the City and its officers to observe and perform any covenant, condition or obligation prescribed in this Ordinance. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power, or shall be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

The specific remedy herein provided shall be cumulative of all other existing remedies and the specification of such remedy shall not be deemed to be exclusive.

## ARTICLE XI

### CONTINUING DISCLOSURE UNDERTAKING

#### **Section 11.01. Annual Reports**

(a) The City shall provide annually to each NRMSIR and to any SID, within six (6) months after the end of each fiscal year, financial information and operating data with respect to the City of the general type included in the final Official Statement, being the information described in Exhibit A hereto. Any financial statements so to be provided shall be (i) prepared in accordance with the accounting principles described in Exhibit A hereto, and (ii) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within such period, then the City shall provide notice that audited financial statements are not available and shall provide unaudited financial statements for the applicable fiscal year to each NRMSIR and any SID. Thereafter, when and if audited financial statements become available, the City shall provide such audited financial statements as required to each NRMSIR and to any SID.

(b) If the City changes its fiscal year, it will notify each NRMSIR and any SID of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

(c) The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document (including an official statement or other offering document, if it is available from the MSRB) that theretofore has been provided to each NRMSIR and any SID or filed with the SEC.

**Section 11.02. Material Event Notices.**

(a) The City shall notify any SID and either each NRMSIR or the MSRB, in a timely manner, of any of the following events with respect to the Bonds, if such event is material within the meaning of the federal securities laws:

- (i) principal and interest payment delinquencies;
  - (ii) nonpayment related defaults;
  - (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
  - (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
  - (v) substitution of credit or liquidity providers, or their failure to perform;
  - (vi) adverse tax opinions or events affecting the tax exempt status of the Bonds;
  - (vii) modifications to rights of Owners;
  - (viii) Bond calls;
  - (ix) defeasance;
  - (x) release, substitution, or sale of property securing repayment of the Bonds;
- and
- (xi) rating changes.

(b) The City shall notify any SID and either each NRMSIR or the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with Section 11.02 of this Ordinance by the time required by such Section.

**Section 11.03. Limitations, Disclaimers and Amendments.**

(a) The City shall be obligated to observe and perform the covenants specified in this Article for so long as, but only for so long as, the City remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the City in any event will give notice of any deposit made in accordance with Article XI that causes Bonds no longer to be Outstanding.

(b) The provisions of this Article are for the sole benefit of the Owners and beneficial owners of the Bonds, and nothing in this Article, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person.

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The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Article and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Article or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

**UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS ARTICLE, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.**

(c) No default by the City in observing or performing its obligations under this Article shall comprise a breach of or default under the Ordinance for purposes of any other provisions of this Ordinance.

(d) Nothing in this Article is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

(e) The provisions of this Article may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (i) the provisions of this Article, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (ii) either (a) the Owners of a majority in aggregate principal amount (or any greater amount required by any other provisions of this Ordinance that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Owners and beneficial owners of the Bonds. If the City so amends the provisions of this Article, it shall include with any amended financial information or operating data next provided in accordance with Section 11.02 an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

(f) Any filing required to be made pursuant to this Article may be made through the facilities of DisclosureUSA or such other central post office as may be approved in writing by the SEC for such purpose. Any such filing made through such central post office will be deemed to have been filed with each NRMSIR and SID or MSRB as if such filing had been made directly to such entity.

**ARTICLE XII**

**ATTORNEY GENERAL MODIFICATION**

**Section 12.01. Attorney General Modification.**

In order to obtain the approval of the Bonds by the Attorney General of the State of Texas, any provision of this Ordinance may be modified, altered or amended after the date of its adoption if required by the Attorney General in connection with the Attorney General's examination as to the legality of the Bonds and approval thereof in accordance with the applicable law. Such changes, if any, shall be provided to the City Secretary of the City and the City Secretary of the City shall insert such changes into this Ordinance as if approved on the date hereof.

**FINALLY ADOPTED, APPROVED AND EFFECTIVE** this February 13, 2006.

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

ATTEST:

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

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

Remainder of page not used.

3-48

M:Treasury

**EXHIBIT A**

**DESCRIPTION OF ANNUAL DISCLOSURE OF FINANCIAL INFORMATION**

The following information is referred to in Article XI of this Ordinance.

**Annual Financial Statements and Operating Data**

The financial information and operating data with respect to the City to be provided annually in accordance with such Article are as specified (and included in the Appendix or other headings of the Official Statement referred to) below:

1. The portions of the financial statements of the City appended to the Official Statement as Appendix B, but for the most recently concluded fiscal year.
2. Statistical and financial data set forth in Tables numbered 1 through 7, inclusive.

**Accounting Principles**

The accounting principles referred to in such Article are the accounting principles described in the notes to the financial statements referred to in Paragraph 1 above.



## 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>02/13/2006</b>	Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Parks	Initials	Date	
Department Head	Don Wendell,	Executive Director	<i>[Signature]</i>	2-7-06
Dept Signature:	<i>[Signature: Don Wendell]</i>	City Manager	<i>[Signature]</i>	2/13/06
Agenda Coordinator (include phone #):		Linda Benoit (7255)		
<b>ACTION REQUESTED:</b> <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 <u>PUBLIC HEARING</u>				
<b>CAPTION</b>				
A PUBLIC HEARING FOR THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, PURSUANT TO CHAPTER 26 OF THE TEXAS PARKS AND WILDLIFE CODE PERTAINING TO USE OR TAKING OF A PORTION OF CITY OF PLANO PARK KNOWN AS JACK CARTER PARK, FOR FIBER OPTIC EASEMENT FACILITIES FOR PLANO INDEPENDENT SCHOOL DISTRICT.				
<b>FINANCIAL SUMMARY</b>				
<input 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
<b>BALANCE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>FUND(S):</b>				
<b>COMMENTS:</b> This item has no fiscal impact.				
<b>SUMMARY OF ITEM</b>				
<p>A 10 feet wide fiber optic easement is proposed through Jack Carter Park for the Plano Independent School District as shown on the drawing included with this agenda item. The evidence at the Public Hearing should meet the criterion under the TEXAS PARKS AND WILDLIFE CODE (the "Code"). The Code requires that a public hearing be held. After the hearing the body having jurisdiction over the park, which is the City Council, must make the following findings:</p> <ol style="list-style-type: none"> <li>a) There is no feasible and prudent alternative to the use or taking of the Park Land as proposed by the Project; and</li> <li>b) The Project includes all reasonable planning to minimize harm to the Park Land, resulting from the use or the taking.</li> </ol> <p>Witnesses will be presented at the public hearing on these issues.</p>				



## CITY OF PLANO COUNCIL AGENDA ITEM

The proposed fiber optic line will provide service to a new PISD service center located directly south of Jack Carter Park on Spring Creek Parkway. The proposed service line will run across Carlisle Elementary School property and Jack Carter Park property to the new service center.

Fiber optic service to the new service center is essential for its operation. The fiber optic line is solely for the use of PISD, and it will not serve any commercial purpose. It is possible to construct the fiber optic line in or adjacent to existing street right-of-way along Old Orchard Drive, then along Spring Creek Parkway and then across Pleasant Valley Drive to the new service center. Cost to PISD for the route through Jack Carter Park is approximately \$48,000. Cost to PISD for the alternative route is approximately \$120,000. According to PISD, this route also creates the possibility of numerous conflicts with other utilities during and after installation. In light of the negligible impact the line will have on any existing or future improvements at Jack Carter Park, PISD staff does not believe this is a prudent alternative.

The fiber optic line will be installed by underground boring and will not disturb any park improvements or damage any existing trees. The easement is located primarily within the 100 year flood plain and will not conflict with any future plans for the park. A portion of the line is also located within an existing major overhead electric transmission line easement.

List of Supporting Documents

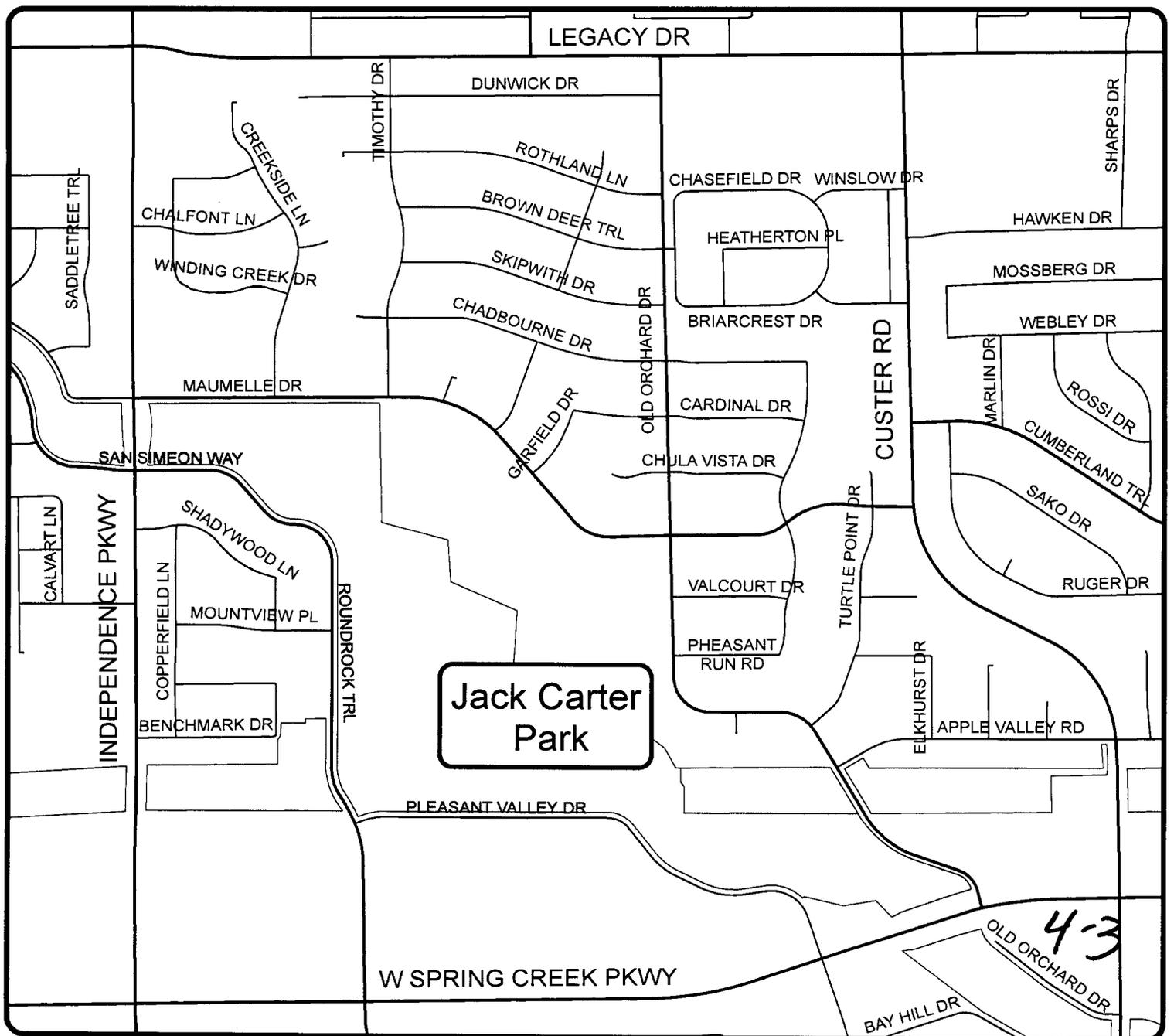
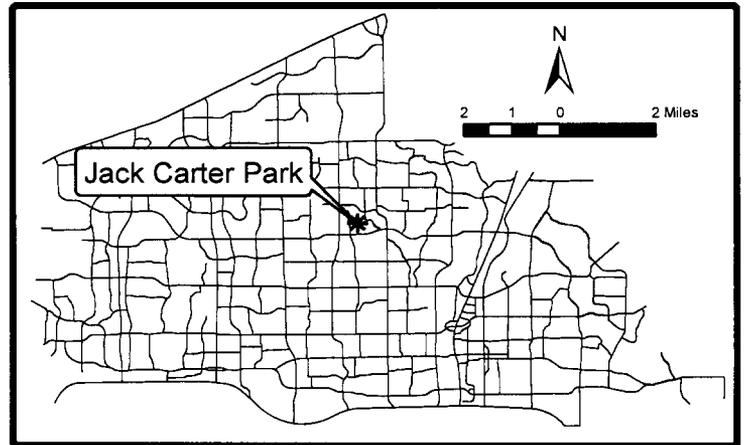
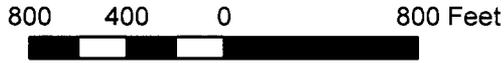
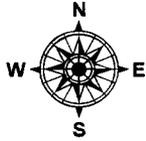
Drawing

Location Map

Other Departments, Boards, Commissions or Agencies

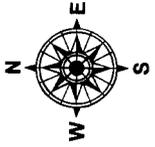
4-2

# Location Map Jack Carter Park

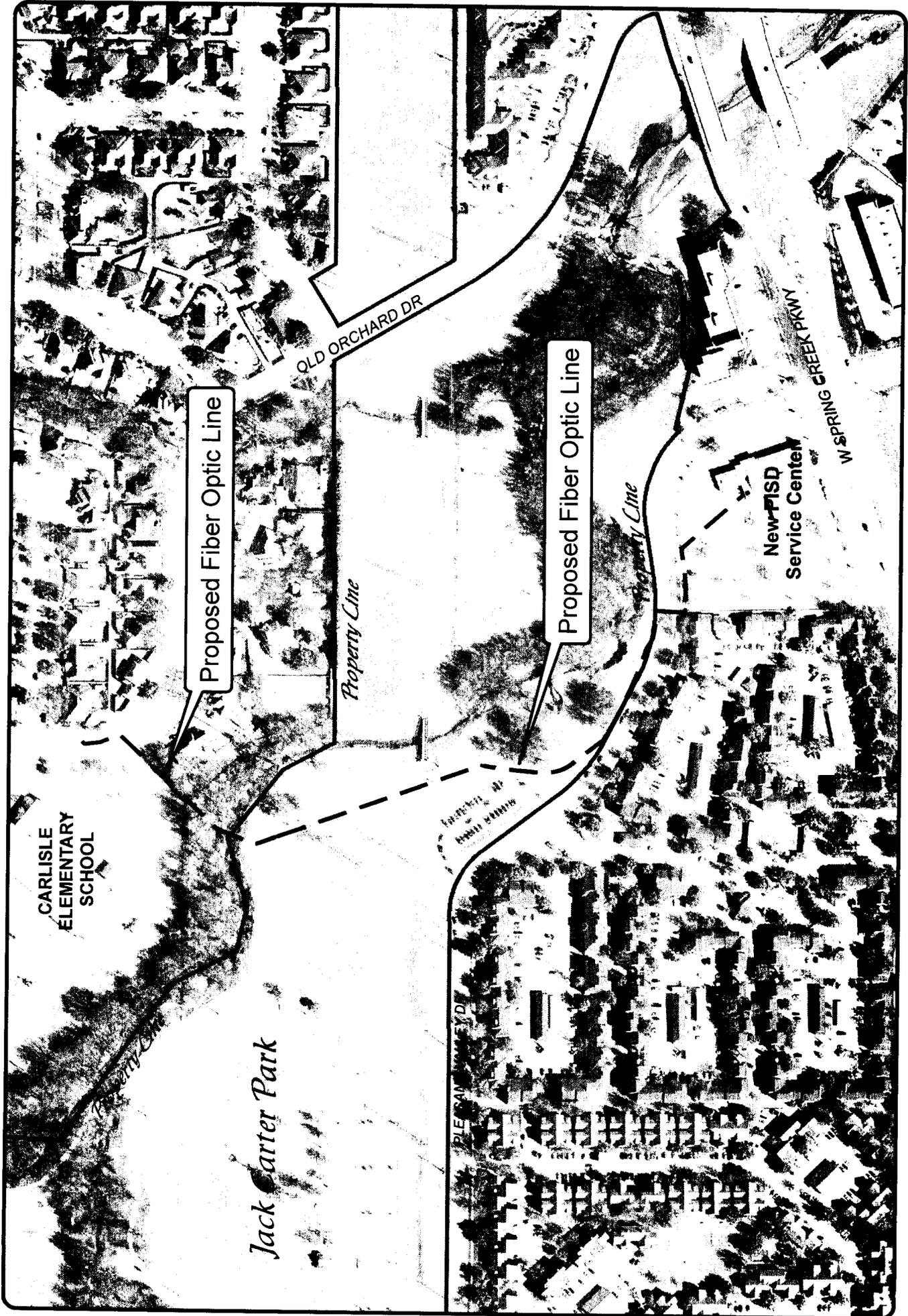


4-4

# Proposed PISD Fiber Optic Easement at Jack Carter Park



0.05 Miles  
0.025  
0







## 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>2/13/06</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>
Dept Signature:	<i>[Signature: Don Wendell]</i>			City Manager	<i>[Signature]</i> 2-03-06
Agenda Coordinator (include phone #):		Linda Benoit (7255)			

**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	

### CAPTION

APPROVING A FIBER OPTIC EASEMENT TO PLANO INDEPENDENT SCHOOL DISTRICT, REQUIRING THE USE OR TAKING OF A PORTION OF CITY OF PLANO PUBLIC PARK LAND, KNOWN AS JACK CARTER PARK; PROVIDING FOR A DETERMINATION THAT THERE IS NO FEASIBLE AND PRUDENT ALTERNATIVE TO THE PROPOSED USE OR TAKING OF THE PARK LAND; AND THAT THE PROPOSED PROJECT INCLUDES ALL REASONABLE PLANNING TO MINIMIZE HARM TO THE LAND AND THE PARK AND RECREATION AREA RESULTING FROM THE USE; 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	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:** This item has no fiscal impact.

### SUMMARY OF ITEM

This item is related to the previous public hearing item authorizing the use of Jack Carter Park for fiber optic easement facilities for Plano Independent School District.

The proposed fiber optic line will provide service to a new PISD service center located directly south of Jack Carter Park on Spring Creek Parkway. The proposed service line will run across Carlisle Elementary School property and Jack Carter Park property to the new service center.

5-1



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

The fiber optic line will be installed by underground boring and will not disturb any park improvements or damage any existing trees. The easement is located primarily within the 100 year flood plain and will not conflict with any future plans for the park. A portion of the line is also located within an existing major overhead electric transmission line easement.

List of Supporting Documents:

Other Departments, Boards, Commissions or Agencies

5-2

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF PLANO, TEXAS, APPROVING A FIBER OPTIC EASEMENT TO PLANO INDEPENDENT SCHOOL DISTRICT, REQUIRING THE USE OR TAKING OF A PORTION OF CITY OF PLANO PUBLIC PARK LAND, KNOWN AS JACK CARTER PARK; PROVIDING FOR A DETERMINATION THAT THERE IS NO FEASIBLE AND PRUDENT ALTERNATIVE TO THE PROPOSED USE OR TAKING OF THE PARK LAND; AND THAT THE PROPOSED PROJECT INCLUDES ALL REASONABLE PLANNING TO MINIMIZE HARM TO THE LAND AND THE PARK AND RECREATION AREA RESULTING FROM THE USE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City has requested approval of a project to allow fiber optic easement facilities for Plano Independent School District as depicted on the drawing attached hereto as Exhibit "A" (called "Project") which require the use or taking of a portion of City of Plano public park land known as Jack Carter Park, (called "Park Land"); and

**WHEREAS**, Chapter 26 of the TEXAS PARKS AND WILDLIFE CODE (called "Code") requires a public hearing to determine whether or not the Project's proposed use of a portion of the Park Land should be approved in accordance with certain criteria contained within the Code; and

**WHEREAS**, Notices of the Public Hearing were duly served and published in conformity with the Code; and

**WHEREAS**, a public hearing was held by the City Council on February 13, 2006, during which all interested persons were given the opportunity to testify and present other relevant evidence before the City Council;

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

**Section I.** After hearing and reviewing all of the testimony and evidence at the Public Hearing as well as other matters and information relevant and pertinent to a determination, the City Council hereby finds and determines that:

- (a) There is no feasible and prudent alternative to the use or taking of the Park Land as proposed by the Project; and
- (b) The Project includes all reasonable planning to minimize harm to the Park Land, resulting from the use or the taking.

**Section II.** The City Council further finds that the determination made in Section I is in the public interest generally, and in the best interest of the citizens of the City of Plano, Texas.

**Section III.** This Ordinance shall become effective immediately from and after its passage.

**DULY PASSED AND APPROVED** by the City Council of the City of Plano, Texas, this the \_\_\_\_\_ day of \_\_\_\_\_, 2006.

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

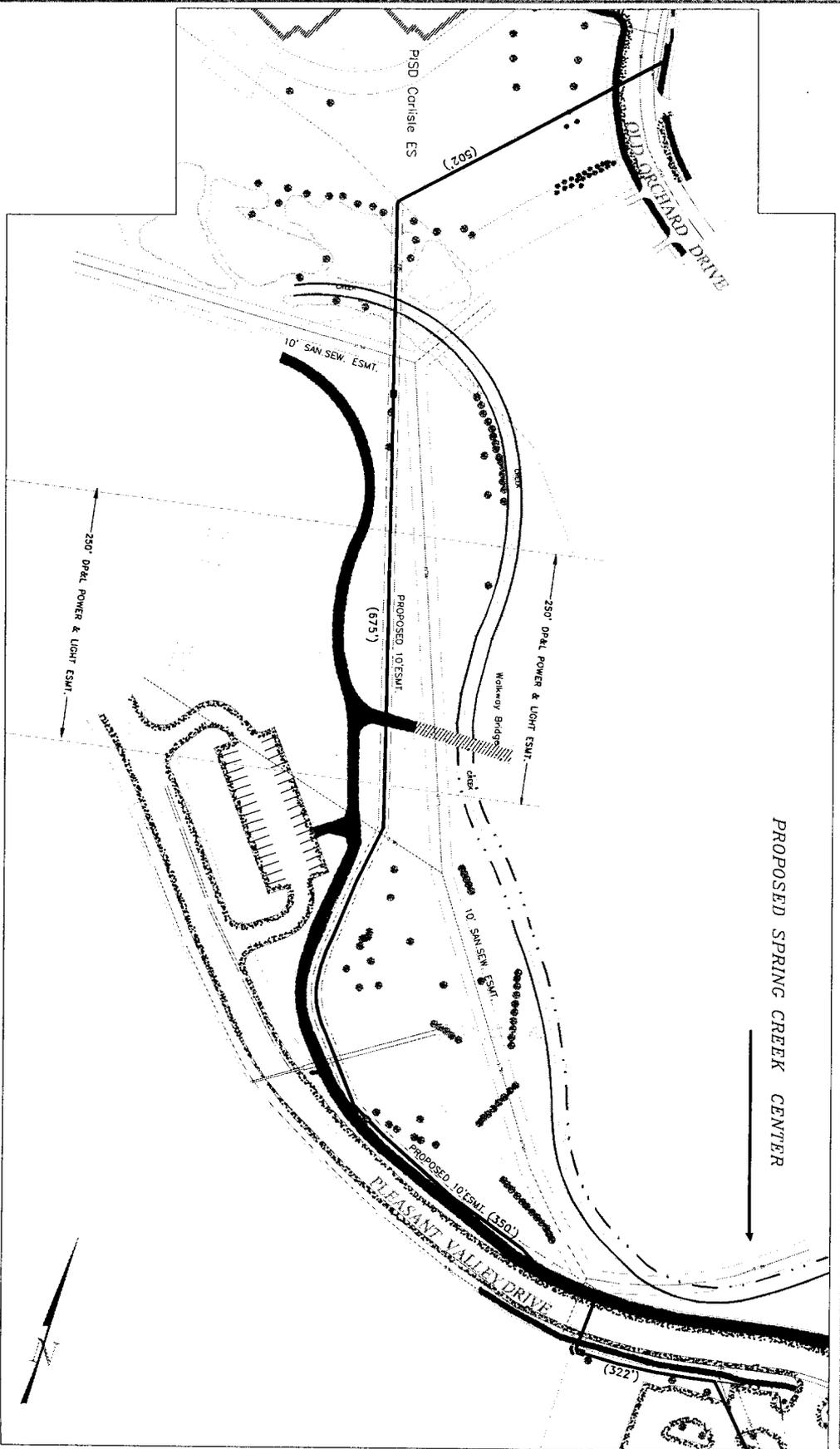
ATTEST:

\_\_\_\_\_  
Elaine Bealke, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, City Attorney

5-4



Trademark for Esplanade  
**E S P L A N O**

PROJECT TITLE:  
**PROPOSED SPRING CREEK CENTER  
 FIBER BUILDING CONNECT**

DATE	SCALE	SHEET
12/22/05	1" = 100'	1

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5-5



## 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>2/13/06</b>		Reviewed by Legal <i>MW</i>	<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>	2-3-06
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	2/3/06
Agenda Coordinator (include phone #): <b>Linda Benoit (7255)</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>				
APPROVING A FIBER OPTIC EASEMENT TO PLANO INDEPENDENT SCHOOL DISTRICT BEING IN THE ALFRED HARRINGTON SURVEY, ABSTRACT NO. 420, COLLIN COUNTY, TEXAS AND BEING PART OF LOT 2, BLOCK 7 OF HUNTERS GLEN 5-A, AN ADDITION TO THE CITY OF PLANO, TEXAS ACCORDING TO THE PLAT RECORDED IN CABINET B, SLIDE 96, MAP RECORDS, COLLIN COUNTY, TEXAS, ACROSS A PORTION OF CITY OF PLANO PARK KNOWN AS JACK CARTER PARK AND AUTHORIZING THE EXECUTION OF THE EASEMENT 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:	<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
<b>FUND(S): THIS ITEM HAS NO FISCAL IMPACT.</b>				
<b>COMMENTS:</b>				
<b>SUMMARY OF ITEM</b>				
<p>The proposed fiber optic line will provide service to a new PISD service center located directly south of Jack Carter Park on Spring Creek Parkway. The service line will run from Carlisle Elementary School to the new service center.</p> <p>Fiber optic service to the new service center is essential for its operation. The fiber optic line is solely for the use of PISD, and it will not service any commercial purpose. Accompanying the easement is a letter stating that the fiber optic line will not be used for commercial purposes.</p> <p>The fiber optic line will be installed by underground boring and will not disturb any park improvements or damage any existing trees. The easement is located primarily within the 100 year flood plain and will not conflict with any future plans for the park.</p>				



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

Parks and Recreation staff recommends approval of the easement.

List of Supporting Documents:

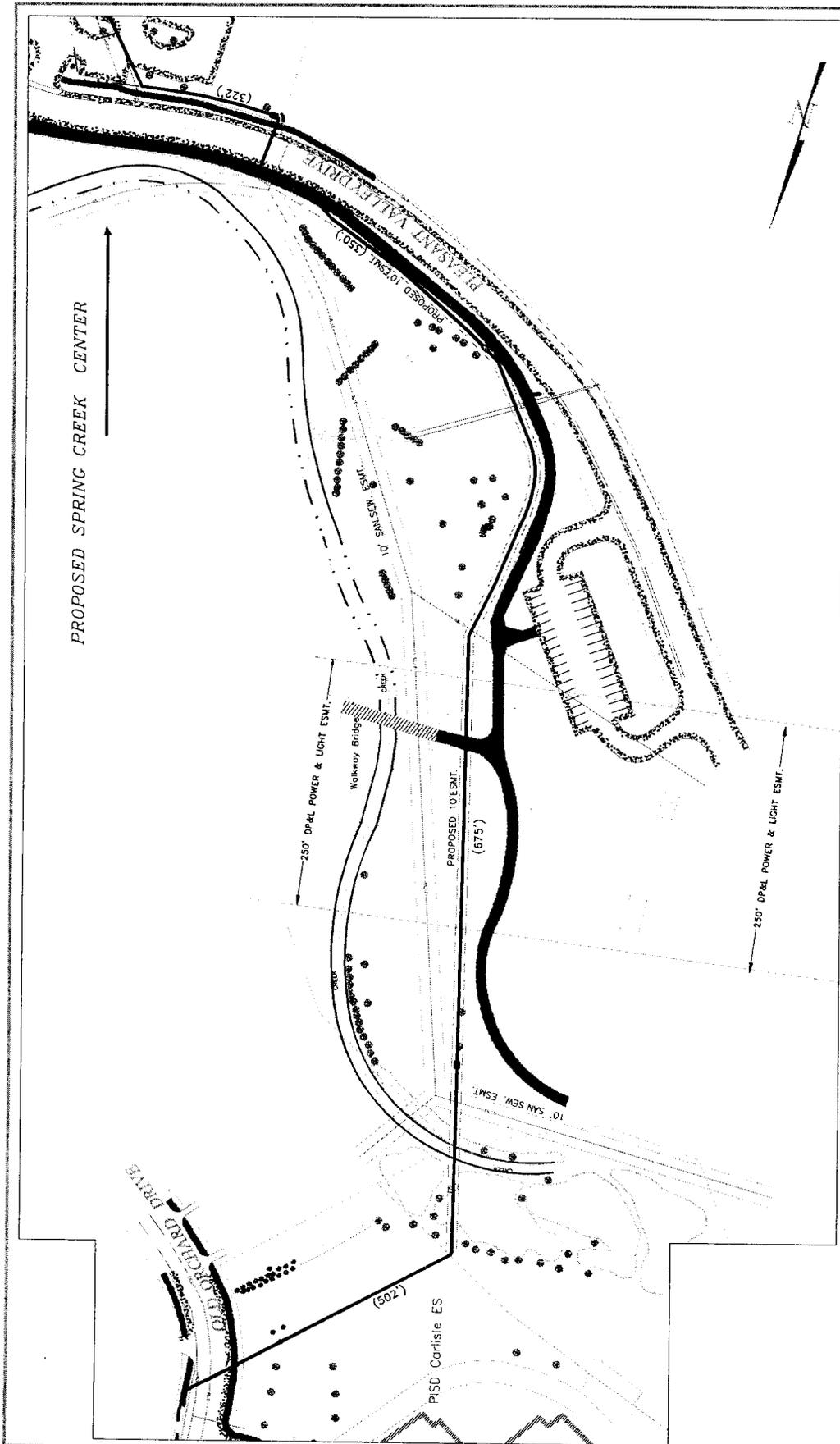
Drawing

PISD Letter

Fiber Optic Easement

Other Departments, Boards, Commissions or Agencies

6-2



PROPOSED SPRING CREEK CENTER

PROJECT TITLE :

PROPOSED SPRING CREEK CENTER  
FIBER BUILDING CONNECT

DATE	SCALE	SHEET
12/22/05	1" = 100'	1

Prepared for Client:



F L A N O  
FIBER LOCAL AREA NETWORK OPERATOR



6-3

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING A FIBER OPTIC EASEMENT TO PLANO INDEPENDENT SCHOOL DISTRICT BEING IN THE ALFRED HARRINGTON SURVEY, ABSTRACT NO. 420, COLLIN COUNTY, TEXAS AND BEING PART OF LOT 2, BLOCK 7 OF HUNTERS GLEN 5-A, AN ADDITION TO THE CITY OF PLANO, TEXAS ACCORDING TO THE PLAT RECORDED IN CABINET B, SLIDE 96, MAP RECORDS, COLLIN COUNTY, TEXAS, ACROSS A PORTION OF CITY OF PLANO PARK KNOWN AS JACK CARTER PARK AND AUTHORIZING THE EXECUTION OF THE EASEMENT 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 Fiber Optic Easement to Plano Independent School District across Jack Carter Park, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference, (called the "Easement"); and,

**WHEREAS**, upon full review and consideration of the Easement, 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 the Easement 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 City Council hereby authorizes the dedication of the Easement to Plano Independent School District and determines that the Easement is acceptable and is hereby in all things approved.

**Section II.** The City Manager, or in his absence, an Executive Director, is hereby authorized to execute the Easement and all other documents in connection with said Easement on behalf of the City of Plano.

6-4

**Section III.** This Resolution shall become effective from and after its adoption.

**DULY ADOPTED** this the \_\_\_ day of \_\_\_\_\_, 2006.

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

ATTEST:

\_\_\_\_\_  
Elaine Bealke, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, City Attorney

6-5



February \_\_\_\_, 2006

Plano Independent School District  
Plano Independent School District  
2700 West 15th Street  
Plano, TX 75075

Attention: Mr. Richard Matkin  
Associate Superintendent of Business Services

**RE: Jack Carter Park - Chapter 26 - Fiber Optic Easement from  
City of Plano, Texas to Plano Independent School District**

Dear Mr. Matkin:

This letter shall formalize the agreement between the City of Plano ("City") and Plano Independent School District ("PISD") with regard to the City granting PISD an easement across a portion of Jack Carter Park ("Park") for the construction of a fiber optic cable ("Cable").

PISD has represented to the City that it has no plan now, or in the future, to permit the Cable to be used for commercial purposes and that such Cable will be used solely for instructional and administrative purposes. Therefore, PISD agrees that it shall have no right to lease, sublet, or otherwise allow any third party to use any portion of the Cable. PISD further agrees to comply with all city, state, and federal laws, statutes, ordinances, and regulations in the construction, maintenance and operation of the Cable, including the applicable portions of the City's Right-of-Way Management Ordinance, as amended.

The City hereby agrees to waive the payment of any fees that would be assessed to PISD as a result of the construction of the Cable. If PISD, or any party utilizing the Cable, at any time, utilizes the Cable, or any portion thereof, for any commercial purpose, this waiver of fees shall be rescinded, and PISD shall be required to enter into a license with and shall immediately remit fees thereunder to the City.

If the terms of this letter agreement meet with your approval, please sign in the space provided below and return the signed copy to me. By signing this letter agreement, you represent to the City that you have the

*Pet Evans*  
Mayor

*Ken Lambert*  
Mayor Pro Tem

*Scott Johnson*  
Deputy Mayor Pro Tem

*Shep Stahel*  
Place 1

*Loretta Ellerbe*  
Place 3

*Sally Magnuson*  
Place 4

*Harry LaRosliere*  
Place 5

*Jean Callison*  
Place 7

Thomas H. Muehlenbeck  
City Manager

6-6

authority to execute this agreement and bind PISD to its terms and conditions.

Should the terms of this letter agreement not meet with your approval or should you have any questions, please contact me at your earliest convenience. Once the City and PISD have executed this agreement and completed all other necessary approvals for an easement in the Park, any permits that have been submitted to the City will be processed.

Sincerely,

Thomas H. Muehlenbeck  
City Manager  
Telephone: 972/941-7121  
Facsimile: 972/423-9587

Accepted and Agreed to  
this \_\_\_\_\_ day of \_\_\_\_\_, 2006

**PLANO INDEPENDENT SCHOOL DISTRICT**

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

/men  
Enclosure

6-7

**FIBER OPTIC EASEMENT**

**STATE OF TEXAS           §  
  §  
COUNTY OF COLLIN       §**

**KNOW ALL MEN BY THESE PRESENTS:**

**THAT, CITY OF PLANO, TEXAS**, a home-rule municipal corporation, whether one or more, hereinafter called "Grantor," for and in consideration of the sum of **TEN DOLLARS (\$10.00)** and other good and valuable consideration to Grantor in hand paid by the, **PLANO INDEPENDENT SCHOOL DISTRICT**, an independent school district organized under the laws of the State of Texas hereinafter called "Grantee," the receipt and sufficiency of which is hereby acknowledged, does **GIVE, GRANT and CONVEY** to Grantee, its successors and assigns, a nonexclusive easement and right to construct, reconstruct and perpetually maintain fiber optic facilities (the "Facilities") in, upon and across certain real property located in the City of Plano, Collin County, Texas as more particularly described in Exhibit "A" attached hereto and made a part hereof by reference (the "Easement Property").

**TO HAVE AND TO HOLD** the Easement Property unto Grantee, its successors and assigns, together with the right and privilege of ingress and egress across the Easement Property. Grantee, its successors and assigns shall have the right to construct, reconstruct and maintain the Facilities at all times in the future, within the Easement Property boundaries.

6-8

SIGNED this \_\_\_\_ day of \_\_\_\_\_, 2006.

**CITY OF PLANO, TEXAS**, a home rule municipal corporation

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

**ACKNOWLEDGMENT**

**STATE OF TEXAS**       §  
                                  §  
**COUNTY OF COLLIN**   §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2006, by **THOMAS H. MUEHLENBECK**, City Manager of the **CITY OF PLANO, TEXAS**, a home rule municipal corporation, on behalf of said corporation.

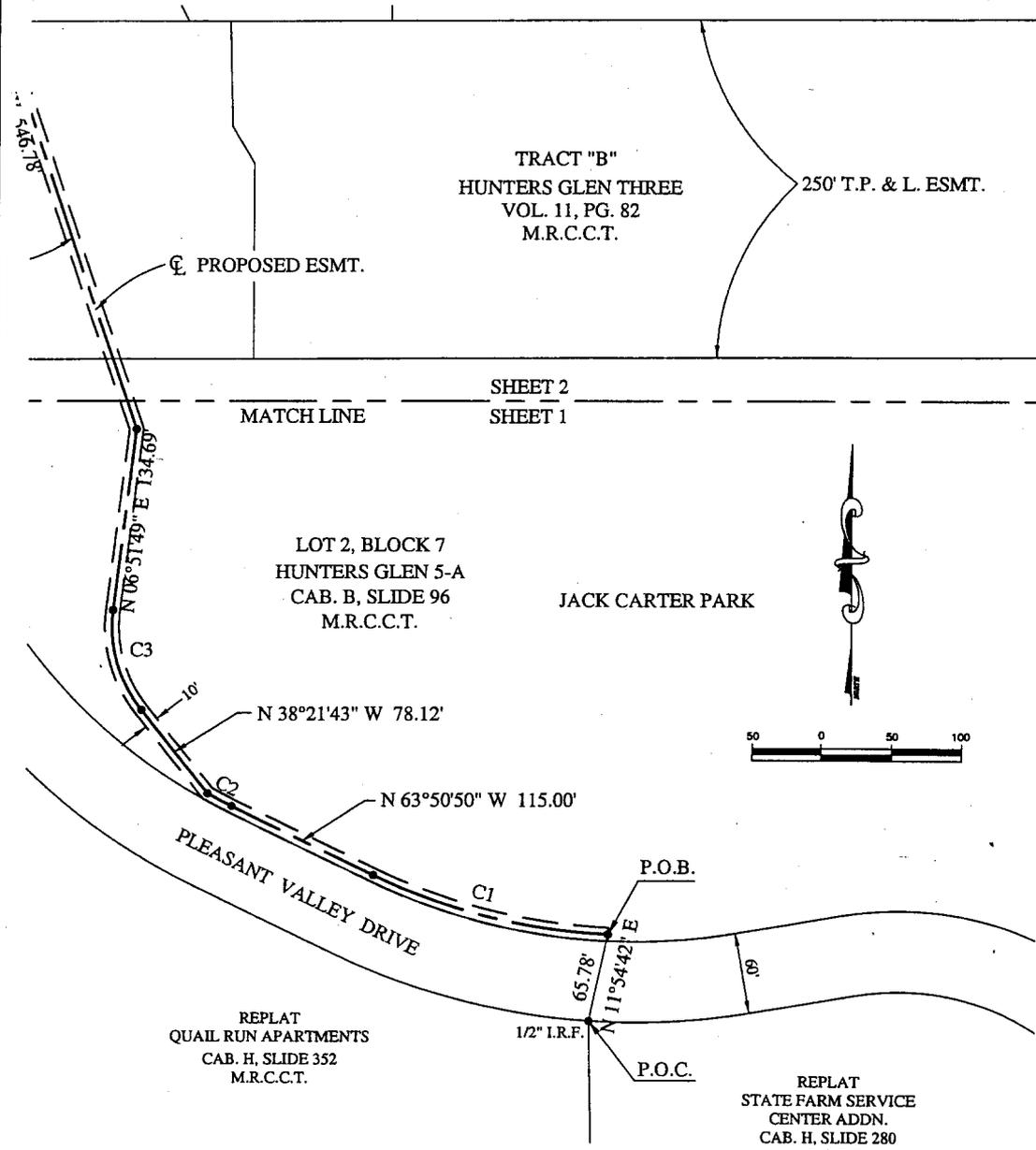
\_\_\_\_\_  
Notary Public, State of Texas

**After Recording Return to:**  
City Attorney's Office  
City of Plano, Texas  
P.O. Box 860358  
Plano, TX 75086-0358

6-9

# ADVANCED LAND SURVEYING

1234 Sugar Ridge Road Ennis, Texas 75119 (972) 846-3044  
(972) 846-3119 - Fax



CURVE TABLE					
CURVE	LENGTH	RADIUS	CENTRAL ANGLE	CHORD BEARING	CHORD DISTANCE
C1	176.47	426.65	23°41'57"	N 75°41'50" W	175.22'
C2	19.91	389.69	02°55'37"	N 62°23'02" W	19.90'
C3	78.93	100.00	45°13'32"	N 15°44'57" W	76.90'

December 20, 2005

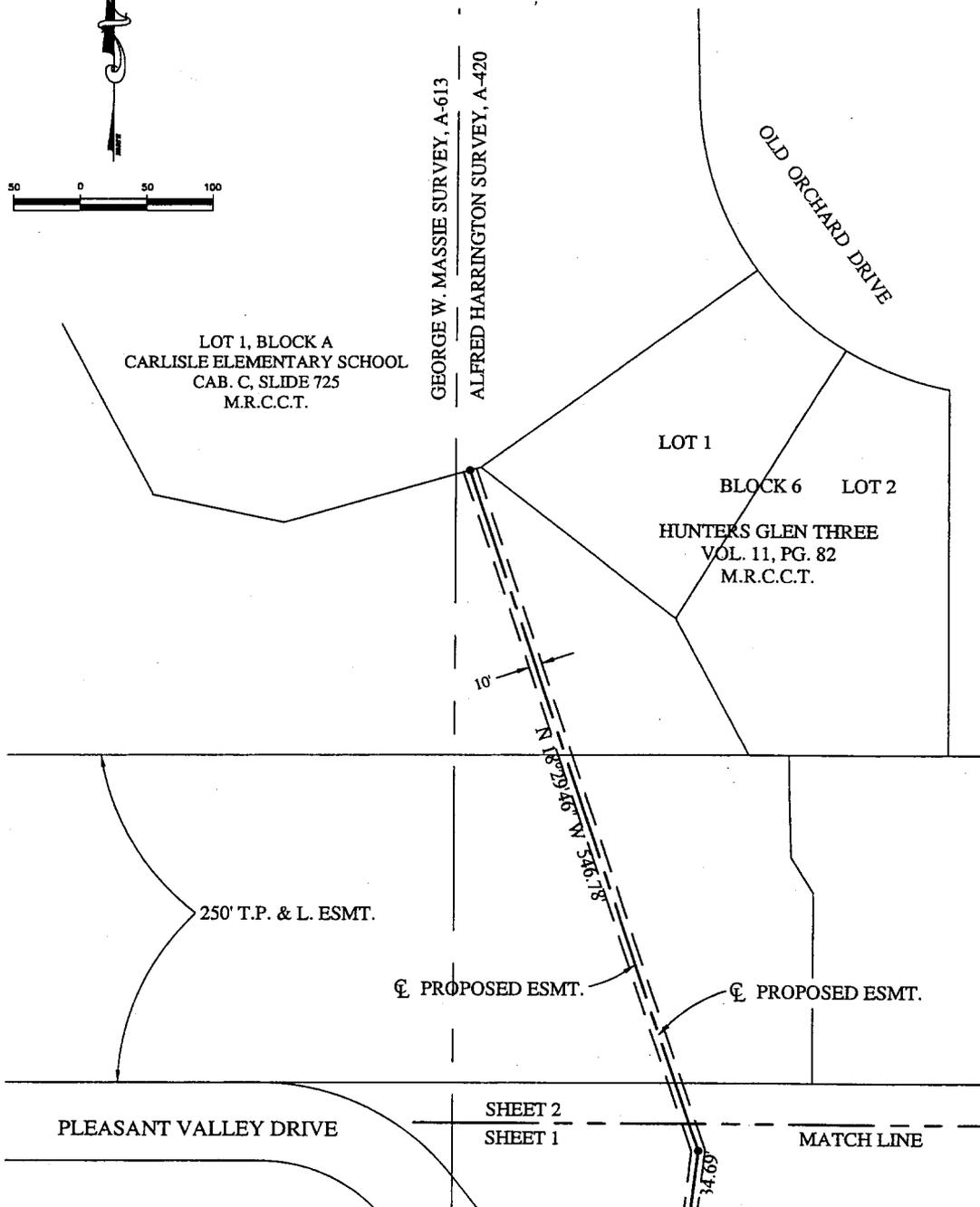
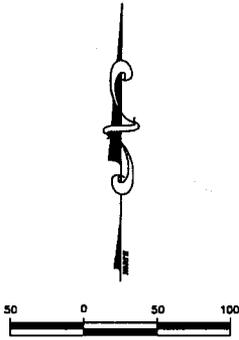


6-10

P.I.S.D. FIBER OPTIC EASEMENT  
11,499 Sq. Ft. / 0.2640 Ac.  
City of Plano, Texas  
Sheet 1 of 3

# ADVANCED LAND SURVEYING

1234 Sugar Ridge Road Ennis, Texas 75119 (972) 846-3044  
(972) 846-3119 - Fax



December 20, 2005



P.I.S.D FIBER OPTIC EASEMENT  
11,499 Sq. Ft. / 0.2640 Ac.  
City of Plano, Texas  
Sheet 2 of 3

6-11

1234 Sugar Ridge Road Ennis, Texas 75119 (972) 846-3044  
(972) 846-3119 - Fax

**Legal Description:**

All that certain lot, tract or parcel of land situated in the Alfred Harrington Survey, Abstract No. 420, City of Plano, Collin County, Texas and being part of Lot 2, Block 7 of Hunters Glen 5-A, an addition to the City of Plano, Texas, according to the plat thereof recorded in Cabinet B, Slide 96, Map Records, Collin County, Texas;

Being a 10 foot wide strip of land lying 5.00 feet on either side of the centerline described as follows:

Commencing at a 1/2" iron rod found on the south right-of-way line of Pleasant Valley Drive (a 60 foot R.O.W.) being the northwest corner of the Replat of State Farm Service Center Addition, recorded in Cabinet H, Slide 280, said Map Records;

Thence North 11 deg. 54 min. 42 sec. East, crossing said Pleasant Valley Drive, a distance of 65.78 feet to the Point of Beginning of the herein described centerline, said point being 5.00 feet north of the north line of said Pleasant Valley Drive and being the beginning of a non-tangent curve to the right, having a radius of 426.65 feet, a central angle of 23 deg. 41 min. 57 sec. and a chord that bears North 75 deg. 41 min. 50 sec. West, with a chord length of 175.22';

Thence, 5.00 feet north of and parallel to said Pleasant Valley Drive, the following:

Along said curve, an arc length of 176.47 feet to a point;

North 63 deg. 50 min. 50 sec. West, a distance of 115.00 feet to a point, being the beginning of a tangent curve to the right, having a radius of 389.69 feet, a central angle of 02 deg. 55 min. 37 sec. and a chord that bears North 62 deg. 23 min. 02 sec. West, with a chord length of 19.90';

Along said curve, an arc length of 19.91 feet to a point;

Thence North 38 deg. 21 min. 43 sec. West, a distance of 78.12 feet to a point, being the beginning of a tangent curve to the right, having a radius of 100.00 feet, a central angle of 45 deg. 13 min. 32 sec. and a chord that bears North 15 deg. 44 min. 57 sec. West, with a chord length of 76.90';

Thence, along said curve, an arc length of 78.93 feet to a point;

Thence North 06 deg. 51 min. 49 sec. East, a distance of 134.69 feet to a point;

Thence North 18 deg. 29 min. 46 sec. West, a distance of 546.78 feet to a point on the south line of Lot 1, Block A, Carlisle Elementary School, recorded in Cabinet C, Slide 725, said Map Records and being the end of the herein described centerline, Containing 11,499 square feet or 0.2640 acres of land.

\*\*Bearings based on plat of Hunters Glen 5-A, recorded in Cabinet B, Slide 96, Map Records, Collin County, Texas.

December 20, 2005



P.I.S.D. FIBER OPTIC EASEMENT  
11,499 Sq. Ft. / 0.2640 Ac.  
City of Plano, Texas  
Sheet 3 of 3

6-12

**DATE:** January 18, 2006  
**TO:** Honorable Mayor & City Council  
**FROM:** Carolyn Kalchthaler, Chairman, Planning & Zoning Commission   
**SUBJECT:** Results of Planning & Zoning Commission Meeting of January 17, 2006

**AGENDA ITEM NO. 7A - PUBLIC HEARING  
ZONING CASE 2005-51  
APPLICANT: MIDWAY/PARKWAY INVESTMENT, LTD.**

**DESCRIPTION:**

A request for a Specific Use Permit for Day Care Center on one lot on 1.3± acres located on the north side of Plano Parkway, 700± feet west of Chapel Hill Boulevard. Zoned Planned Development-112-Retail.

**APPROVED:** 8-0 **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:** February 13, 2006 (To view the agenda for this meeting, see [www.planotx.org](http://www.planotx.org))

**PUBLIC HEARING - ORDINANCE**

BT/slc

xc: Midway/Parker Investment, Ltd.  
Mazhar Zia, Willow Bend Partners  
Lynn Woodall, Administrative Support Supervisor

CITY OF PLANO

PLANNING & ZONING COMMISSION

January 17, 2006

**Agenda Item No. 7A**

**Public Hearing:** Zoning Case 2005-51

**Applicant:** Midway/Parkway Investment, Ltd.

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**DESCRIPTION:**

A request for a Specific Use Permit for Day Care Center on one lot on 1.3± acres located on the north side of Plano Parkway, 700± feet west of Chapel Hill Boulevard. Zoned Planned Development-112-Retail.

**REMARKS:**

The requested zoning is a Specific Use Permit (SUP) for Day Care Center. A day care center is a facility providing care, training, education, custody, treatment, or supervision for 13 or more children for less than 24 hours per day. An SUP authorizes and regulates a use not normally permitted in a district, which could benefit in a particular case the general welfare, provided that adequate development standards and safeguards are established. The existing Planned Development-112-Retail (PD-112-R) zoning will remain unchanged.

The current zoning is PD-112-R. A planned development 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. The R district is primarily intended to provide areas for neighborhood, local, and regional shopping facilities for the retail sales of goods and services including convenience stores, shopping centers, and regional malls but not including wholesaling or warehousing.

Subsection 3.102 of the Zoning Ordinance establishes supplementary regulations for day care centers. A day care center, as part of a multi-occupant building in a nonresidential district, must provide direct access to the exterior of the building and outdoor play space, and the play space must be immediately adjacent to the building. The proposed day care center complies with these requirements.

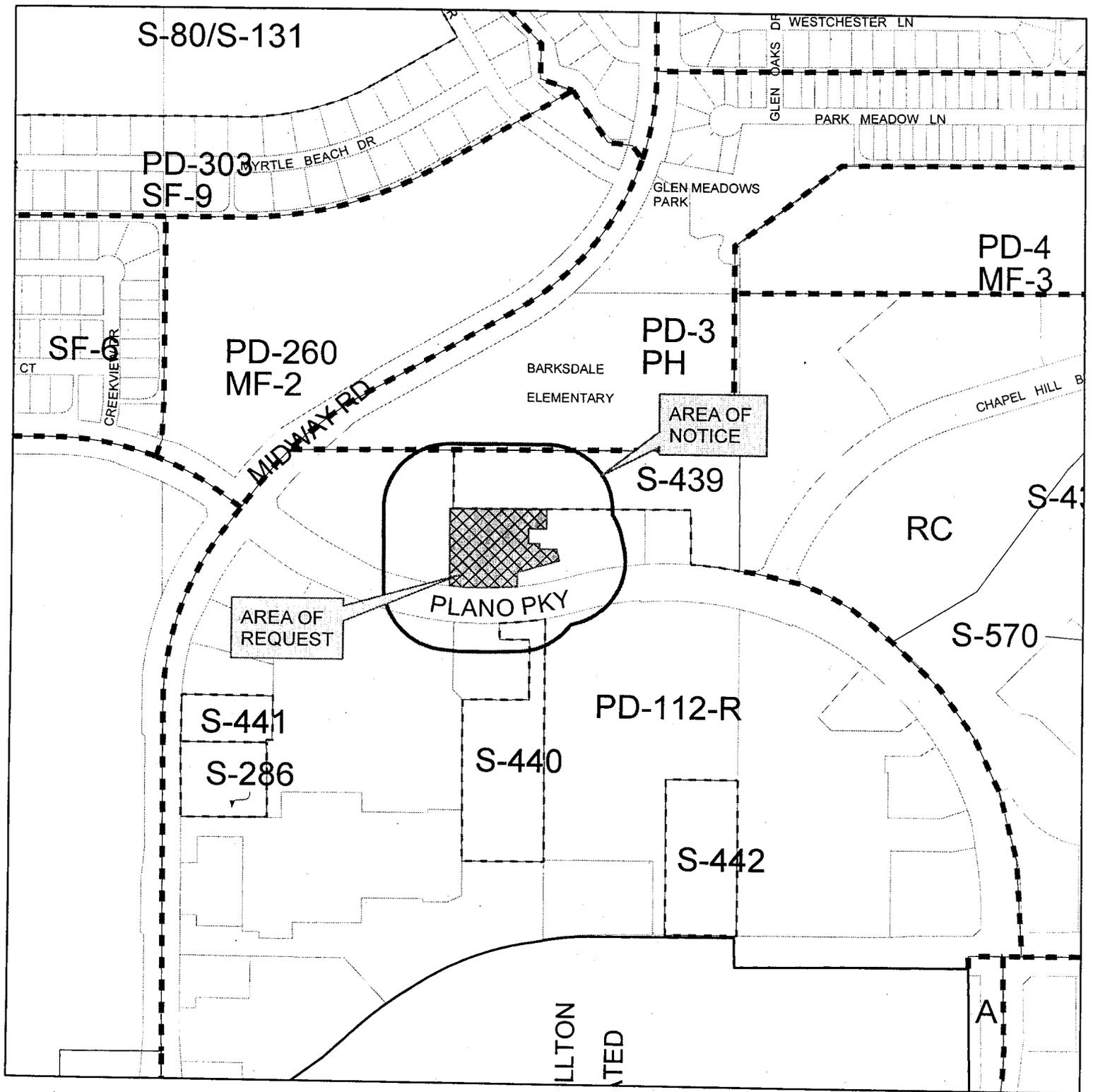
7-2

Subsection 3.102 establishes standards for passenger loading and unloading, outdoor play space, access, and 300-foot separation distance from gasoline pumps and storage tanks. The request complies with the access, loading and unloading, and separation distance standards. The request proposes two open space areas. Adequate open space (65 square feet per student) is provided for the maximum student population of 144 students.

The proposed day care center is consistent with and compliments the residential and elementary school uses to the north, a shopping center to the south, and a church use to the west. The application meets all the zoning requirements for the proposed day care center.

**RECOMMENDATIONS:**

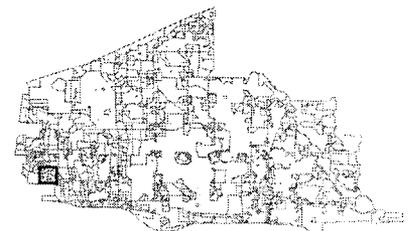
Recommended for approval as submitted.



Zoning Case #: 2005-51

Existing Zoning: PLANNED DEVELOPMENT-112-  
RETAIL

7-4



○ 200' Notification Buffer





**ORDINANCE NO. \_\_\_\_\_**  
**(Zoning Case 2005-51)**

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, ORDINANCE NO. 2004-9-37, AS HERETOFORE AMENDED, GRANTING SPECIFIC USE PERMIT NO. 573 SO AS TO ALLOW THE ADDITIONAL USE OF DAY CARE CENTER ON 1.3± ACRES OF LAND OUT OF THE J. W. HAYNES SURVEY, ABSTRACT NO. 456, LOCATED ON THE NORTH SIDE OF PLANO PARKWAY, 700± FEET WEST OF CHAPEL HILL BOULEVARD IN THE CITY OF PLANO, COLLIN COUNTY, TEXAS, PRESENTLY ZONED PLANNED DEVELOPMENT-112-RETAIL; 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 13th day of February, 2006, for the purpose of considering granting Specific Use Permit No. 573 for the additional use of Day Care Center on 1.3± acres of land out of the J. W. Haynes Survey, Abstract No. 456, located on the north side of Plano Parkway, 700± feet west of Chapel Hill Boulevard in the City of Plano, Collin County, Texas, presently zoned Planned Development-112-Retail; 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 13th day of February, 2006; and

**WHEREAS**, the City Council is of the opinion and finds that the granting of Specific Use Permit No. 573 for the additional use of Day Care Center on 1.3± acres of land out of the J. W. Haynes Survey, Abstract No. 456, located on the north side of Plano Parkway, 700± feet west of Chapel Hill Boulevard in the City of Plano, Collin County, Texas, 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.** The Comprehensive Zoning Ordinance No. 2004-9-37, as the same has been heretofore amended, is hereby further amended so as to grant Specific Use Permit No. 573, allowing the additional use of Day Care Center on 1.3± acres of land out of the J. W. Haynes Survey, Abstract No. 456, located on the north side of Plano Parkway, 700± feet west of Chapel Hill Boulevard in the City of Plano, Collin County, Texas, presently zoned Planned Development-112-Retail, said property being more fully described on the legal description in Exhibit "A" attached hereto.

**Section II.** 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 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.

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**Section VII.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED AND APPROVED THIS THE 13TH DAY OF FEBRUARY, 2006.**

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

ATTEST:

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

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

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EXHIBIT "A"  
LEGAL DESCRIPTION

BEING a tract of land situated in the J. W. Haynes Survey, Abstract No. 456, City of Plano, Collin County, Texas, and being more particularly described as follows:

BEGINNING at a concrete monument found for the southeast corner of Lot 3, Block A, Parkway Corners Block A Lot 3 Addition, an addition to the City of Plano according to the plat thereof recorded in Cabinet K, Page 492, Plat Records, Collin County, Texas, and being on the north right-of-way line of Plano Parkway (110' right-of-way);

THENCE, along the east line of said Lot 3, North  $00^{\circ} 22' 04''$  East, a distance of 239.67 feet, to a 1-inch iron rod found for an ell corner of said Lot 3;

THENCE, along a South line of said Lot 3 and a South line of Lot 1, Block A of Parkway Corners Block A Lot 1 Addition, an addition to the City of Plano according to the plat thereof recorded in Cabinet K, Page 644, Plat Records, Collin County, Texas, South  $89^{\circ} 59' 43''$  East, a distance of 248.22 feet, to a point for corner;

THENCE, South  $00^{\circ} 22' 04''$  West, a distance of 93.83 feet, to a point for corner;

THENCE North  $89^{\circ} 37' 56''$  West, a distance of 45.33 feet, to a point for corner;

THENCE South  $00^{\circ} 22' 04''$  West, a distance of 40.37 feet to a point for corner;

THENCE, South  $89^{\circ} 37' 56''$  East, a distance of 28.83 feet, to a point for corner;

THENCE, South  $00^{\circ} 22' 04''$  West, a distance of 13.00 feet, to a point for corner;

THENCE South  $89^{\circ} 37' 56''$  East, a distance of 46.80 feet, to a point for corner;

THENCE South  $11^{\circ} 13' 32''$  East, a distance of 39.37 feet, to a point for corner and being on a non-tangent curve to the right having a central angle of  $08^{\circ} 52' 24''$ , a radius of 903.00 feet, and a chord of 139.71 which bears South  $83^{\circ} 01' 42''$  West;

THENCE, along said curve to the right for an arc length of 138.85 feet; to a point for corner;

THENCE South  $02^{\circ} 32' 06''$  East a distance of 42.00 feet, to a point for corner, being on the north right-of-way line of the aforementioned Plano Parkway and being on a non-tangent curve to the right having a central angle of  $09^{\circ} 06' 27''$ , a radius of 945.00 feet, and a chord of 150.06 feet which bears North  $87^{\circ} 58' 52''$  West;

THENCE, along said north right-of-way line and said curve to the right for an arc length of 150.21 feet, to the POINT OF BEGINNING and CONTAINING 55,541 square feet or 1.2750 acres of land.

7-10

**DATE:** January 18, 2006  
**TO:** Honorable Mayor & City Council  
**FROM:** Carolyn Kalchthaler, Chairman, Planning & Zoning Commission **TE**  
**SUBJECT:** Results of Planning & Zoning Commission Meeting of January 17, 2006

**AGENDA ITEM NO. 8A - PUBLIC HEARING  
ZONING CASE 2005-52  
APPLICANT: EPIC 121 COMMERCIAL, LTD.**

**DESCRIPTION:**

A request to rezone 2.1± acres located on the south side of State Highway 121, 1,950± feet west of Legacy Drive **from** Agricultural **to** Commercial Employment.

**APPROVED:** 8-0 **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:** February 13, 2006 (To view the agenda for this meeting, see [www.planotx.org](http://www.planotx.org))

**PUBLIC HEARING - ORDINANCE**

BT/slc

xc: Matt Dalton, Epic 121 Commercial, Ltd.  
Lynn Woodall, Administrative Support Supervisor

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CITY OF PLANO  
PLANNING & ZONING COMMISSION

January 17, 2006

**Agenda Item No. 8A**

**Public Hearing:** Zoning Case 2005-52

**Applicant:** Epic 121 Commercial, Ltd.

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**DESCRIPTION:**

A request to rezone 2.1± acres located on the south side of State Highway 121, 1,950± feet west of Legacy Drive **from** Agricultural **to** Commercial Employment.

**REMARKS:**

The applicant is proposing Commercial Employment (CE) zoning to develop the 2.1± acre property for a general office building and convenience store with gas pumps. A preliminary site plan has been submitted in conjunction with this request as Agenda Item No. 8B.

The current zoning is Agricultural (A). The A district is intended to provide for farming, dairying, pasturage, horticulture, animal husbandry, and the necessary accessory uses for the packing, treating, or storing of produce. The requested zoning is CE. The CE district is intended to provide the flexibility for an integrated development that may include retail, office, commercial, light manufacturing, and multifamily residences.

**Surrounding Land Use and Zoning**

The area of the request is undeveloped. The site has gentle sloping terrain with no native vegetation.

The property is bounded by State Highway 121 and the City of Frisco to the north, vacant and A zoned land to the south and west, and vacant and CE zoned land to the east.

8-2

**Conformance to the Comprehensive Plan**

**Future Land Use Plan and Housing Element** - The Future Land Use Plan designates this property as Major Corridor Development. Major Corridor Development land use designation is expected to include a mix of commercial, office, and technical production uses. The requested CE zoning is therefore in conformance with the Comprehensive Plan.

The objectives within the City of Organized Development theme of the Land Use Element of the Comprehensive Plan provides guidance for reviewing rezoning requests. Objective B.4 calls for land use compatibility by grouping complimentary land use activities and minimizing the impact of potentially incompatible activities. The proposed CE zoning will provide services that compliment the area's expected mix of commercial, office, and technical production uses.

**Adequacy of Public Facilities** - Water and sanitary sewer services are available.

**Traffic Impact Analysis (TIA)** - A TIA is not required for this zoning request since the amount/intensity of the proposed office development would not exceed the 5,000 trips per day threshold.

**SUMMARY:**

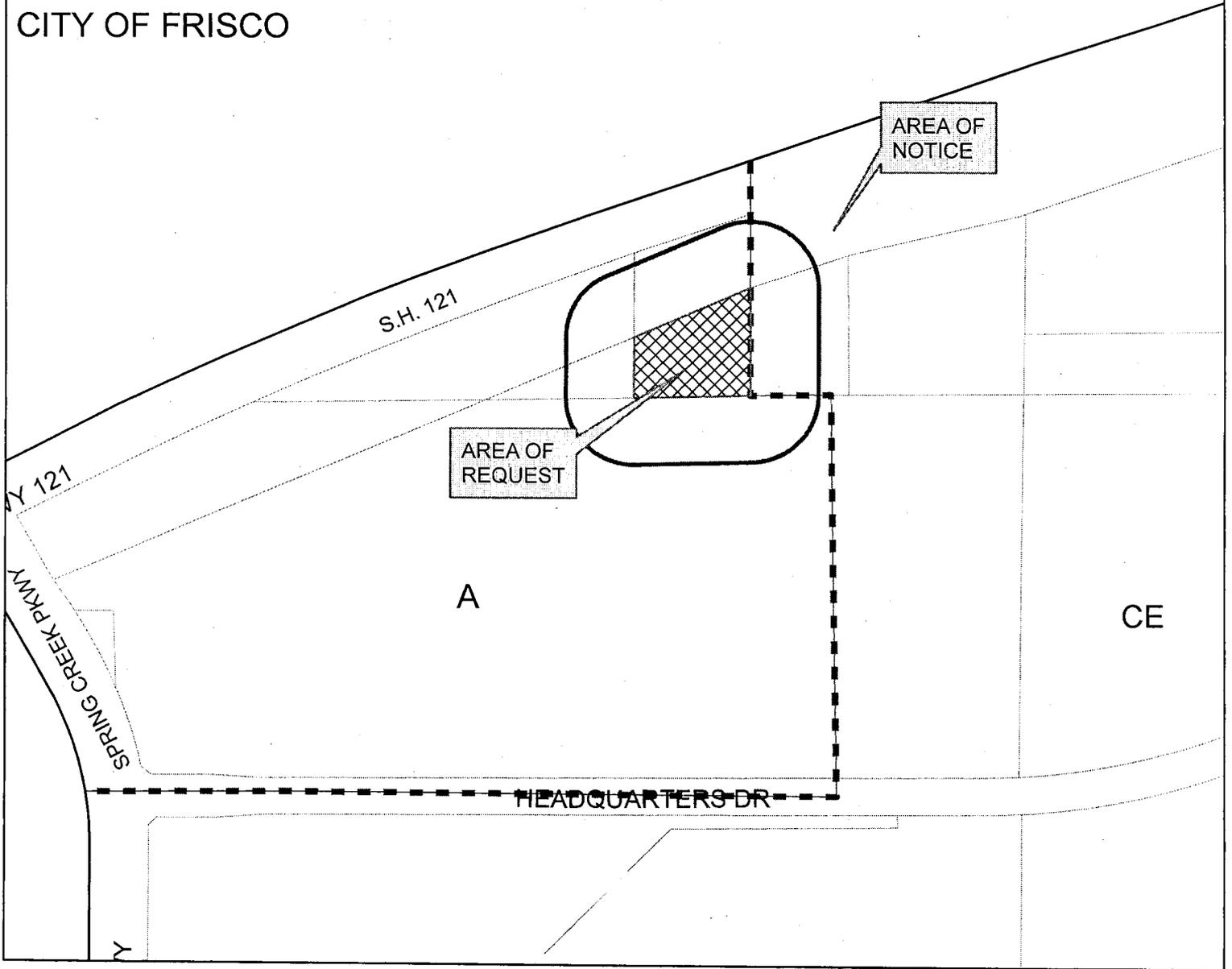
The requested zoning is in conformance to the Comprehensive Plan. The physical characteristics of the property are suitable for the proposed development. The proposed CE zoning will provide services that compliment the area's expected mix of commercial, office, and technical production uses.

**RECOMMENDATION:**

Recommended for approval as submitted.

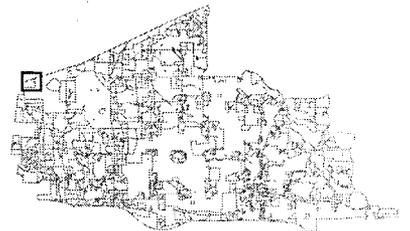
8-3

CITY OF FRISCO

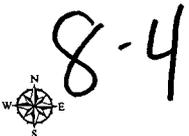


Zoning Case #: 2005-52

Existing Zoning: AGRICULTURAL



○ Zoning Case







**ORDINANCE NO. \_\_\_\_\_**  
**(Zoning Case 2005-52)**

AN ORDINANCE OF THE CITY OF PLANO AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, ORDINANCE NO. 2004-9-37, AS HERETOFORE AMENDED, SO AS TO REZONE 2.1± ACRES OUT OF THE W. G. GARVIN SURVEY, ABSTRACT NO. 453, LOCATED ON THE SOUTH SIDE OF STATE HIGHWAY 121, 1,950± FEET WEST OF LEGACY DRIVE IN THE CITY OF PLANO, DENTON COUNTY, TEXAS, FROM AGRICULTURAL TO COMMERCIAL 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 13th day of February, 2006, for the purpose of considering rezoning 2.1± acres out of the W. G. Garvin Survey, Abstract No. 453, located on the south side of State Highway 121, 1,950± feet west of Legacy Drive in the City of Plano, Denton County, Texas, from Agricultural to Commercial 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 13th day of February, 2006; 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. 2004-9-37, as the same has been heretofore amended, is hereby further amended so as to rezone 2.1± acres out of the W. G. Garvin Survey, Abstract No. 453, located on the south side of State Highway 121, 1,950± feet west of Legacy Drive in the City of Plano, Denton County, Texas, from Agricultural to Commercial Employment, said property being described in the legal description on Exhibit "A" attached hereto.

**Section II.** 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 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 13TH DAY OF FEBRUARY, 2006.**

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

ATTEST:

\_\_\_\_\_  
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

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

8-8

EXHIBIT "A"  
LEGAL DESCRIPTION

BEING part of that certain tract of land conveyed to Kenneth L. Chitwood by Special Warranty Deed recorded in Volume 3052, Page 0622, Deed Records, Denton County, Texas, and being all of that tract remaining after Document No. 2004-27481 granting a right-of-way section to the State of Texas, said tract being in the W. G. Garvin Survey, Abstract No. 453, Denton County, Texas, and being more particularly described as follows:

BEGINNING at a 3-inch aluminum disk at the Southeast corner of said right-of-way section, said iron disk also being in the new South right-of-way line of State Highway 121 (a variable width right-of-way), said iron rod also being at the northeast corner of the tract being described;

THENCE South 00° 03' 59" West, 332.14 feet along the common boundary line of said Chitwood tract and the remainder of J. C. Penny Company, Inc., tract to a 1/2-inch iron rod found at the Southwest corner of said Chitwood tract, said inch iron rod also being in the North boundary line of a tract of land conveyed by Deed to Thompson/McSpadden Family Partners, Ltd., recorded in Document No. 97-0090584, Deed Records of Collin County, Texas;

THENCE North 89° 59' 12" West, 334.73 feet along the common boundary line of said Chitwood tract and the Thompson/McSpadden tract to a 1/2-inch iron rod found at the Southwest corner of said Chitwood tract;

THENCE North 00° 18' 33" East, 219.75 feet along the common boundary line of said Chitwood tract and the Thompson/McSpadden tract to a 1/2-inch iron rod found at the Northwest corner of said Chitwood tract, said iron rod being in the new South right-of-way line of State Highway 121;

THENCE North 71° 23' 53" East, 352.11 feet along the new South right-of-way line of State Highway 121 to the PLACE OF BEGINNING and CONTAINING 2.116 acres of land.