

PLANO CITY COUNCIL

WILL CONVENE INTO EXECUTIVE SESSION AT 5:00 P.M. ON APRIL 9, 2007, FOLLOWED BY PRELIMINARY OPEN MEETING IMMEDIATELY THEREAFTER, IN THE PLANO MUNICIPAL BUILDING, 1520 K AVENUE, IN COMPLIANCE WITH VERNON'S TEXAS CODES ANNOTATED, GOVERNMENT CODE CHAPTER 551 (OPEN MEETINGS ACT), AS FOLLOWS:

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

EXECUTIVE SESSION

- | | | | |
|------|--|-----------|---------|
| I. | Legal Advice | Wetherbee | 10 min. |
| | A. Respond to questions and receive legal advice on agenda items | | |
| II. | Litigation | | |
| | A. Update on American Community Newspaper LLC d/b/a Star Community Newspapers v. City of Plano | Wetherbee | 5 min. |
| | B. Linda Sanders-Burns, Individually and as an Heir of the Estate of Anthony Demille Sanders, Deceased v. City of Plano, et al | Spencer | 5 min. |
| III. | Personnel | Council | 10 min. |
| | Appointments | | |
| | A. DART Board | | |
| | B. North Texas Municipal Water District Board | | |

PRELIMINARY OPEN MEETING

- | | | | |
|-----|--|---------|--------|
| I. | Consideration and action resulting from Executive Session discussion:
Personnel
Appointments | Council | 5 min. |
| | A. DART Board | | |
| | B. North Texas Municipal Water District Board | | |
| II. | Personnel Appointments | Council | 5 min. |
| | A. Public Arts Committee – Chair | | |
| | B. Keep Plano Beautiful Commission | | |

III.	Emergency Notification System	Timmons	5 min.
IV.	Proposed Projects for Collin County 2007 Bond Referendum	Upchurch	10 min.
V.	Council items for discussion/action on future agendas	Council	5 min.
VI.	Consent and Regular Agenda	Council	5 min.
VII.	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: April 9, 2007

CALL TO ORDER: 7:00 p.m.

INVOCATION: Payam Maveddat
Bahai Faith of Plano

PLEDGE OF ALLEGIANCE: Cub Scout Pack 295
Mendenhall Elementary

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>The City Council may convene into Executive Session to discuss posted items in the regular meeting as allowed by law.</p> <p><u>PROCLAMATIONS AND SPECIAL RECOGNITION</u></p> <p>Proclamation: National Library Week - 2007</p> <p>Proclamation: National Volunteer Month – April, 2007</p> <p>Proclamation: 20th Anniversary of 9-1-1 Service in the City of Plano and National Public Safety Telecommunications Week – April 8-14, 2007</p> <p><u>OATHS OF OFFICE</u></p> <p><u>Building Standards Commission</u> James C. Kesterson</p> <p><u>Public Arts Committee</u> Joseph P. Connolly</p> <p><u>THE CITY SECRETARY RECEIVES SPEAKER CARDS AT THE BEGINNING OF THE MEETING</u></p> <p><u>COMMENTS OF PUBLIC INTEREST</u></p> <p><u>This portion of the meeting is to allow up to five (5) minutes per speaker with thirty (30) total minutes on items of interest or concern and not on items that are on the current agenda. The Council may not discuss these items, but may respond with factual or policy information. The Council may choose to place the item on a future agenda.</u></p> <p><u>BOARD AND COMMISSION REPORT</u></p> <p>Public Arts Committee – Robert B. Drotman</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p><u>CONSENT AGENDA</u></p> <p><u>The Consent Agenda will be acted upon in one motion and contains items which are routine and typically noncontroversial. Items may be removed from this agenda for individual discussion by a Council Member, the City Manager or any citizen. Citizens are limited to two (2) items and discussion time of three (3) minutes each.</u></p> <p>(a) <u>Approval of Minutes</u> March 20, 2007 March 26, 2007</p> <p><u>Approval of Expenditures</u></p> <p>Award/Rejection of Bid/Proposal: (Purchase of products/services through formal procurement process by this agency)</p> <p>(b) Bid No. 2007-56-C for EMS Pharmaceuticals to Sun Belt Medical/Emergi-Source in the amount of \$47,506. This will establish an annual fixed-price contract, with three optional one-year renewals.</p> <p>(c) Bid No. 2007-82-C for installation of Traffic Calming Devices to A & B Services, in the estimated annual amount of \$84,750. This will establish an annual fixed-price contract with three optional one-year renewals.</p> <p>(d) RFP No. 2007-70-C for an annual fixed price contract for Claims Administration to Merit Insurance Services, Inc. and Arthur J. Gallagher Risk Management Services, Inc. in the estimated annual amount of \$378,800. This will establish an annual contract with four City optional one-year renewals.</p> <p>(e) Bid No. 2007-94-C for an annual fixed-price contract for Neighborhood Park Litter Contract to Northstar Facility Services, Inc. in the estimated annual amount of \$56,792. This will establish a two-year contract with three City optional one-year renewals.</p> <p>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).</p> <p>(f) To approve the purchase of one (1) Chevrolet Police Tahoe in the amount of \$28,348 and one (1) Chevrolet Suburban in the amount of \$35,233 both from Caldwell Country Chevrolet through an existing contract/agreement with HGAC Cooperative Purchase Program, and authorizing the City Manager to execute all necessary documents. (#VE03-06)</p> <p>(g) To approve the purchase of the Communicator!NXT and GeoCastWeb critical notification service platforms for a period of three (3) years in the amount of \$27,900 for FY 07-08 (\$25,900 for FY 08-09 and \$25,900 for FY 09-10) from Dialogic Communications Corporation through an existing contract/agreement with the HGAC Cooperative Purchase Program, and authorizing the City Manager to execute all necessary documents. (Contract #EC07-05)</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
(h)	To approve the purchase of maintenance and support for the network infrastructure servers in the amount of \$35,512 from IBM Corporation through an existing contract/agreement with the Department of Information Resources (DIR), and authorizing the City Manager to execute all necessary documents. (DIR-SDD-190).	
(i)	To approve the fifth year of a five-year Maintenance Agreement with eVerge Group of Texas, Ltd. in the amount of \$225,000, and authorizing the City Manager to execute all necessary documents. (B-041-01)	
(j)	To approve the purchase of wiring the Tom Muehlenbeck Recreation Center in the amount of \$58,305 from Henkel's and McCoy, Inc. through an existing contract with the City of Plano, and authorizing the City Manager to execute all necessary documents. (2004-114-C)	
(k)	To approve the purchase of material testing services for Parker Road from K Avenue to Raton Lane in the amount of \$55,938 from Terracon Consultants, Inc., through an existing contract authorizing the City Manager to execute all necessary documents (Contract No. 2006-243-D). This will provide for construction material testing for the paving project on Parker Road from K Avenue to Raton Lane.	
(l)	To authorize the purchase and installation from existing contract/agreement of FitLinxx Intelligent Exercise Solutions (TXMAS #7-780-20) in the amount of \$37,804 at Oak Point Center through a Texas Building and Procurement Commission-Multiple Award Schedule Contract, and authorizing the City Manager to execute all necessary documents	
(m)	To authorize the purchase and installation from existing contract/agreement of fitness equipment at Oak Point Center in the amount of \$68,215 from Cybex International Inc. (TXMAS #-6-78010) through a Texas Building and Procurement Commission-Multiple Award Schedule Contract, and authorizing the City Manager to execute all necessary documents. Approval of Contract: (Purchase of products/Services exempt from State of Texas Competitive Bid Laws)	
(n)	To approve the terms and conditions of the Funding Agreement between the City of Plano and the Plano Early Lions Club Charities, Inc. for production of the 2007 July 4th Parade in the total amount of \$8,610; authorizing its execution by the City Manager; and providing an effective date. Approval of an Agreement	
(o)	To approve a Distribution Pole License Agreement by and between the City of Plano and TXU Electric Delivery Company, Inc. in an amount not to exceed \$500,000 to allow the City of Plano to mount Mesh Network devices on agreed to distribution poles for the purpose of Motorola's City Wide Build Out, and authorizing the City Manager to execute all necessary documents. (S0527271C) Renewal of Contract	
(p)	To approve renewal of Contract No. 2005-182-C for Risk Management Training/Tracking Service with TargetSafety.com in the estimated annual amount of \$150,000. The original proposal and resulting contract contains two (2) optional renewals.	

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p><u>Adoption of Resolutions</u></p> <p>(q) To approve Plano Public Library System to purchase the Polaris® Integrated Library System (ILS) through a Catalog Information Systems Vendor (CISV) contract from Polaris Library Systems, in an amount not to exceed \$405,000; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the purchase approved herein; and providing an effective date. VID# 1161667474000</p> <p>(r) To approve the terms and conditions of Modified Agreements between the City of Plano, Texas, and various Heritage Preservation organizations which render services that are beneficial to the public and serve a valid public purpose in the total amount of \$601,301; authorizing the City Manager to execute such agreements with these organizations for the provision of support of heritage preservation; and providing an effective date.</p> <p>(s) To approve an Interlocal Agreement by and between the City of Plano and Collin County for the Collin County Emergency Communications Committee (CCECC) for the purchase, design, installation, operations, and maintenance of a Fiber Optic Wide Area Network and authorizing its execution by the City Manager and providing an effective date.</p> <p>(t) To approve the terms and conditions of a Real Estate Contract by and between the City of Plano, Texas, and Jerry Oliverie and Elizabeth Oliverie for the purchase of 1332.552 square foot of land for right of way and 251 square foot of temporary construction easement located at 900 East Parker Road, situated in the George W. Barnett Survey, Abstract No. 45, being part of Lot 4, Block 1, of Parker Square Addition, an addition in the City of Plano, Collin County, Texas; authorizing its execution by the City Manager; and providing an effective date.</p> <p>(u) To approve and authorize the refunds of property tax overpayments; and providing an effective date.</p> <p><u>ITEMS FOR INDIVIDUAL CONSIDERATION:</u></p> <p><u>Public Hearing Items: Applicants are limited to fifteen (15) minutes presentation time with a five (5) minute rebuttal, if needed. Remaining speakers are limited to thirty (30) total minutes of testimony time, with three (3) minutes assigned per speaker. The presiding officer may extend these times as deemed necessary.</u></p> <p><u>Non-Public Hearing Items: The Presiding Officer may permit limited public comment for items on the agenda not posted for a Public Hearing. The Presiding Officer will establish time limits based upon the number of speaker requests, length of the agenda, and to ensure meeting efficiency, and may include a cumulative time limit. Speakers will be called in the order cards are received until the cumulative time is exhausted.</u></p> <p>(1) Public Hearing to solicit input from the public pertaining to the proposed smoking ordinance, which will replace the current ordinance.</p> <p>(2) An ordinance to repeal Sections 14-66 through 14-72 of Article IV, Smoking, of Chapter 14, Offenses – Miscellaneous of the Code of Ordinances of the City of Plano and adopting new regulations to be designated as Sections 14-66 through 14-71 of Article IV, Smoking of Chapter 14, Offenses – Miscellaneous to revise the smoking regulations making the City of Plano a smokefree environment; providing a penalty clause, a savings clause, a severability clause, a repealing clause, a publication clause, and an effective date.</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
(3)	<p>Public Hearing and an ordinance as requested in Zoning Case 2007-01 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to amend 5.7± acres located at the northeast corner of Preston Road and Old Shepard Place in the City of Plano, Collin County, Texas, from Planned Development-189-Retail/General Office to Planned Development-186-Retail/General Office; 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: Old Shepard Place II, Ltd. Tabled 03-20-07</p>	
(4)	<p>Public Hearing and consideration of an appeal of the Planning and Zoning Commission’s Denial of Zoning Case 2006-36 – Request to rezone 7.1± acres located at the southeast corner of Park Boulevard and Alma Drive from Corridor Commercial to Planned Development-Corridor Commercial. Zoned Corridor Commercial. Neighborhood #58. Applicant: Litwin & Company</p>	
(5)	<p>Public Hearing and an ordinance as requested in Zoning Case 2006-31 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, amending Specific Use Permit No. 571 for Service Contractor with Storage Yard so as to expand the area of the Specific Use Permit to include 2.7± acres of land located on the south side of Rigsbee Drive, 565± feet west of 14th Street in the City of Plano, Collin County, Texas, presently zoned Light Commercial with Specific Use Permit No. 571 for Service Contractor with Storage Yard; 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: Joe and Susana Hernandez</p>	
(6)	<p>Public Hearing and an ordinance as requested in Zoning Case 2007-02 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 581 so as to allow the additional use of Day Care Center on 0.1± acre of land located at the northwest corner of Silverglen Drive and Mapleshade Lane in the City of Plano, Collin County, Texas, presently zoned Light Industrial-1; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: J.H.A. Mapleshade, L.P.</p>	
(7)	<p>A resolution to affirm the appointment of a board member to serve the remainder of a current term on the Dallas Area Rapid Transit Authority (DART) Board of Directors as provided in Chapter 452 of the Texas Transportation Code and providing an effective date.</p> <p><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></p>	



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

Lee Dunlap
Place 8

Thomas H. Muehlenbeck
City Manager

April 4, 2007

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

Honorable Mayor and City Council:

We will begin Monday evening in Executive Session where we will receive advice from the City Attorney's Office as well as receive updates on two litigation situations: American Community Newspaper and Linda Sanders-Burns, heir to the estate of Anthony Demille Sanders. Two personnel appointments will be considered, one for the DART Board and the other for the North Texas Municipal Water District Board.

The Preliminary Open Meeting agenda will consist of the appointment of the chair of the Public Arts Committee and a member of the Keep Plano Beautiful Commission. It will also include an oral presentation from Ron Timmons regarding the City's Emergency Notification System and a presentation by Alan Upchurch regarding proposed projects for the Collin County 2007 Bond Referendum.

I look forward to seeing you Monday.

Sincerely yours,

Thomas H. Muehlenbeck
City Manager

THM/cp

MEMO

DATE: April 4, 2007
TO: Honorable Mayor and City Council
City Manager Muehlenbeck
FROM: Di Zucco, City Secretary 
RE: Personnel Appointments/Reappointments
Executive and Worksession Meetings

The following personnel appointments/reappointments will be considered at the April 9, 2007 Council Meeting.

<u>Executive Session</u>	<u>Worksession Meeting</u>
<u>DART Board of Directors</u> Resignation of Robert Pope (Term Expires – 07-08)	<u>Keep Plano Beautiful Commission</u> Resignation of Kernell Thaw (Term Expires 10-08)
<u>North Texas Municipal Water District Board</u> Reappointment of Jerry E. Yancey (Term Expires – 05/31/07)	<u>Public Arts Committee</u> Chair

POM II a

Preliminary Open Meeting Agenda Item III

Emergency Notification System

Ron Timmons

POM
III a

Alan Upchurch

To: Tom Muehlenbeck
Cc: Alan Upchurch; Frank Turner; Rod Hogan; Bruce Glasscock
Subject: FW: Plano's proposed projects for Collin County 2007 bond referendum
Attachments: CDAProjects.xls

Attached is a spread sheet of potential Plano projects totaling \$87,900,000 for consideration in the upcoming Collin County bond referendum. I have included \$3,000,000 per year for 4 years or \$12,000,000 for rehab of major thoroughfares and \$11,600,000 in intersection improvements. This type of funding has not typically been included in County bond programs, but as our infrastructure is nearing build out we need assistance in rehabing our infrastructure that all of the county road users have traveled on.

Also attached is a memo from Karen Rhodes providing information relating to the past Collin County Bond Programs and the bond distribution comparison by various cities and the county.

I would request that this information be presented to the City Council in the work session on April 9.

Pam Wa

4/3/2007

Project Name	exist CC funding	TxDOT fund total	Const Cost	County funds	Plano funds	Const year
14th St Reconstruction K to Riggsbee			6,000,000	3,000,000	3,000,000	2,008 Reconstruct existing 4 lane undivided and 6 lane divided sections
15th Street from US 75 to G Ave	1,200,000		1,800,000	300,000	300,000	2,010 Reconstruct existing roadway and improve bicycle and pedestrian access to Chisholm Trail
Communications - Spring Creek to Tennyson			2,500,000	1,250,000	1,250,000	2,007 Construct 6 lanes north of Spring Creek Pkwy and widen exist 4 lanes to 6 lane divided thoroughfare
Headquarters Drive east of Spring Creek Parkway			800,000	400,000	400,000	2,010 construct north three lanes to complete 6 lane divided thoroughfare
International - Plano Parkway to Midway			800,000	400,000	400,000	2,009 widen 4 lanes to 6 lane divided thoroughfare
Intersection Improvements			11,650,000	5,825,000	5,825,000	yearly improvements at various intersection by adding additional left and/or right turn lanes
Los Rios - Juniper to Parker			2,000,000	700,000	1,300,000	2,008 construct southbound two lanes to complete 4 lane divided thoroughfare
Los Rios - south of Plano Parkway to Parker Road	300,000		4,000,000	2,000,000	2,000,000	2,010 widen exist 4 lane divided to 6 lane divided thoroughfare
Mapleshade			750,000	375,000	375,000	2,009 extend 4 lane divided thoroughfare east of Coit to SH 190 service road
Major thoroughfare rehabilitation			12,000,000	6,000,000	6,000,000	yearly \$3,000,000 per year for 4 years for rehab of major thoroughfares throughout the city
Marsh - Park to Parker			1,500,000	750,000	750,000	2,009 Widen existing low lane section, construct west side south of Parker to complete three and six lane divided thoroughfare
Park Boulevard - Slitch to east city limits			1,900,000	950,000	950,000	2,010 widen exist 4 lane divided to 6 lane divided thoroughfare
Park Parkway - Midway to West City Limits			800,000	800,000	800,000	2,009 widen 4 lanes to 6 lane divided thoroughfare
Preston and SH 190			3,000,000	1,500,000	1,500,000	2,010 Extend and widen existing road to complete a 4 lane divided thoroughfare
Ridgeview Drive SH 121 to Coit Road			2,000,000	1,000,000	1,000,000	2,010 construct east 2 lane section to complete 4 lane divided thoroughfare
Slitch - Park to Parker			3,000,000	1,500,000	1,500,000	2,010 construct east 2 lane section to complete 4 lane divided thoroughfare
Shiloh 14th Street to Park Boulevard			2,200,000	1,100,000	1,100,000	2,010 Add new ramps for Park Boulevard and Chapel Hill for north bound DNT
Tollroad/Chapel Hill Ramps			10,000,000	5,000,000	5,000,000	2,010 Reconstruct RR and Plano Pkwy bridges and add lanes of direct connector and 75
US 75/ SH 190 Bottleneck			20,000,000	5,000,000		
Total	3,300,000	4,200,000	87,100,000	37,650,000	32,950,000	

Possible Intersection Improvement projects:

15th St @ Coit Rd	300,000
Alma Dr @ Park Blvd	600,000
Headquarters Dr @ Preston Rd	400,000
Hedgocoxe Rd @ Coit Rd	600,000
Hedgocoxe Rd @ Preston Rd	600,000
Juniper Rd @ Park Blvd	700,000
Legacy Dr @ Custer Rd *	700,000
Legacy Dr @ K Ave	525,000
Legacy Dr @ US 75 Sr	500,000
Ohio Dr @ Plano Pkwy	525,000
Park Blvd @ Dallas Pkwy Sr	300,000
Park Blvd @ K Ave	300,000
Plano Pkwy @ Los Rios Blvd	650,000
Spring Creek Pkwy @ Preston Rd	350,000
Spring Creek Pkwy @ US 75 Sr	375,000
Legacy and Custer	600,000
Spring Creek Pkwy and Custer	300,000
Spring Creek Pkwy and Independence	750,000
Independence and 15th Street	750,000
Parker and Alma	1,000,000
Parker and Custer	250,000
Parker and Independence	250,000
Parker and Coit	300,000
Park and Coit	300,000
Park and Coit	300,000
	11,750,000

Project description	Const year
2,008 Reconstruct existing 4 lane undivided and 6 lane divided sections	2,008
2,010 Reconstruct existing roadway and improve bicycle and pedestrian access to Chisholm Trail	2,010
2,007 Construct 6 lanes north of Spring Creek Pkwy and widen exist 4 lanes to 6 lane divided thoroughfare	2,007
2,010 construct north three lanes to complete 6 lane divided thoroughfare	2,010
2,009 widen 4 lanes to 6 lane divided thoroughfare	2,009
yearly improvements at various intersection by adding additional left and/or right turn lanes	yearly
2,008 construct southbound two lanes to complete 4 lane divided thoroughfare	2,008
2,010 widen exist 4 lane divided to 6 lane divided thoroughfare	2,010
2,009 extend 4 lane divided thoroughfare east of Coit to SH 190 service road	2,009
yearly \$3,000,000 per year for 4 years for rehab of major thoroughfares throughout the city	yearly
2,009 Widen existing low lane section, construct west side south of Parker to complete three and six lane divided thoroughfare	2,009
2,010 widen exist 4 lane divided to 6 lane divided thoroughfare	2,010
2,009 widen 4 lanes to 6 lane divided thoroughfare	2,009
2,010 Extend and widen existing road to complete a 4 lane divided thoroughfare	2,010
2,010 construct east 2 lane section to complete 4 lane divided thoroughfare	2,010
2,010 construct east 2 lane section to complete 4 lane divided thoroughfare	2,010
2,010 Add new ramps for Park Boulevard and Chapel Hill for north bound DNT	2,010
2,010 Reconstruct RR and Plano Pkwy bridges and add lanes of direct connector and 75	2,010
Dual LT lanes for NB & SB	
Dual LT lanes for NB & SB	
Dual LT lanes for all dir. Ded. RT for SB & WB.	
Dual LT for all dir. Ded RT for EB & SB	
NB RT either WB RT or dual Lanes on Legacy	
Ded RT for SB	
Dual LT for NB, Ded. RT for NB & WB, Dual RT for EB on west side	
Dual LT for NB, SB & EB, Ded RT for EB, WB & SB.	
Dual RT for NB, SB	
Ded RT for NB, SB	
Dual LT for EB & WB, Ded. RT for all dir.	
Dual LT for EB, NB & SB	
Ded. RT lanes for WB	
add double lefts on Legacy or east to south right turn on Legacy and west to north right turn	
add double lefts and right turn lanes in all directions where practical and align lanes on Spring Creek	
add double lefts and right turn lanes in all directions where practical and align lanes on Spring Creek	
realign Independence Parkway so all lanes align and add right turn lanes	
add right turn lanes west to north and north to east, need ROW	
add double lefts on Park or a west to north right turn on Park	
add right turn lanes east to south, north to east and west to north, need add ROW	
add either double lefts on Legacy or a west to north right turn on Legacy, need ROW NE car	
add double left on Park and north to east right turn on Coit, need ROW on SE cor	

9/1/2007

Project Name	exist CC funding	TxDOT fund total	Const Cost	County funds	Plano funds	Const year
14th St Reconstruction K to Riggsbee		1,200,000	6,000,000	3,000,000	3,000,000	2,008 Reconstruct existing 4 lane undivided and 6 lane divided sections
15th Street from US 75 to G Ave			1,800,000	300,000	300,000	2,010 Reconstruct existing roadway and improve bicycle and pedestrian access to Chisholm Trail
Communications - Spring Creek to Tennyson			2,500,000	1,250,000	1,250,000	2,007 Construct 6 lanes north of Spring Creek Pkwy and widen exist 4 lanes to 6 lane divided thoroughfare
Headquarters Drive east of Spring Creek Parkway			800,000	400,000	400,000	2,010 construct north three lanes to complete 6 lane divided thoroughfare
International - Plano Parkway to Midway			800,000	400,000	400,000	2,009 widen 4 lanes to 6 lane divided thoroughfare
Intersection Improvements			11,650,000	5,825,000	5,825,000	yearly improvements at various intersection by adding additional left and/or right turn lanes
Los Rios - Jupiter to Parker	300,000		2,000,000	700,000	1,000,000	2,008 construct southbound two lanes to complete 4 lane divided thoroughfare
Los Rios - south of Plano Parkway to Parker Road			4,000,000	2,000,000	2,000,000	2,010 widen exist 4 lane divided to 6 lane divided thoroughfare
Mapleshade			12,000,000	6,000,000	6,000,000	2,009 extend 4 lane divided thoroughfare east of Colt to SH 190 service road
Major thoroughfare rehabilitation			750,000	375,000	375,000	2,009 When existing tow lane section, construct west side south of Parker to complete three and six lane divided thoroughfare
Marsh - Park to Parker			1,500,000	750,000	750,000	2,009 widen exist 4 lane divided to 6 lane divided thoroughfare
Park Boulevard - Midway to east city limits			1,900,000	950,000	950,000	2,010 Extend and widen existing road to complete a 4 lane divided thoroughfare
Plano Parkway - Midway to West City Limits			1,200,000	600,000	600,000	2,009 widen 4 lanes to 6 lane divided thoroughfare
Preston and SH 190			3,000,000	1,500,000	1,500,000	2,010 Extend and widen existing road to complete a 4 lane divided thoroughfare
Ridgeview Drive SH 121 to Colt Road			2,000,000	1,000,000	1,000,000	2,010 construct east 2 lane section to complete 4 lane divided thoroughfare
Shiloh - Park to Parker			3,000,000	1,500,000	1,500,000	2,010 Add new ramps for Park Boulevard and Chapel Hill for north bound DNT
Tollroad/Chapel Hill Ramps			10,000,000	5,000,000	5,000,000	2,010 Reconstruct RR and Plano Pkwy bridges and add lanes of direct connector and 75
US 75/ SH 190 Bottleneck	3,000,000	3,000,000	20,000,000	5,000,000		
Total	3,300,000	4,200,000	84,900,000	36,550,000	31,850,000	

Possible Intersection Improvement projects:

15th St @ Colt Rd	300,000
Alma Dr @ Park Blvd	600,000
Headquarters Dr @ Preston Rd	400,000
Hedgrove Rd @ Colt Rd	600,000
Hedgrove Rd @ Preston Rd	600,000
Jupiter Rd @ Park Blvd	700,000
Legacy Dr @ Custer Rd	350,000
Legacy Dr @ K Ave	500,000
Legacy Dr @ US 75 Sr	500,000
Ohio Dr @ Plano Pkwy	525,000
Park Blvd @ Dallas Pkwy Sr	300,000
Park Blvd @ K Ave	650,000
Plano Pkwy @ Los Rios Blvd	350,000
Spring Creek Pkwy @ Preston Rd	375,000
Spring Creek Pkwy @ US 75 Sr	600,000
Legacy and Custer	300,000
Spring Creek Pkwy and Custer	750,000
Spring Creek Pkwy and Independence	1,000,000
Independence and 15th Street	250,000
Parker and Alma	250,000
Park and Custer	300,000
Parker and Independence	300,000
Parker and Colt	300,000
Park and Colt	300,000
Total	11,750,000

Dual LT lanes for NB & SB	
Dual LT lanes for NB & SB	
Dual LT lanes for NB & SB	
Dual LT lanes for all dir. Ded. RT for SB & WB.	
Dual LT for all dir. Ded RT for EB & SB	
NB RT	
either WB RT or dual Lanes on Legacy	
Ded RT for SB	
Dual LT for NB, Ded. RT for NB & WB, Dual RT for EB on west side	
Dual LT for NB, SB & EB, Ded RT for EB, WB & SB.	
Dual RT for NB is this practical?/	
Ded RT for NB, SB	
Dual LT for EB, NB & SB.	
Ded RT lanes for WB	
add double lefts on Legacy or east to south right turn on Legacy and west to north right turn	
add double lefts and right turn lanes in all directions where practical and align lanes on Spring Creek	
add double lefts and right turn lanes in all directions where practical and align lanes on Spring Creek	
realign Independence Parkway so all lanes align and add right turn lanes	
add right turn lanes west to north and north to east, need ROW	
add double lefts on Park or a west to north right turn on Park	
add right turn lanes east to south, north to east and west to north, need add ROW	
add either double lefts on Legacy or a west to north right turn on Legacy, need ROW NE cor	
add double left on Park and north to east right turn on Colt, need ROW on SE cor	

2/1/08

MEMORANDUM

RECEIVED
MAR 29 2007
ENGINEERING DEPT

Date: March 28, 2007
To: Tom Muehlenbeck, City Manager
From: Karen M. Rhodes, Director of Budget & Research *KMR*
Subject: Request for Information

Per your request dated from March 15, 2007, the following information has been gathered:

1. From the latest figures available, please advise what percent of the Collin County valuation is represented by Plano's valuation.

According to reports received from the Central Appraisal District, Collin County's assessed property value is \$66.3 billion with the City of Plano's portion at \$26.2 billion. This equates to the City of Plano's share equaling 39.5% of the assessed property valuation.

2. Develop a percent of funds provided by Collin County to Plano for previous Collin County bond referendums back as far as we have or can get records.

Please refer to Attachment A for this information. The last Bond Referendum held by Collin County was in 2003 with their next one scheduled for November 2007. In addition, according to this schedule Collin County considers population in their calculation in the distribution of bond funds. Based on the current population data published by COG, Collin County's population is 724,900 and the City of Plano's is 255,700 which equates to a 35.3% share.

3. City funds obligated for road construction and improvements in Plano back to at least 1990.

Please refer to Attachment B for this information.

Please let me know if you have any further questions or require clarification.

Xc: Alan Upchurch, City Engineer
Elizabeth Dorrance, Sr. Budget Analyst

Pam/Val

**COLLIN COUNTY STREET IMPROVEMENT BOND DISTRIBUTION
COMPARISON BY CITY AND COUNTY**

Year: 1983		\$54,917,000 Street Improvements			
City	Population	% of County Value	Bond Funds		
Plano	88,250	78.43	\$ 5,578,000	10.2%	
Dallas	4,838	6.25	\$ 5,760,000	10.5%	
Frisco	3,950	1.62	\$ 2,800,000	5.1%	
Allen	10,250	4.81	\$ 4,247,500	7.7%	
McKinney	17,800	6.06	\$ 5,229,000	9.5%	
Richardson	7,700	5.96	\$ 5,401,645	9.8%	
Other Cities			\$ 9,668,500	17.6%	
Collin County			\$10,000,000	18.2%	
TxDOT			\$ 6,232,355	11.3%	

Year: 1995		\$45,366,000 Street Improvements			
City	Population	% of County Value	Bond Funds		
Plano	168,900	53.78	\$ 6,300,000	13.9%	
Dallas	39,301	11.07	\$ 266,000	0.6%	
Frisco	13,700	4.55	\$ 6,000,000	13.2%	
Allen	26,400	5.67	\$ 6,350,000	14.0%	
McKinney	27,550	7.51	-0-	-0-	
Richardson	12,624	5.25	\$ 4,250,000	9.4%	
Other Cities			\$3,400,000	7.5%	
Collin County			\$11,800,000	26.0%	
TxDOT (121)			\$ 7,000,000	15.4%	

Year: 1999		\$81,275,000 Street Improvements			
City	Population	% of County Value	Bond Funds		
Plano	220,200	47.79	\$14,720,000	18.1%	
Dallas	45,533	10.90	\$ 2,707,000	3.3%	
Frisco	26,200	6.82	\$ 6,379,000	7.8%	
Allen	39,000	7.29	\$ 6,666,000	8.2%	
McKinney	43,500	9.10	\$ 4,999,000	6.2%	
Richardson	19,246	5.48	\$ 3,685,000	4.5%	
Other Cities			\$ 3,511,000	4.3%	
Collin County			\$23,608,000	29.0%	
TxDOT (121)			\$15,000,000	18.5%	

Year: 2003		\$142,000,000 Street Improvements			
City	Population (02)	% of County Value (02)	Bond Funds		
Plano	233,700	43.0	\$26,750,000	23.9%	
Dallas	46,680	8.5	\$ 1,410,000	1.3%	
Frisco	50,550	11.0	\$ 9,310,000	8.3%	
Allen	52,100	9.0	\$ 5,100,000	4.6%	
McKinney	65,750	11.0	\$21,849,759	19.5%	
Richardson	23,087	5.0	\$ 4,165,000	3.7%	
Collin County (rural)			\$13,295,000	11.9%	
Other Cities			\$30,120,241	26.8%	
		Subtotal	\$112,000,000	100.0%	
TxDOT (SH 121)			\$ 30,000,000		
		Total	\$142,000,000		

Pom We

BOND REFERENDUM HISTORY

Street Improvement Authority

<u>Date</u>	<u>Street Improvements</u>	<u>Street Right of Way, Overpass & Entry-Way Landscaping & Aesthetic Imp</u>
May, 2005	55,372,000	0
May, 2001	48,835,000	0
May, 1998	21,364,000	0
May, 1995	21,350,000	3,250,000
January, 1991*	<u>46,000,000</u>	<u>0</u>
	192,921,000	3,250,000

* 1991 Proposition was for Street & Drainage Improvements

POM IV f

Discussion/Action Items for Future Council Agendas

2007

April 13 – Annual Police Awards Banquet, Reflections on Spring Creek, 7 p.m.

April 23

Community Relations Commission
Mobility Report
DART Report
Comprehensive Monthly Financial Report

May 1

Special Called Council Meeting

May 14

Heritage Commission
Update on Downtown Plano Activities

May 15 – Police Memorial Service, Haggard Park, 1 p.m.

May 24 – District 3 Neighborhood Roundtable, PSA StarCenter, 7 p.m.

May 28 – Memorial Day

May 29

Planning and Zoning Commission
Mobility Report
DART Report
Comprehensive Monthly Financial Report

June 11

Transition & Revitalization Commission

June 21 – 24, TCMA Conference, San Antonio

June 25

Board of Adjustment
Mobility Report
DART Report
Comprehensive Monthly Financial Report

July 4 – Independence Day

July 23

Building Standards Commission
Mobility Report
DART Report
Comprehensive Monthly Financial Report

Board and Commission Re-appointments

July 25

(Budget Session)

August 13

Retirement Security Plan Committee

August 23 – District 4 Neighborhood Roundtable, PSA StarCenter, 7 p.m.

August 25 – Board and Commission Reception, Municipal Center, 2 p.m.

August 27

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

August 30 – Board and Commission Reception, PSA StarCenter, 6 p.m.

September 3 – Labor Day

September 10

Self Sufficiency Committee

September 24

Plano Housing Authority
Mobility Report
DART Report
Comprehensive Monthly Financial Report

Board and Commission Appointments

October 7 – 10, ICMA Conference, Pittsburgh

October 8

TIF #1 & #2 Boards

October 18 – District 2 Neighborhood Roundtable, Sockwell Center, 7 p.m.

October 22

Youth Advisory Committee
Mobility Report
DART Report
Comprehensive Monthly Financial Report

November 7 – 9, TML Conference, Dallas

November 12

Technology Commission

November 13 – 17, NLC Conference, New Orleans

November 22 & 23 – Thanksgiving Holidays

November 27

Mobility Report
DART Report
Comprehensive Monthly Financial Report

December 10

December 18

Mobility Report
DART Report
Comprehensive Monthly Financial Report

December 24 & 25 – Christmas & Winter Holidays



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY			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: 4/09/07			Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	City Manager's Office			Initials	Date
Department Head	Tom Muehlenbeck		Executive Director		
Dept Signature:			City Manager <i>[Signature]</i>		
Agenda Coordinator (include phone #): Sharon Wright ext. 7107					
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input checked="" type="checkbox"/> OTHER					
CAPTION					
Proclamation: National Library Week - 2007					
FINANCIAL SUMMARY					
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS	
Budget	0	0	0	0	
Encumbered/Expended Amount	0	0	0	0	
This Item	0	0	0	0	
BALANCE	0	0	0	0	
FUND(s):					
COMMENTS:					
SUMMARY OF ITEM					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		



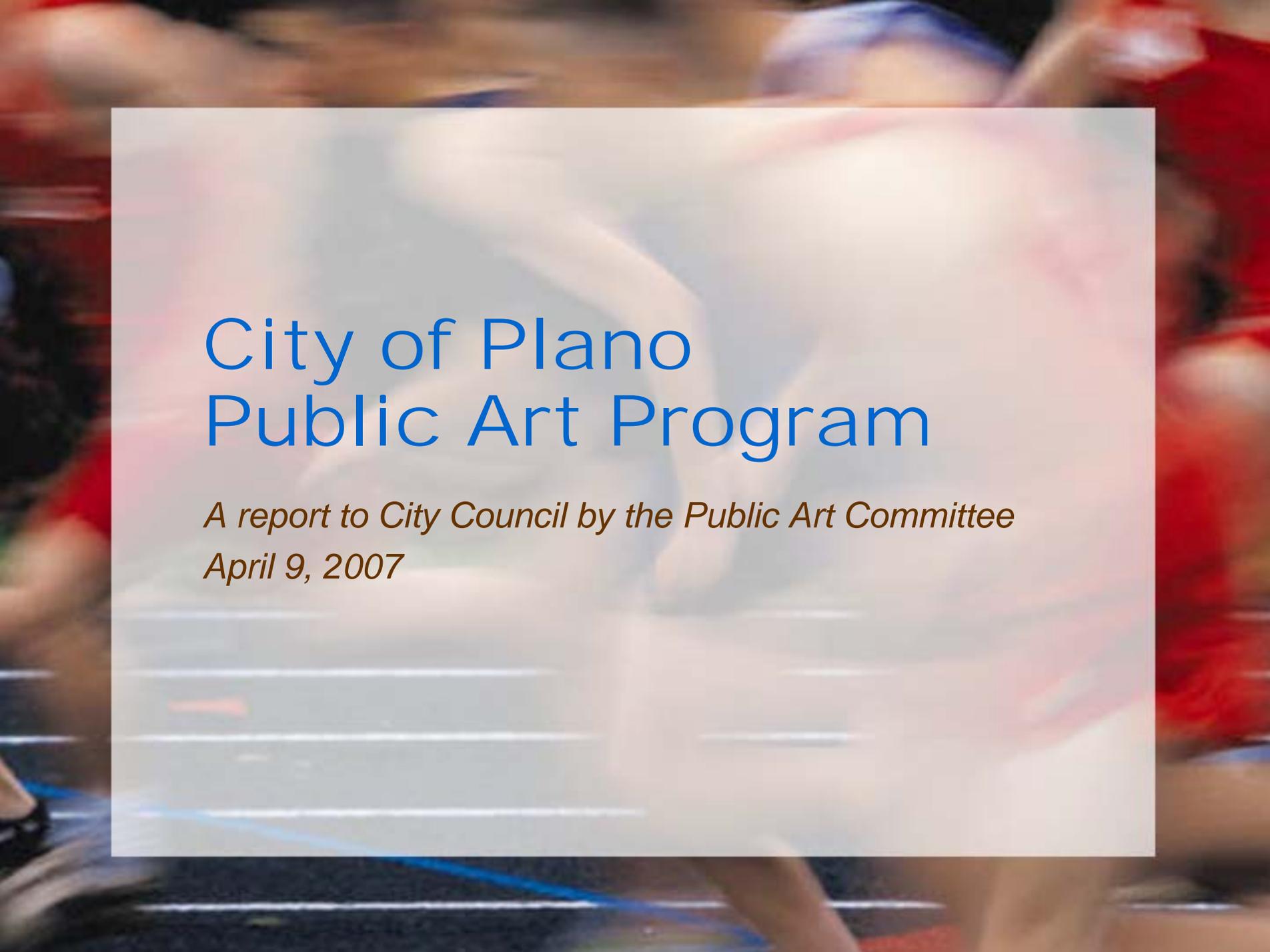
CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		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:	4/9/07	Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	City Manager's Office	Initials	Date	
Department Head	Tom Muehlenbeck	Executive Director		
Dept Signature:		City Manager	<i>[Signature]</i>	<i>[Signature]</i>
Agenda Coordinator (include phone #): Sharon Wright ext. 7107				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input checked="" type="checkbox"/> OTHER				
CAPTION				
Proclamation: National Volunteer Month - April, 2007				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS:				
SUMMARY OF ITEM				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		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:	4/9/07	Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	Public Safety Communications		Initials	Date
Department Head	Ronald Timmons	Executive Director	<i>[Signature]</i>	3.29.07
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	4/2/07
Agenda Coordinator (include phone #):		Mark Theurer ext. 7928		
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input checked="" type="checkbox"/> OTHER				
CAPTION				
Proclamation: 20 th Anniversary of 9-1-1 Service in the City of Plano and National Public Safety Telecommunications Week April 8-14, 2007.				
FINANCIAL SUMMARY				
<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
BALANCE	0	0	0	0
FUND(s):				
COMMENTS:				
SUMMARY OF ITEM				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		

The background of the slide is a blurred photograph of a crowd of people at what appears to be a public event or festival. The colors are warm and vibrant, with shades of red, orange, and yellow, suggesting a lively atmosphere. The text is overlaid on a semi-transparent white rectangular area.

City of Plano Public Art Program

*A report to City Council by the Public Art Committee
April 9, 2007*



The Public Art Program

... has hit the ground running!!

Memorial Park

- “Sacrifice”
- Design by David Newton approved



Memorial Park

- Currently in contract development
(for fabrication and installation)
- Completion Target: September 2008

Oak Point Park & Nature Preserve

- “Natural Selections”
- Sculptors Helmick & Schechter
- Awaiting final design of Visitor Center; then, fabrication!



Tom Muehlenbeck Center

- Preparation for installation complete
- Art to be installed by August 2007.



Libraries

- Alan Birkelbach, 2005 Texas Poet Laureate and Plano resident, completed a collection of poems about Plano.
- A poem was chosen to represent each library.
- Art created is to be inspired by the poetry.

Libraries

- Poetry Reading and Community Input Meeting held March 29, 2007
- Currently in selection phase
- Three artists as finalists:
 - Teresa Camozzi, of San Francisco, CA
 - Koryn Rolstad, of Seattle, WA
 - Suikang Zhao, of New York City, NY

Downtown Fire Station

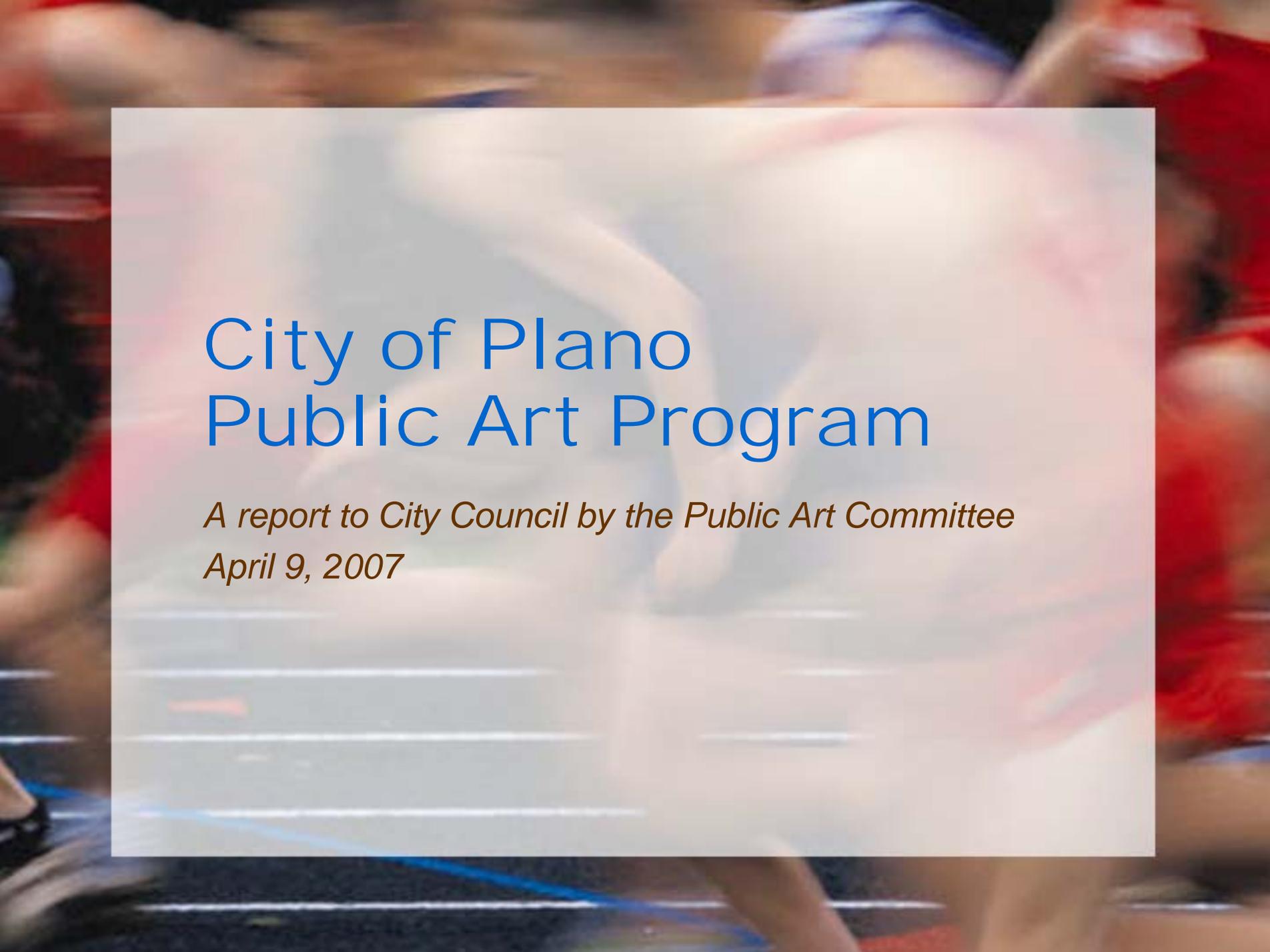
- Initial Meeting with Fire Department staff in February 2007
- Project parameters to be defined
- Community Input Meeting coming soon!

Animal Shelter

- Race to begin this summer!

Sculpture Event Planning

- A committee formed of city staff and members of Public Art Committee
- Researching and compiling budget for City Council review and consideration for possible sculpture event in Plano

The background of the slide is a blurred photograph of a crowd of people at what appears to be a public event or festival. The colors are warm and vibrant, with shades of red, orange, and yellow, suggesting a lively atmosphere. The text is overlaid on a semi-transparent white rectangular area.

City of Plano Public Art Program

*A report to City Council by the Public Art Committee
April 9, 2007*

**PLANO CITY COUNCIL
PRELIMINARY OPEN MEETING
March 20, 2007**

COUNCIL MEMBERS

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

STAFF

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

Mayor Evans called the meeting to order at 5:05 p.m., Tuesday, March 20, 2007, in Training Room A of the Municipal Center, 1520 K Avenue. All Council Members were present with the exception of Council Member Stahel and Council Member LaRosiliere. 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 6:06 p.m. in the Council Chambers where the following matters were discussed:

Consideration and Action Resulting From Executive Session Discussion

Personnel Appointments

Public Arts Committee

Upon a motion made by Council Member Ellerbe and seconded by Council Member Callison, the Council voted 6-0 to appoint Joseph Connolly to an interim term expiring in October of 2007.

Discussion and Direction Regarding Texas Music Sundown Concert Series at the Oak Point Amphitheater

Creative Arts Manager Wear spoke to an opportunity for programming at the amphitheater at Oak Point Park and to a plan for a series of five concerts over the summer and into the fall identified as the Texas Music Sundown Concerts. He stated that this would help to raise public awareness of the amphitheater, bring together citizens of diverse backgrounds with activities while serving as a community building activity, and would further help maximize usage of the facility. Mr. Wear stated that a series of strong Texas musicians have been recommended to begin performing June 14 through October 11. He stated that ticket sales would begin in April with events scheduled on Thursday evenings, spoke to Plano Catering services being utilized, the hiring of an experienced stage manager, and that the total projected expense is \$90,727 with a total projected revenue of \$70,000. Mr. Wear stated that complete recovery of expenses will eventually be realized and spoke to an expanded regional market area with sponsorship participation. He spoke to receiving direction from the Council to move forward and to bringing back a Council agenda item for approval at the next meeting. The Council concurred to moving forward with the project.

Police Department Racial Profiling Report

Police Chief Rushin spoke to the requirement for officers to collect and submit to the governing body certain traffic stop data resulting in a citation or arrest. He stated that in these stops, racial ethnicity and whether or not a search was conducted with or without the consent of the person being detained are things that must be recorded. Chief Rushin stated that the report is available on line at the City/Police Department web site, spoke to the types of data being reported to include comparisons made between cities, finding a base line to compare numbers, and factors of non-residents being figured into the data along with lines of racial ethnicity. He spoke to arrest warrants, issues of probable cause, and stated that continuing to dialog on racial profiling is a critical aspect of the department. Chief Rushin spoke to future strategies, required training, zero tolerance, and selecting future candidates for the Police Department.

Police Department Performance Measures

Chief Rushin spoke to the large volume of employees in the department with the mission being to provide outstanding police services in a safe environment, being mission focused and value driven, the education of citizens, and the importance of a visual presence of officers in the community along with the detection and apprehension of offenders. He stated that performance measures include attention to the crime rate, traffic safety, timely service, and determination of quality of service through citizen surveys. Chief Rushin reviewed the performance measures for the 2006 time period and spoke to the low crime rate, aggressive enforcement and education to save lives, the addition of red light cameras, and to the reduction in accident statistics and fatalities. He spoke to priority calls and to the importance of rapid service, the major accomplishments of the department which include continued accreditation, being a safe city, success with red light cameras, recruiting and promotion of officers, planning for future retirements and the filling of these positions.

Chief Rushin spoke to the Explorer posts, community partnerships, citizen assistance programs, management training, and Homeland Security training updates. He stated that the future will include focusing on performance measures, technology updates and improvements, recruiting, employee development, community partnerships, and mission statement dedication.

Council Items for Discussion/Action on Future Agendas

No items were brought forward.

Consent Agenda

City Manager Muehlenbeck advised that Consent Item "W," ordinance to repeal a section of the Code of Ordinances addressing speed limits on Central Expressway is pulled and removed from the agenda.

Council Reports

Council Member Ellerbe stated that an update on Sculpture in the Park information will be provided the Council next month. She stated that a project of this size will definitely require more time spent by additional persons in order to move forward.

Nothing further was discussed. Mayor Evans adjourned the meeting at 6:45 p.m.

Pat Evans, Mayor

ATTEST

Elaine Bealke, City Secretary

PLANO CITY COUNCIL
March 20, 2007

COUNCIL MEMBERS

Pat Evans, Mayor
Scott Johnson, Mayor Pro Tem
Sally Magnuson, Deputy Mayor Pro Tem
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Jean Callison
Loretta L. Ellerbe
Harry LaRosiliere
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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
Diane Zucco, Assistant City Secretary

Mayor Evans convened the Council into the Regular Session on Tuesday, March 20, 2007, at 7:02 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present with the exception of Council Members Stahel and LaRosiliere.

The invocation was led by Reverend Larry McGuire of First Baptist Church – Plano.

The Pledge of Allegiance was led by Representatives of Boys and Girls Clubs of Collin County – Plano.

Mayor Evans administered oaths of office to incoming Keep Plano Beautiful Commission member Rob Sipll and incoming Senior Citizens Advisory Board member Jim Hudson.

The Council recognized City Secretary Bealke for twenty years of service to the City and her retirement.

COMMENTS OF PUBLIC INTEREST

Ted Kalal, citizen of the City, spoke to allocating a portion of solicitor's fines to a complainant's charity in Plano. City Attorney Wetherbee spoke to some monies going to the state, City funds being set for a public purpose and hesitation regarding controls set by an outside party. City Manager Muehlenbeck spoke to being cautious regarding monies going into the General Fund then being obligated for a specific purpose and stated it may establish a precedent.

BOARD AND COMMISSION REPORT

Transportation Advisory Committee Chair Michael W. Copeland spoke to 2006 initiatives supported by the committee including the Safe Streets Program, Red Light Camera Program, and Share the Road Campaign. He spoke to determining what additional steps the committee can take to support the Council and City and recommendations including earlier involvement in development plans, traffic impact studies where appropriate, coordination with zoning cases, and assistance on Planning and Zoning Commission transportation aspects. Mr. Copeland spoke to the Committee's issues including public transportation, especially for seniors, road user safety including the Share the Road Campaign, pedestrian-friendly policies and opportunities during reconstruction/rehabilitation of an aging infrastructure and improving the "walkability" of Plano.

Mayor Evans and Deputy Mayor Pro Tem Magnuson spoke regarding senior transportation issues and to the survey done by the Senior Citizens Advisory Board. City Manager Muehlenbeck spoke to MP3 class of 2007 looking at senior transportation and stated that once complete, the group will look to the Transportation Advisory Committee for additional input.

CONSENT AGENDA

Upon the request of Staff, Consent Agenda Item "W" was pulled from the agenda.

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

Approval of Minutes [Consent Agenda Item (A)]

February 26, 2007

Approval of Expenditures

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

Bid No. 2007-62-C for Overhead Door and Gate Inspection and Maintenance to Johnson Equipment Company in the estimated annual amount of \$50,020. This will establish an annual fixed price contract with three optional one-year renewals. [Consent Agenda Item (B)] (See Exhibit “A”)

Bid No. 2007-92-B for the 2006-2007 Residential Concrete Pavement Rehabilitation Project, Zones K8, L8 & J6N to Jerusalem Corporation in the amount of \$637,539. This project involves the replacement of street and alley pavement in the residential areas on the west side of the City, bounded by Legacy Drive on the south, Red River Drive on the east, Hedgcoxe Road on the north and Independence Parkway on the west. [Consent Agenda Item (C)] (See Exhibit “B”)

Bid No. 2007-60-C for Security Control Systems Maintenance Package to The Systems Group, Inc. dba SystemsGroup, SGI Protective Services, Silver Star Protective Services, in the estimated annual amount of \$46,562. This will establish an annual fixed price contract with three optional one-year renewals. [Consent Agenda Item (D)] (See Exhibit “C”)

Bid No. 2007-63-C for Custodial Services – Various Locations to UBM Enterprise, Inc. in the estimated annual amount of \$962,273. This will establish an annual fixed price contract, with three optional one-year renewals. [Consent Agenda Item (E)] (See Exhibit “D”)

Bid No. 2007-72-C to establish an annual fixed price contract for Traffic Control Devices/Signal Equipment items 1-9 to Requisite Inc. in the estimated amount of \$31,304. Item 10, Conflict Monitors, will be re-bid. This will establish an annual fixed price contract with three City optional renewals. [Consent Agenda Item (F)] (See Exhibit “E”)

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 approve the purchase of two (2) Spartan/General Pumper’s and one (1) Spartan/General Pumper with Elevated Master Stream for the Fire Department in the amount of \$1,490,804 from Emergency Vehicles of Texas through an existing contract/agreement with HGAC Cooperative Purchase Program and authorizing the City Manager to execute all necessary documents. (#JC14 & JA01) [Consent Agenda Item (G)]

To approve the purchase of six (6) Panasonic Toughbook Laptops with mounting equipment and installation in the amount of \$31,341 from Portable Computer Systems, through an existing Department of Information Resources (DIR) contract; and authorizing the City Manager to execute all necessary documents. (DIR-VPC-03-039) [Consent Agenda Item (H)]

To approve the purchase of a Bomb Response Vehicle for the Police Department in the amount of \$200,000 from LDV Incorporated through a Texas Building and Procurement Commission contract, and authorizing the City Manager to execute all necessary documents. (TXMAS #4-23V020). [Consent Agenda Item (I)]

To approve the purchase of a Mini-ANDROS II Vehicle for the Police Department in the amount of \$81,153 from Remotec Incorporated through a Texas Building and Procurement Commission-Multiple Award Schedule contract, and authorizing the City Manager to execute all necessary documents. (TXMAS #GSA-84). [Consent Agenda Item (J)]

To approve the purchase of material testing services for the Parker Road Estates West Water Rehabilitation Project, in the amount of \$35,026 from Kleinfelder, Inc., through an existing contract/agreement, and authorizing the City Manager to execute all necessary documents. (Contract # 2005-265-D) [Consent Agenda Item (K)]

To approve the purchase of labor and materials for the Roof Replacement Project at Stadium Pump Station, in the amount of \$66,797, from Tremco Incorporated, through an existing contract/agreement with Texas Cooperative Purchasing Network (TCPN), and authorizing the City Manager to execute all necessary documents. (TCPN Vendor Contract No. R4611) [Consent Agenda Item (L)]

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

To approve an Engineering Contract by and between the City and Birkhoff, Hendricks & Conway, L.L.P., in the amount of \$127,500, for Dallas North Trunk Sewer Replacement Rehabilitation, Phase III, and authorizing the City Manager to execute all necessary documents. This agreement is for engineering design to include the replacement of about 4,300 linear feet of 24-inch to 36-inch diameter sewer line along the President George Bush Turnpike. [Consent Agenda Item (M)]

Change Order: (Change to current City of Plano contract allowable under State law)

To Birkhoff, Hendricks & Conway, L.L.P. increasing the Professional Services Contract by \$6,500 for Dallas North Trunk Sewer Main Rehabilitation, Contract Modification No. 1. [Consent Agenda Item (N)]

To Miller Pipeline Corporation, increasing the contract by \$37,237 for the Sanitary Sewer Rehabilitation Requirements Contract 2004, Project No. 5470, Renewal, Change Order No. 1, Bid No. P069-04 [Consent Agenda Item (O)]

To Tri-Con Services, Inc. increasing the contract by \$58,085 for Avenue P, Park to 18Th Street/Ridgetop Lane, Change Order No. 6 (2006-51-B). [Consent Agenda Item (P)]

Adoption of Resolutions

Resolution No. 2007-3-1(R): To authorize continued participation with the Atmos Cities Steering Committee; and authorizing the payment of 10 cents per capita to the Atmos Cities Steering Committee to fund regulatory and related activities related to Atmos Energy Corporation; authorizing the City Manager to take such action and execute such documents as necessary and providing an effective date. [Consent Agenda Item (Q)]

Resolution No. 2007-3-2(R): To appoint the City Manager to be Plan Administrator of the 457 Deferred Compensation Plan; setting forth duties of the Plan Administrator; and providing an effective date. [Consent Agenda Item (R)]

Resolution No. 2007-3-3(R): To ratify the terms and conditions of an Interlocal Agreement between the cities of Prosper and Plano for Administration Services to be provided to Prosper by Plano; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (S)]

Resolution No. 2007-3-4(R): To authorize the participation of the City in the action styled City of Webster and the Webster Economic Development Corporation vs. Carole Keeton Strayhorn, in Her Official Capacity as Comptroller of Public Accounts for the State of Texas currently pending in the 261st District Court of Travis County, and/or to pursue such other remedies and matters relating to sales tax allocation; authorizing the expenditure of funds; and providing an effective date. [Consent Agenda Item (T)]

Resolution No. 2007-3-5(R): To authorize a partial refund of property taxes and fees in the amount of \$330 pursuant to Section 43.148(a) of the Texas Local Government Code to property owners disannexed from the City of Plano; authorizing the City Manager to take such action and execute such documents as necessary to effectuate said refund approved herein; and providing an effective date. [Consent Agenda Item (U)]

Adoption of Ordinances

Ordinance No. 2007-3-6: To abandon all right, title and interest of the City, in and to that certain drainage easement recorded in Volume 4247, Page 1762 and that certain drainage easement recorded in Clerk File No. 92-0002185 of the Land Records of Collin County, Texas, being situated in the John D. Martin Survey, Abstract No. 603, which is located within the City limits of Plano, Collin County, Texas quitclaiming all right, title and interest of the City in such easements to the abutting property owner, Plano Pointe West, L.P., to the extent of its interest; authorizing the City Manager to execute any documents deemed necessary; and providing an effective date. [Consent Agenda Item (V)]

To repeal Ordinance No. 93-11-14, codified as Subsection "Central Expressway," a paragraph under Section 12-74 of Chapter 12 (Traffic Code) of the Code of Ordinances of the City of Plano; adopting a new subsection "Central Expressway" of Section 12-74 of Chapter 12 (Traffic Code) of the Code of Ordinances to establish prima facie maximum speed limits for motor vehicles operating upon certain sections of Central Expressway within the corporate limits of the City of Plano; providing a fine for criminal penalties not to exceed \$200.00 for each offense; and providing a repealer clause, a penalty clause, a severability clause, a savings clause, and an effective date. [Consent Agenda Item (W)] (Item pulled from the agenda)

Ordinance No. 2007-3-7: To amend Article I. In General, of Chapter 17. Police, of the City of Plano Code of Ordinances by adding Section 17-2 to codify the authority of police officers to enforce State laws and City ordinances; and providing an effective date. [Consent Agenda Item (X)]

Ordinance No. 2007-3-8: To adopt and enact Supplement Number 77 to the Code of Ordinances for the City of Plano; providing for amendment to certain sections of the Code; and providing an effective date. [Consent Agenda Item (Y)]

Ordinance No. 2007-3-9: To revise Section 2-301 of Article XVI Self-Sufficiency Committee of Chapter 2 Administration of the Code of Ordinances of the City of Plano to add one member to be appointed by Plano Housing Authority; providing a repealer clause, a severability clause, and an effective date. [Consent Agenda Item (Z)]

END OF CONSENT

Public Hearing and an ordinance as requested in Zoning Case 2007-01 – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to amend 5.7± acres located at the northeast corner of Preston Road and Old Shepard Place in the City of Plano, Collin County, Texas, from Planned Development-189-Retail/General Office to Planned Development-186-Retail/General Office; 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: Old Shepard Place II, Ltd. [Regular Agenda Item (1)]

Director of Planning Jarrell advised the Council that the applicant has requested the item be tabled until the April 9, 2007 Council meeting.

Upon a motion made by Deputy Mayor Pro Tem Magnuson and seconded by Council Member Ellerbe, the Council voted 6-0 to table Zoning Case 2007-01 - A request to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to amend 5.7± acres located at the northeast corner of Preston Road and Old Shepard Place in the City of Plano, Collin County, Texas, from Planned Development-189-Retail/General Office to Planned Development-186-Retail/General Office until April 9, 2007.

Discussion and adoption of Ordinance No. 2007-3-10 to amend Chapter 21, Article II, Division 4, Drought Contingency Plan, Section 21.60.1(J) and 21.60.1(N) of the Code of Ordinances of the City of Plano; revising the existing water zone map to include a morning watering schedule and evening watering schedule for the purpose of improving the operations of the City's water system; providing a repealer clause, a savings clause; a severability clause; and providing an effective date. [Regular Agenda Item (2)]

Director of Public Works Foster spoke regarding elevated storage tanks, meeting peak flow requirements, equalizing pressures throughout the City, providing emergency water supplies and recommendations to improve the operational characteristics of the water system. He spoke to overwatering that occurred last year due to the one-day limitation and stated that impacts on storage have impacts on pressure. Mr. Foster spoke to recommended amendments to allow watering two days per week during specified times, prohibiting watering from 10 p.m. to 2 a.m. in addition to the current prohibition from 10 a.m. to 6 p.m., dividing the City into six zones and allowing watering on an additional day (Saturday). Mr. Foster spoke to the recommendations offering operational improvements, more flexibility for citizens, watering being permitted two days per week rather than one and an enhancement of fire-fighting capabilities.

Mr. Foster spoke to the low levels of area lakes and recent rainfall stating that it is running behind last year. He responded to City Manager Muehlenbeck, stating that eastern Plano is one of the areas experiencing problems with pressure and that dividing it will help. He spoke to low pressure in the northern and mid-sections of the City as well. Mr. Foster responded that Saturday was a better choice for an additional day in terms of enforcement and spoke to considering those who may attend church on Sunday. He spoke to providing letters to all citizens regarding the amendments, group meetings, electronic displays, mall displays and to delaying enforcement of the changes until mid-April. Mr. Foster spoke to continued enforcement of the 10 a.m. to 6 p.m. restriction.

Mr. Foster advised that violations would be handled as they are in the existing ordinance and responded to Council Member Ellerbe, stating that allowing watering of putting greens and t-boxes is consistent with the current restrictions. He spoke to the great level of contribution on the part of the City's commercial sector. Mr. Foster responded to Mayor Pro Tem Johnson, stating that the future projects of the North Texas Municipal Water District appear to be on time or ahead of schedule.

Danny Morris, citizen of the City, spoke to the low pressure he experienced last year and to including Sunday nights rather than Saturday. He spoke to control boxes that do not allow different watering times on different days and to the City providing information on models that may accommodate the revisions.

Ordinance No. 2007-3-10 (cont'd)

Upon a motion made by Deputy Mayor Pro Tem Magnuson and seconded by Mayor Pro Tem Johnson, the Council voted 6-0 to amend Chapter 21, Article II, Division 4, Drought Contingency Plan, Section 21.60.1(J) and 21.60.1(N) of the Code of Ordinances of the City of Plano; revising the existing water zone map to include a morning watering schedule and evening watering schedule for the purpose of improving the operations of the City's water system; providing a repealer clause, a savings clause; a severability clause; and providing an effective date; and further to adopt Ordinance No. 2007-3-10.

Public Hearing and receive Staff report on the City's Juvenile Curfew Ordinance No. 94-11-11; action to continue, repeal or modify the current ordinance. [Regular Agenda Item (3)]

Chief Rushin spoke to review of the Juvenile Curfew Ordinance done every three years, reviewed the history and purpose of the ordinance and advised that that it deals with those under 17, restricting them from public places or premises during certain hours and has minor and parent culpability. He spoke to the defenses including being accompanied by a parent or guardian, running an errand for a parent, traveling interstate, employment activities, emergencies, being on the sidewalk in front of one's house, supervised school/religious/recreational activity, exercising First Amendment rights or being married. Chief Rushin spoke to the opportunity to refer first-time offenders into programs that require parental cooperation, use of the ordinance as tool for early intervention, and penalty options including trial, deferred disposition, teen court and a first offender program. He stated that from March 2004 to February 2007 a majority of the notices given resulted in a referral to teen court or a first-offender program and spoke regarding the increases in youth population while offenses committed by minors during curfew hours have remained consistently low. Chief Rushin spoke to the ordinance as an effective tool in curbing crimes committed by persons younger than 17 and recommended it be continued with no changes.

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

Upon a motion made by Council Member Callison and seconded by Mayor Pro Tem Johnson, the Council voted 6-0 to approve the City's Juvenile Curfew Ordinance No. 94-11-11.

Public Hearing pursuant to Chapter 26 of the Texas Parks and Wildlife Code pertaining to the use or taking of a portion of a City of Plano Park and known as the Wellington Site for an amendment to a Communications Facilities License Agreement for cellular equipment attached to and at the base of the existing TXU electric transmission tower. [Regular Agenda Item (4)]

Director of Customer and Utility Services Israelson spoke to an audit of cellular equipment in rights-of-way and information indicating a number are located on City property. He spoke to expansion of the Verizon site, coming to terms on the rental amount, and approval by the Parks and Recreation Planning Board.

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

Ordinance No. 2007-3-11: To approve a project requiring the use or taking of a portion of City of Plano public park land, known as the Wellington Site; 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. [Regular Agenda Item (5)]

Upon a motion made by Council Member Ellerbe and seconded by Mayor Pro Tem Johnson, the Council voted 6-0 to approve a project requiring the use or taking of a portion of City of Plano public park land, known as the Wellington Site; 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; and further to adopt Ordinance No. 2007-3-11.

Resolution No. 2007-3-12(R): To approve the terms and conditions of an amendment to a Communications Facilities License Agreement by and between the City of Plano, Texas, and Dallas MTA, L.P., a Texas Limited Partnership, d/b/a Verizon Wireless, to locate, place, attach, install, and operate, telecommunications ground equipment in certain specific portions of City of Plano public park land, known as the Wellington Site, authorizing its execution by the City Manager, and providing an effective date. [Regular Agenda Item (6)]

Upon a motion made by Mayor Pro Tem Johnson and seconded by Council Member Ellerbe, the Council voted 6-0 approve the terms and conditions of an amendment to a Communications Facilities License Agreement by and between the City of Plano, Texas, and Dallas MTA, L.P., a Texas Limited Partnership, d/b/a Verizon Wireless, to locate, place, attach, install, and operate, telecommunications ground equipment in certain specific portions of City of Plano public park land, known as the Wellington Site, authorizing its execution by the City Manager, and providing an effective date; and further to adopt Resolution No. 2007-3-12(R).

Public Hearing pursuant to Chapter 26 of the Texas Parks and Wildlife Code pertaining to the use or taking of a portion of a City of Plano Park and known as the Bronze Leaf Site for a Communications Facilities License Agreement for cellular equipment attached to and at the base of the existing TXU electric transmission tower. [Regular Agenda Item (7)]

Director of Customer and Utility Services Israelson advised that the City has come into agreement with T-Mobile on the following two sites, that they will build a living screen around each of the sites, and that these are existing facilities.

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

Ordinance No. 2007-3-13: To approve a project, requiring the use or taking of a portion of City of Plano public park land, known as the Bronze Leaf Site; 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. [Regular Agenda Item (8)]

Upon a motion made by Deputy Mayor Pro Tem Magnuson and seconded by Council Member Ellerbe, the Council voted 6-0 to approve a project, requiring the use or taking of a portion of City of Plano public park land, known as the Bronze Leaf Site; 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; and further to adopt Ordinance No. 2007-3-13.

Resolution No. 2007-3-14(R): To approve the terms and conditions of a Communications Facilities License Agreement by and between the City of Plano, Texas, and T-Mobile Texas, L.P. by T-Mobile West Corporation, a Delaware Corporation, to locate, place, attach, install, and operate, telecommunications ground equipment in certain specific portions of City of Plano public park land, known as the Bronze Leaf Site, authorizing its execution by the City Manager, and providing an effective date. [Regular Agenda Item (9)]

Upon a motion made by Council Member Callison and seconded by Council Member Ellerbe, the Council voted 6-0 to approve the terms and conditions of a Communications Facilities License Agreement by and between the City of Plano, Texas, and T-Mobile Texas, L.P. by T-Mobile West Corporation, a Delaware Corporation, to locate, place, attach, install, and operate, telecommunications ground equipment in certain specific portions of City of Plano public park land, known as the Bronze Leaf Site, authorizing its execution by the City Manager, and providing an effective date; and further to adopt Resolution No. 2007-3-14(R).

Public Hearing pursuant to Chapter 26 of the Texas Parks and Wildlife Code pertaining to the use or taking of a portion of a City of Plano Park and known as the Blue Ridge Site for a Communications Facilities License Agreement for cellular equipment attached to and at the base of the existing TXU electric transmission tower. [Regular Agenda Item (10)]

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

Ordinance No. 2007-3-15: To approve a project, requiring the use or taking of a portion of City of Plano public park land, known as the Blue Ridge Park Site; 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. [Regular Agenda Item (11)]

Upon a motion made by Council Member Callison, and seconded by Deputy Mayor Pro Tem Magnuson, the Council voted 6-0 to approve a project, requiring the use or taking of a portion of City of Plano public park land, known as the Blue Ridge Park Site; 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; and further to adopt Ordinance No. 2007-3-15.

Resolution No. 2007-3-16(R): To approve the terms and conditions of a Communications Facilities License Agreement by and between the City of Plano, Texas and T-Mobile Texas, L.P. by T-Mobile West Corporation, a Delaware Corporation, to locate, place, attach, install, and operate, telecommunications ground equipment in certain specific portions of City of Plano public park land, known as the Blue Ridge Site, authorizing its execution by the City Manager, and providing an effective date. [Regular Agenda Item (12)]

Upon a motion made by Deputy Mayor Pro Tem Magnuson and seconded by Council Member Callison, the Council voted 6-0 to approve the terms and conditions of a Communications Facilities License Agreement by and between the City of Plano, Texas and T-Mobile Texas, L.P. by T-Mobile West Corporation, a Delaware Corporation, to locate, place, attach, install, and operate, telecommunications ground equipment in certain specific portions of City of Plano public park land, known as the Blue Ridge Site, authorizing its execution by the City Manager, and providing an effective date; and further to adopt Resolution No. 2007-3-16(R).

There being no further discussion, Mayor Evans adjourned the meeting at 8:02 p.m.

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, City Secretary
Diane Zucco, Assistant City Secretary

**PLANO CITY COUNCIL
PRELIMINARY OPEN MEETING
March 26, 2007**

COUNCIL MEMBERS

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

STAFF

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

Mayor Evans called the meeting to order at 5:00 p.m., Monday, March 26, 2007, in Training Room A of the Municipal Center, 1520 K Avenue. All Council Members were present. Council Member Callison arrived at 5:07 p.m. 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 and to discuss Litigation, Section 551.071, and discuss Personnel, Section 551.074 for which a certified agenda will be kept in the office of the City Secretary for a period of two years as required.

Mayor Evans reconvened the meeting back into the Preliminary Open Meeting at 6:05 p.m. in the Council Chambers where the following matters were discussed:

Consideration and Action Resulting From Executive Session Discussion: Personnel Appointment – Building Standards Commission

Upon a motion made by Council Member Stahel and a second by Council Member Dunlap, the Council voted 8-0 to appoint Jim Kesterson as an alternate to an interim term expiring in October of 2008.

Boards and Commissions Appointment Process

Assistant City Secretary Zucco reviewed the board and commission reappointment and appointment processes and calendar of events. After consideration of the Plano Independent School District's start date, the Council concurred to move the reception and appointments to later dates. The Council concurred to move forward with the flyer format as submitted.

Mobility Report

Transportation Engineering Manager Neal spoke to review of signal timings along S.H. 121 and pedestrian signal applications throughout the City. He spoke to consideration of improvements at S.H. 190 and US 75 to address congestion going northbound from S.H. 190 onto US 75. He advised that the proposal would keep two separate lanes as traffic moves through this area with a right lane forced off as an exit and a left lane serving as a merge-weave area. He spoke to the cost estimate of \$15.2 million with several agencies participating, work with the Council of Governments (COG), and other construction in the area. He responded to the Council stating that participation from the City of Plano would be \$3 million, COG is committed for \$4.1 million, NTTA for \$2.5 million and TxDOT for \$2.8 million for voluntary in-kind services. Mr. Neal spoke to efforts to make up the deficit.

Council Member Stahel spoke to traffic problems in the area and the need for enforcement. Mr. Neal responded that construction of the long weave-merge lane may alleviate problems and stated he would contact the Police Department regarding enforcement. He responded to Council Member Dunlap stating that he has not seen the plans for S.H. 190 and the Dallas North Tollway. Council Member Stahel spoke similar problems in that area.

Comprehensive Monthly Financial Report

Finance Director McGrane spoke regarding the Comprehensive Monthly Finance Report for the month of February 2007, stating that year-to-date revenues in the General Fund are doing quite well and that the Water & Sewer Fund is \$1.8 million off in revenue as compared to last year. He advised that expenditure funds are where they should be, the strong upward trend in sales tax revenues continues, the unemployment rate is up over last month but down compared to last year and the solid waste account is at a strong level. Mr. McGrane advised that single-family housing starts are down, but show steady tracking when annualized and spoke to the big rise in commercial building permits. He spoke to hotel/motel taxes being solid and steady and to a May 1, 2007 bond sale requiring a Special Called Council meeting. Mr. McGrane spoke to the portfolio's diversification and responded to Mayor Pro Tem Johnson stating that the level of hotel/motel taxes is similar across the state.

Presentation from Turkish American Education Foundation

Nuray Fuller, representing the Turkish American Education Foundation, spoke to Plano being a special place, her participation in the Multi-Cultural Outreach Roundtable and Mayor Evans' consideration for different ethnic groups and encouragement of participation in civic matters. She presented a trip to Turkey to Mayor Evans on behalf of the Board of Directors of the Turkish American Education Foundation, which will provide inside knowledge of Turkish culture, cuisine and people and foster good will for years to come.

Progress Report Regarding Lexington Development

Scott Schaefer of Lexington Luxury Builders, spoke regarding landscape and hardscape plans submitted to the City, drawings approved by the Heritage Commission in December 2006, completion of construction drawings and pulling permits. He spoke to proceeding with construction of twin buildings and community involvement in the project. Mr. Schaefer responded to the Council stating that construction should begin in mid-April with the first units available for move-in in mid-October. He advised that the size would range from 1,700 to 2,400 square feet with prices ranging from \$270,000 to \$340,000. Mr. Schaefer further spoke to monuments in the central park area with plaques commemorating the Rice family and the heritage of the football field. He spoke to fourteen units being completed in the first phase with six more three weeks later.

Council Items for Discussion/Action on Future Agendas

Council Member Stahel requested a general progress report on the Downtown area.

Consent Agenda

Council Member Stahel advised that he will be stepping down on Consent Agenda Item "D," a contract with Museumscapes, LLC for the design, development and installation of interactive software for the Sustainability and Environmental Services Department due to a possible conflict of interest.

Council Member Dunlap requested that Consent Agenda Item "E," a resolution to endorse certain legislative changes to enhance the competitive electric market supported by Cities Aggregation Power Project, Inc. be removed for individual consideration.

Council Reports

Mayor Evans spoke to an opportunity for Council Members to apply for a National League of Cities Board position.

Nothing further was discussed. Mayor Evans recessed the meeting at 6:47 p.m.

Pat Evans, Mayor

ATTEST

Diane Zucco, Assistant City Secretary

PLANO CITY COUNCIL
March 26, 2007

COUNCIL MEMBERS

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Elaine Bealke, City Secretary
Diane Zucco, Assistant City Secretary

Mayor Evans convened the Council into the Regular Session on Monday, March 26, 2007, at 7:05 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present.

The invocation was led by Sr. Pastor Al Krummenacher of Grace Presbyterian Church.

The Pledge of Allegiance was led by Brownie Troop 1286 from Mathews Elementary School.

Mayor Evans read proclamations recognizing Keep Plano Beautiful – Great American Cleanup; Plano, Texas – Relay for Life Community; and Sexual Assault Awareness and Prevention Month – April, 2007.

Mayor Evans presented a certificate of appreciation to Danny Morris for his service on the Building Standards Commission.

COMMENTS OF PUBLIC INTEREST

Jim Johnstone, citizen of the City, stated concern that the average sprinkler system cannot be set to correspond to the days and times watering is now permitted. He spoke to watering at the same time for shorter periods on allowed days. Mayor Evans spoke to setting systems on manual and advised that the Council was not posted for discussion of the item.

BOARD AND COMMISSION REPORT

Cultural Affairs Commission Vice Chair Alex Johnson spoke to the board's ethics training, annual review/revision of grant guidelines and applications, grant workshops for applicants, presentations and review of applications and presentation of recommendations to the Council. He spoke to review and recommendations of the proposal for delivery of services for Plano's Annual Summer Arts Workshop. Mr. Johnson reviewed the board's schedule and spoke to their update of the mission statement and goals. He advised that last year there were 20 small and major grants and that the Council awarded \$601,070 and six special events programs in the amount of \$249,858. Mr. Johnson thanked the Council for their support of cultural arts and spoke to the board providing assistance to diverse groups of citizens and organizations who provide diversity in culture for Plano citizens. Deputy Mayor Pro Tem Magnuson spoke regarding the presentations made by applicants and Mayor Evans thanked that group for their intense schedule and devotion.

CONSENT AGENDA

Upon the request of Council Member Stahel, Consent Agenda Item "D" was removed for individual consideration due to a possible conflict of interest.

Upon the request of Council Member Dunlap, Consent Agenda Item "E" was removed for individual consideration.

Upon a motion made by Council Member Ellerbe and seconded by Council Member Callison, the Council voted 8-0 to approve and adopt all remaining items on the Consent Agenda as recommended and as follows:

Approval of Expenditures

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

Bid No. 2007-90-B for Wyatt North Addition to Tri-Con Services, Inc., in the amount of \$1,780,914. The project consists of reconstruction of the water lines, street pavement and sidewalks on Avenue N, Felix Drive, Francis Lane and Lucas Terrace in the Wyatt North Subdivision. [Consent Agenda Item (A)] (See Exhibit "A")

Bid No. 2007-086-B for Recycling Program Bins and Wastebaskets to Midpoint International Inc., Pyramid School Products, JanPak Supply, Recy-Cal Supply and Corporate Express in the amount of \$35,157. [Consent Agenda Item (B)] (See Exhibit “B”)

Bid No. 2007-89-B for fixed price contract for Uninterruptible Power Supply to Paradigm Traffic Systems, Inc. (Items 1, 2, 3, 5, and 6) and Consolidated Traffic Controls, Inc. (Item 4) in the estimated annual amount of \$64,890 to power traffic signals during power outages at nine locations in the EDS and Legacy Town Center area. The contract will be for a period of one year from date of contract signature with renewal options under the same terms and conditions. [Consent Agenda Item (C)] (See Exhibit “C”)

Adoption of Ordinances

Ordinance No. 2007-3-17: To grant a permit to InterCool, Inc. to repair an existing water well at 2305 Bridgeview Lane, Plano, Texas to provide water to existing private lakes located adjacent to Winding Hollow Drive, just north of West Park Boulevard; authorizing the City Manager to execute any and all documents in connection therewith; and providing an effective date. [Consent Agenda Item (F)]

Ordinance No. 2007-3-18: To transfer the sum of \$90,727 from the General Fund Unappropriated Fund Balance to the General Fund Operating Appropriation for Fiscal Year 2006-07 for the purpose of providing funding for the production of a series of five concerts at the Amphitheater at Oak Point Park; amending the budget of the City and Ordinance 2006-9-9, as amended, to reflect the actions taken herein; declaring this action to be a case of public necessity; and providing an effective date. [Consent Agenda Item (G)]

END OF CONSENT

Due to a possible conflict of interest, Council Member Stahel stepped down from the bench on the following item.

Approval of Contract: To approve a contract by and between Museumscapes, LLC and the City of Plano in the amount of \$74,560 for the design, development and installation of interactive software for the Sustainability & Environmental Services Department. [Consent Agenda Item (D)]

Upon a motion made by Deputy Mayor Pro Tem Magnuson and seconded by Council Member LaRosiliere, the Council voted 7-0 to approve a contract by and between Museumscapes, LLC and the City of Plano in the amount of \$74,560 for the design, development and installation of interactive software for the Sustainability & Environmental Services Department.

Council Member Stahel resumed his seat at the bench.

Resolution No. 2007-3-19(R): To endorse certain legislative changes to enhance the competitive electric market supported by Cities Aggregation Power Project, Inc., and providing an effective date. [Consent Agenda Item (E)]

Director of Customer and Utility Services Israelson spoke to Plano being a member city of the Cities Aggregation Power Project, Inc. and actively working with consultants and legal advisors to educate legislators on issues and problems that have resulted from the deregulation of the market. He spoke to meetings attended by Mayor Evans and Mayor Pro Tem Johnson. Council Member Dunlap spoke to advising the public how hard elected officials and Staff work to be sure the voices of Plano citizens are heard on both state and national levels.

Upon a motion made by Council Member Stahel and seconded by Council Member Callison, the Council voted 8-0 to endorse certain legislative changes to enhance the competitive electric market supported by Cities Aggregation Power Project, Inc., and providing an effective date; and further to adopt Resolution No. 2007-3-19(R).

Public Hearing – To solicit input from the public pertaining to the proposed smoking ordinance, which will replace the current ordinance. [Regular Agenda Item (1)]

Director of Health Collins advised that the proposed ordinance is intended to improve the public's health by eliminating exposure to second-hand smoke in all indoor enclosed areas and public places and includes restaurants, retail stores, businesses, places of employment, sports venues and other common areas to which the public is commonly invited or in which the public is permitted. He stated that under this ordinance, smoking will not be regulated in private residences unless they are used for child care, adult day care or health care; personal automobiles; stand-alone retail tobacco stores; 10% or less of hotel/motel rooms or outdoor places of employment. Mr. Collins spoke to the posting of signs at building entrances and enforcement by the Health Department. He spoke to fines for non-compliance of up to \$500 for each violation directed primarily at those who smoke, but stated that Section 14-70 enables Staff to address business owners who do not comply with the actions listed in the ordinance. Mr. Collins spoke to conducting an educational initiative, recognized the committee for their efforts and stated the proposed implementation date of June 1, 2007.

Mayor Evans opened the Public Hearing. Andy Essary, citizen of the City, thanked Staff and the committee for their work and spoke to Plano being at the vanguard of a national movement toward health and away from smoking. He spoke to listening to ideas and doing the right thing. Mike Brignole, owner of the End Zone in Plano, spoke to the impact on businesses and the marketplace determining what will or will not succeed. He stated that this would impose the will of some on everyone and spoke to the filtration systems currently required. Mr. Brignole responded to Mayor Evans that he has had his filtration system for three years.

Kim Kamm, Regional Director of Government Relations for the American Cancer Society, spoke to the ordinance being an important public health issue. She spoke to the Surgeon General's report that second-hand smoke is dangerous and stated the society's belief in the right to breathe clean air. Ms. Kamm spoke to 80% of the Texas population being non-smoking, to an American Society of Heating/Refrigeration and Air Conditioning Engineers report stating that the only way to safeguard the public is not to allow smoking in public buildings, and commended the Council for consideration and Staff for being proactive. Kim Wilcox, American Cancer Society volunteer and Co-Chair of Plano's Relay for Life, spoke to the effect of smoke on her personally and to the right of children to breathe clean air. Zeno H. Lockett, citizen of the City, spoke to not over controlling people and to setting aside areas designated for smokers. John D. Norsworthy, citizen of the City, spoke to individuals having a choice and to the City not deciding their rights. He spoke to interpretation of data and scientific information and to not changing the ordinance.

Robert Terrill, citizen of the City and committee member, spoke to the ordinance protecting the health of the public and employees who do not have a choice. He spoke to the ordinance providing a level playing field and in favor of passage. O.B. Barsh, new restaurant/pub owner in Plano, spoke to selecting his location based on the demographics and economic stature of the City, monies spent on filtration systems/barriers, the state's possible future consideration of restrictions and employees having a choice of where to work and choosing the smoking section where there are more customers. He spoke to driving revenue to other cities and to offering a choice to customers and employees. Brent Hanson, of Buffalo Wild Wings in Plano, spoke to the lack of customers when the establishment was non-smoking, the purchase and effectiveness of filtration systems, employees choosing where to work, and the possible loss of revenue to other cities. Tim Kelly, of Kelly's Eastside in Plano, spoke to the negative effect the proposal would have on his patio area, the makeup of the committee, the right to choose whether to smoke or not smoke and monies invested in his establishment. Danny Morris, citizen of the City, spoke to the dangers of smoking and the effectiveness of some of the filtration systems in current Plano restaurants. No one else spoke either for or against the request. The Public Hearing was closed.

Mr. Collins reviewed the membership of the committee including two physicians, representatives from the American Heart Association, American Lung Association and American Cancer Society, the Greater Dallas Restaurant Association, one local restaurant owner, two citizens and a representative from one large corporation. Mayor Evans requested Staff provide information regarding filtration system enforcement including the number of incidents received on an annual basis, how many are related to equipment and repairs required. Mr. Collins spoke to systems not being turned on or having clogged filters and to data showing the low impact a clean air ordinance would have on establishments, revenues or taxes. He spoke to a study indicating that there is no system capable of 100% filtration of second-hand smoke. Mayor Evans requested Staff provide the Council these reports.

Mr. Collins responded to Council Member Ellerbe, stating that in an area with multiple businesses, each one is responsible for posting a sign at their entrance and that there is a caveat to include 25 feet from operable windows/vents, which then could be the responsibility of the property owner. He stated that the movement of smoking employees to in front of other businesses would be prohibited and addressed on a complaint basis by contacting the Health Department. Mr. Collins responded to Council Member Stahel, stating that there are no hard statistics regarding the practices of major employees, but feedback indicates that most large businesses already have a smoke-free policy. He spoke to including members of the Chamber of Commerce and Plano Economic Development Board so they might gain feedback and provide information. Mayor Evans spoke to establishments in Plano being restaurants rather than bars based on food service requirements.

Mr. Collins responded to Mayor Pro Tem Johnson, stating that with regard to considering allowing restaurants to be either smoking or non-smoking, the committee looked at the employees as a component of public health in those situations. He spoke to lawsuits being filed against employers for the effects of exposure to smoke over long periods of time and to other cities in the area that are considering or have already taken action. Mr. Collins responded to Council Member Stahel, stating that smoking is not prohibited in outdoor places of employment and that there may be separate policies in some instances. He spoke to the restriction on private residences when they are used as child care, adult day care or health care facilities. Mr. Collins spoke to the Downtown and Legacy Town Center areas being virtually smoke-free based on the large number of doors and openings and the distance requirement. He spoke to responsibility of property owners in parking lots and to Health Specialists assisting in determining parameters, signage or ways to address the issues.

Mayor Evans opened the floor for additional comments. Mr. Lockett spoke to smoke getting "locked up" at a level where people are breathing and to the possibility a change in ventilation systems would make a difference in restaurants. Mr. Norsworthy spoke to reviewing studies disproving the effect of second-hand smoke. Council Member Ellerbe spoke regarding the Surgeon General's report which advised that second-hand smoke is hazardous to health. Mr. Barsh of Bullwinkle's Bistro and Pub, spoke to there being only one restaurant owner on the committee, customers coming to Plano from cities that do not allow smoking and to patrons going elsewhere. Mr. Brignole spoke to the tabling of the issue in other cities and stated concern that business owners may be ticketed for those smoking within the 25 foot limit. City Attorney Wetherbee spoke to consideration of enforcement issues.

Mayor Evans spoke to another Public Hearing and consideration of the item on April 9, 2007.

Presentation of the 2006-07 Status Report and Three-Year Financial Forecast to City Council. [Regular Agenda Item (2)]

Budget Director Rhodes stated that every annual budget adopted by the City Council is statutorily required to be balanced and that fund deficits are assumed to be rectified in the year projected. She spoke to projections that the General Fund will end with 30 days fund balance in 2007-08, to a fund deficit the following two years and to the Budget Contingency Plan to address this should it come to fruition. Ms. Rhodes spoke to an estimated 2% increase in property values in 2008 and new property growth in the amount of \$550 million and to increases in property values of 1.5% in 2009 and 1% in 2010. She spoke to the tax rate of 47.35 cents per \$100 of assessed property value with two cents going to the Economic Development Incentive Fund. Ms. Rhodes spoke to the property tax levels of other cities and to Plano's being the lowest when calculating the actual effective rate with the homestead exemption.

Ms. Rhodes advised regarding the 15.8% increase in sales tax revenue in 2005-06 and to running 2.5% more for this year than last. She spoke to increases coming from manufacturing, wholesaling and information services companies and stated concern that should there be a recession, these would be the first businesses impacted. Ms. Rhodes spoke to forecasting a decrease of 1.5% for 2007-08 and a constant level for the following years. She spoke to Building and Development Revenues running at \$4.7 million for 2006-07 followed by a 15% reduction then remaining constant.

Ms. Rhodes spoke to 2007-08 salaries projected at a 3% increase with no future increases projected at this time. She spoke to determining future increases during each year's consideration. Ms. Rhodes stated that attrition has been included at 5% for the General Fund and 1% for all other funds, health insurance is projected to increase 10% to set aside reserves for GASB 45, and that funding for the Economic Development Incentive Program is projected to remain at \$6 million for 2007-08 then drop to the two cents on the tax rate for the remainder of the forecast at \$4.9 million for 2008-09 and \$5.1 million for 2009-10. She spoke to Operation and Maintenance (O&M) expenditures projected at an inflation rate of 2.5%, inclusion of a 5% reduction in O&M for 2008-09 and 2009-10, and an increase of \$200,000 for library books bringing them to \$1 million.

Ms. Rhodes responded to the Council, stating that with regard to attrition, the City is budgeted at 100% of all positions being filled starting October 1, then percentages are taken off to address delays in hiring and that consideration is given that new hires will come in at lower salaries. She spoke to Community Investment Projects proposed to come on-line being absorbed within the existing tax rate, a total of 98 new full-time positions projected in 2007-08 with 52 related to Public Safety which are not included in the forecast. Ms. Rhodes stated that there are no program enhancements relating to increases for mandates, growth, increase in services, or information services requests for the three year period and that all discretionary items will be examined on their individual merit during the budget development process. She responded to the Council that the number of positions to be added represents a preliminary figure.

Ms. Rhodes spoke to the Water and Sewer Fund and information received from the North Texas Municipal Water District that both water and sewer will be increased by 5%. She spoke to the City operating under a Stage 3 Drought Contingency Plan and the 20% decline in water usage. Ms. Rhodes spoke to a major sewer main break and resultant \$8.5 million expenses with \$4.5 coming from a supplemental appropriation and other funding coming from water and sewer debt service and a reserve fund. She stated that the forecast includes a pass-through of the 5% increase for both water and sewer and an increase of \$1 on the base rate for meters effective May 1 to address a possible deficit position. She responded to the Council regarding upcoming capital expenditures.

Ms. Rhodes spoke to the Sustainability and Environmental Services Fund evening itself out and to notice of increases from the North Texas Municipal Water District. She responded to the Council that Plano is "middle of the road" for water/sewer rates when compared to other cities and stated she will bring back further information. Ms. Rhodes spoke to other cities subsidizing their water/sewer from the General Fund where Plano has a pay-as-you-go system. Ms. Rhodes spoke to shortages in the Municipal Golf Course Fund, the competitive nature of the market and to looking for ways to be more productive. She advised that further information will be brought to the Council. Ms. Rhodes stated that the Municipal Drainage, Convention & Tourism and Recreation Revolving Funds are doing fine with no deficits projected and reviewed upcoming dates on the budget calendar.

Mayor Evans stated concern regarding the situation with the North Texas Municipal Water District, the continuing rate increases and the take-or-pay contract being unworkable. She requested Council Members contact her to work with the City Manager and other cities with similar concerns toward finding a solution. Mayor Evans spoke to being penalized when the City is working to conserve and Mayor Pro Tem Johnson spoke to the requirement for a unanimous decision.

Ordinance No. 2007-3-20: To provide certain heritage resources located in the City of Plano, Texas, partial exemption from the current year ad valorem taxation in the amount of \$29,048; providing a severability clause and an effective date. [Regular Agenda Item (3)]

Long Range Planning Manager Zimmerman spoke to the Heritage Commission's decision-making process for annual tax exemptions and to receipt of an appeal. He advised that repair issues are ranked based on structural impact and timing of the repair and applicants are given at least one year to make repairs before they are removed from the program. Mr. Zimmerman spoke to the appellate having six items noted for repair, one noted for completion by February 1, 2007 or the exemption would be lost, the item being identified in 2005 and bricks not being replaced in an area where there would be concern about exposing interior walls to the elements. He stated that repairs were made after February 22, 2007 and spoke regarding the Commission meeting on February 27 at which time the property was not recommended for exemption. Mr. Zimmerman spoke to the Commission's consideration of the deadline and concern regarding granting a second extension.

Heritage Commission Chair Nichols spoke to the work of the Commission in reviewing the properties, providing adequate notice and clear communication of what is expected to ensure exemptions are being reinvested to keep the Downtown area and Heritage Districts special in Plano. He spoke to the appellate having three years to make repairs, a unanimous vote to deny the exemption and to not setting a precedent. Mr. Zimmerman advised Council Member Stahel that the exemption would be \$1,200 but could change based on a new appraisal. Mr. Nichols stated that the applicant would be welcome to reapply next year and any repairs made would be taken into consideration. Mayor Pro Tem Johnson requested information regarding land values be provided in future reports.

Juliette LaMarche requested consideration of a reversal of the Heritage Commission's decision, stating this is the first time she has been denied. She spoke to minor painting repairs and the need for a brick mason to replace six bricks, the many years she has been a property owner and to repairs now being complete. Ms. LaMarche responded to Council Member Stahel, stating that she has combined several plats into one and that the denial affects four buildings. Council Member Stahel spoke to there being deficiencies in three of four buildings and Ms. LaMarche spoke to prior approvals.

Council Member Stahel spoke to the level of detail in inspections and the three years provided to make repairs. He advised that Ms. LaMarche could reapply next year and to denying the exemption. Council Member Ellerbe spoke in agreement with Council Member Stahel. By a show of hands the Council denied the appeal.

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

Upon a motion made by Council Member Dunlap and seconded by Council Member Ellerbe, the Council voted 8-0 to provide certain heritage resources located in the City of Plano, Texas, partial exemption from the current year ad valorem taxation in the amount of \$29,048 as submitted; providing a severability clause and an effective date; and further to adopt Ordinance No. 2007-3-20.

There being no further discussion, Mayor Evans adjourned the meeting at 9:16 p.m.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, Assistant City Secretary



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		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:	4.9.07		Reviewed by Legal	<input type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Purchasing		Initials	Date	
Department Head	Mike Ryan		Executive Director		
Dept Signature:	<i>Mike Ryan</i>		City Manager	<i>Glenna Hayes</i>	4/2/07
Agenda Coordinator (include phone #): Glenna Hayes x 7539					

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

CAPTION

Award/Rejection of Bid/Proposal for Bid No. 2007-56-C for EMS PHARMACEUTICALS to Sun Belt Medical/Emergi-Source in the amount of \$47,506.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR:	2006-07; 07-08; 08-09; 09-10	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	444,807	,0	444,807
Encumbered/Expended Amount		0	-249,196	0	-249,196
This Item		0	-47,506	0	-47,506
BALANCE		0	148,105	0	148,105

FUND(S): GENERAL FUND

Comments: Funds are included in the 2006-07 Fire Department Budget for the purchase of EMS Pharmaceuticals. The balance of the funds will be used for other medical & surgical supplies.

STRAGIC PLAN GOAL: The purchase of EMS Pharmaceuticals relates to the City's Goal of "Service Excellence"

SUMMARY OF ITEM

ANNUAL CONTRACT WITH RENEWALS

Staff recommends bid of Sun Belt Medical/Emergi-Source in the estimated annual amount of \$47,506 be accepted as the lowest responsive responsible bid, and conditioned upon timely execution of any necessary contract documents. This will establish an annual fixed price contract, with three optional one-year renewals for the purchase of EMS Pharmaceuticals. 2007-56-C

List of Supporting Documents:
Bid Recap;

Other Departments, Boards, Commissions or Agencies

CITY OF PLANO

BID NO. 2007-56-C EMS PHARMACEUTICALS

BID RECAP

Bid opening Date/Time: March 14, 2007 @ 3:00 pm

Number of Vendors Notified: 391

Vendors Submitting "No Bids": 7

Number of Bids Submitted: 3

Sun Belt Medical/Emergi-Source
Central Texas Health Medical Equipment & Supplies (partial bid)

Bids Evaluated Non-Responsive to Specification: 1

Tri-Anim Health Services

Recommended Vendor(s):

Sun Belt Medical/Emergi-Source \$47,506.00

Glenna Hayes

Glenna Hayes
Senior Buyer, A.P.P.

March 27, 2007

Date

B-2



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY			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:		4/09/07	Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Purchasing			Initials	Date
Department Head	Mike Ryan	Executive Director			
Dept Signature:			City Manager		
Agenda Coordinator (include phone #): Dianna Wike Ext. 7549					
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input checked="" type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER					
CAPTION					
Award/Rejection of Bid/Proposal for Bid No 2007-82-C for Installation of Traffic Calming Devices to A & B Services, in the estimated annual amount of \$84,750.00.					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	2006-07	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	85,500	0	85,500
Encumbered/Expended Amount		0	0	0	0
This Item		0	-84,750	0	-84,750
BALANCE		0	750	0	750
FUND(S): GENERAL FUND					
COMMENTS: Funds are included in the Engineering Department budget. This item, in the amount of \$84,750, will leave a current year balance of \$750 to be used for other contractual professional services.					
STRATEGIC PLAN GOAL: Traffic calming device installation and removal relates to the City's Goals of Safe, Efficient Travel and Livable and Sustainable Community.					
SUMMARY OF ITEM					
Annual Contract With Renewals					
Staff recommends bid of A & B Services, in the estimated annual amount of \$84,750.00 be accepted as the lowest responsible bidder, conditioned upon timely execution of any necessary contract documents. This will establish an annual fixed price contract, with three optional one-year renewals for the purchase of Installation or Removal of Traffic Calming Devices.					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
Bid Summary					

C-1

CITY OF PLANO

BID NO. 2007-82-C INSTALLATION OR REMOVAL OF TRAFFIC CALMING DEVICES BID RECAP

Bid opening Date/Time: March 1, 2007 @ 3:30pm (CST)

Number of Vendors Notified: 874

Vendors Submitting "No Bids": 3

Number of Bids Submitted: 1

A & B Services (formerly A & B Power Washing)

Bids Evaluated Non-Responsive to Specification: 0

Recommended Vendor(s):

A & B Services

(\$84,750.00)

Dianna Wike

March 16, 2007

Dianna Wike, Buyer

Date

C-2



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		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:	4/9/07		Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Purchasing		Initials	Date	
Department Head	Mike Ryan		Executive Director		
Dept Signature:	<i>Diane Palmer</i>		City Manager	<i>JAC 4/13/07</i>	
Agenda Coordinator (include phone #):	January M. Cook x7376				

ACTION REQUESTED:

ORDINANCE RESOLUTION CHANGE ORDER AGREEMENT
 APPROVAL OF BID AWARD OF CONTRACT OTHER

CAPTION

Award/Rejection of Bid/Proposal for RFP No. 2007-70-C for an annual fixed price contract for Claims Administration to Merit Insurance Services, Inc. and Arthur J. Gallagher Risk Management Services, Inc. in the amount of \$378,800.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR:	06/07, 07/08, 08/09, 09/10, 10/11	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	0	0	0
Encumbered/Expended Amount		0	0	0	0
This Item		0	0	0	0
BALANCE		0	0	0	0

FUND(s): PROPERTY & LIABILITY LOSS

COMMENTS: This item approves price quotes. Expenditures will be made within the approved budget appropriations. The estimated annual amount is \$378,800.

STRATEGIC PLAN GOAL: Claims Administration relates to the City's Goal of "Service Excellence".

SUMMARY OF ITEM

(ANNUAL CONTRACT WITH RENEWALS)

Staff recommends proposals of Merit Insurance Services, Inc. and Arthur J. Gallagher Risk Management Services, Inc. in the annual amount of \$378,800 as accepted as the best proposals meeting specifications conditioned upon timely execution of any necessary contract documents. This will establish an annual contract with four City optional one year renewals for Claims Administration Services in the amount of \$324,800 for the first year, and a 3% annual increase for each renewal period to be provided by Merit Insurance Services, Inc.; and Bi-Annual Inspection Services in the annual amount of \$54,000 to be provided by Arthur J. Gallagher Risk Management Services, Inc.

List of Supporting Documents: Memo and Recap	Other Departments, Boards, Commissions or Agencies
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INTEROFFICE MEMORANDUM

City of Plano

Date: 3/30/07

To: Mike Ryan, Chief Purchasing Officer

From: Joey Page, Risk Manager

Subject: Recommendation of Award for RFP No. 2007-70-C Claims Administration and Occupational Resource Services

Risk Management solicited a Request for Proposal (RFP) for Claims Administration and Occupational Resource Services through the Purchasing Department. There were seven proposals received and evaluated. A committee of City staff members reviewed each proposal utilizing the evaluation criteria set forth in the RFP.

After final review and evaluation of all proposals, the decision of the committee is to recommend award of contract as follows:

Claims Administration Services

Risk Management recommends award of Claims Administration Services to Merit Insurance Services, Inc. (Merit) in the amount of \$324,800 for the first year, with a 3% annual increase each year upon renewal.

Proposals were received from three vendors. After thorough review by selection committee, Merit Insurance Services, Inc. was selected as the best service. They offered a comprehensive claims package including a full-time, on-site, multi-line licensed claims adjuster. Service also includes a facility, a full-time administrative assistant, claims management over-site, internal auditing of claim files, and special loss control investigations.

Inspection Services

Risk Management recommends award of Inspection Services (Bi-Annual) to Arthur J. Gallagher Risk Management Services, Inc. (Gallagher) in the annual amount of \$54,000. Two alternate proposals were submitted for services requested to inspect City buildings for general safety. City is required to inspect building twice annually to maintain accreditations. Vendor will conduct inspections along with Facilities Department, Fire Marshall's Office, and the user departments' Safety Coordinator. Vendor will inspect to identify any deficiencies that, left unidentified and not corrected, could lead to damage to the facility or injury to staff or visitors.

d-2



Financial impact of all services listed above:

Claims Administration Services: \$324,800 for first year, 3% annual increase each year upon renewal

Inspection Services: \$ 54,000 annually

*Specialized Risk Control Services: \$125.00 per hour (to be utilized and billed on an as needed basis only, and is not included in the annual fee)

The total annual amount of award for year one is \$378,800. Each subsequent renewal period will be in accordance with the fee schedule as listed above.

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CITY OF PLANO

Request for Proposal No. 2007-70-C RFP for Claims Administration and Occupational Resource Services

RECAP

Opening Date/Time: February 9, 2007 @ 3:00pm

Number of Vendors Notified: 751

Vendors Submitting "No Response": None

Vendors Submitting Proposal

Final Combined Evaluation Score Claims Administration

Argus Services Corporation	0.21
Hertz Claim Management	0.75
Merit Insurance Services, Inc.	4.62

Recommended Vendor(s)

Merit Insurance Services, Inc.	\$324,800
Arthur J. Gallagher Risk Management Services, Inc.*	<u>\$ 54,000</u>

Total Award: **\$378,800**

**Vendor submitted alternate proposal*

January M. Cook

January M. Cook, CPPB
Senior Buyer
Purchasing Division

March 30, 2007

Date

d-4



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		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:	4/9/07	Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department:	Purchasing	Initials	Date		
Department Head	Mike Ryan	Executive Director			
Dept Signature:	<i>Deane Palmer</i>	City Manager	<i>DM</i>	<i>4/3/07</i>	
Agenda Coordinator (include phone #): Sharron Mason, Ext. 7247					
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input checked="" type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER					
CAPTION					
Award/Rejection of Bid/Proposal for Bid No. 2007-94-C for an annual fixed price contract for Neighborhood Park Litter Contract to Northstar Facility Services, Inc. in the estimated annual amount of \$56,792.00.					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	06/07	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	0	0	0
Encumbered/Expended Amount		0	0	0	0
This Item		0	0	0	0
BALANCE		0	0	0	0
FUND(S): GENERAL					
COMMENTS: This item approves price quotes. Expenditures will be made in various departments within the approved budget appropriations. The estimated annual amount is \$56,792.					
STRATEGIC PLAN GOAL: Neighborhood Park Litter Contract relates to the City's Goal of "Livable and Sustainable Community" and "Service Excellence".					
SUMMARY OF ITEM					
ANNUAL CONTRACT WITH RENEWALS					
Staff recommends bid of Northstar Facility Services, Inc. in the estimated annual expenditure of \$56,792.00 as accepted as best value bid conditioned upon timely execution of any necessary contract documents. The contract shall be awarded as a "Best Value" as determined by the City of Plano Parks and Recreation Department (Owner). This shall be a two (2) year contract with three (3) City optional one (1) year renewals.					
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies			
Memorandum and Bid Tabulation					

e-1

CITY OF PLANO

BID NO.: 2007-94-C

NEIGHBORHOOD PARK LITTER SERVICE CONTRACT (BEST VALUE)

BID TABULATION

Proposal opening Date/Time: March 16, 2006 @ 3:00 pm

	<u>Total Weighted Score</u>
Northstar Facilities Services	6.30

<u>VENDOR</u>	<u>PRICING</u>
Northstar Facility Services	\$56,792.00

All other respondent vendors were over budget for this contract:

ACMBS, LLC	\$94,128.00
VMC Landscape Service	\$95,780.00
Forest Hills Lawn Service, Inc.	\$97,424.00
DAL Technologies, Inc.	\$275,449.54

0-2

MEMO

TO: PURCHASING DEPARTMENT
FROM: MATTHEW SIMMONS, PARK FIELD SERVICES SPECIALIST
DATE: 4/2/2007
RE: **AWARD RECOMMENDATION 2007-94-C NEIGHBORHOOD PARK LITTER CONTRACT**

It is the recommendation of Plano Parks Department to award **2007-94-C Neighborhood Park Litter Contract** to Northstar Facilities Services. Northstar appears capable of meeting the requirements of the above-mentioned annual service contract. The total projected annual amount for this contract is \$56,792.00

By copy of this memo to Sue Wallace, I ask that a file for this future annual contract be created, and copies of these and future related documents be placed in this file.

Please review and begin the necessary steps for presentation to Council.

Attachments

c: Jim Fox Park Services Manager
Shellene Beach, Park Operations Manager
Susan Berger, Administrative Coordinator
Norma Mendoza, Park Sr. Administrative Assistant
Sue Wallace, Park Sr. Administrative Assistant
Doug Green, Park Administrative Superintendent

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**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		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: 4/9/07		Reviewed by Legal <i>WJ</i>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
Department:	Fleet & Equipment Services			Initials	Date
Department Head	Mark Jerome	Jimmy Foster	Executive Director	<i>[Signature]</i>	3/30-07
Dept Signature:	<i>[Signature]</i>			City Manager	<i>[Signature]</i>
Agenda Coordinator (include phone #):		Linda M. Robinson x4180			

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

CAPTION

Approval of the purchase of one (1) Chevrolet Police Tahoe in the amount of \$28,348.00 and (1) Chevrolet Suburban in the amount of \$35,233.00 both from Caldwell Country Chevrolet through an existing contract/agreement with HGAC Cooperative Purchase Program, and authorizing the City Manager or his designee to execute all necessary documents. (#VE03-06)

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 06/07	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	75,000	0	75,000
Encumbered/Expended Amount	0	0	0	0
This Item	0	-63,581	0	63,581
BALANCE	0	11,419	0	11,419

FUND(S): **EQUIPMENT REPLACEMENT FUND**

COMMENTS: Funds are included in the FY 2006-07 approved budget for (1) replacement Suburban for Fire and (1) Tahoe as a new addition to the fleet for Risk Management. Both items will be funded out of the Equipment Replacement Fund. The balance of funds will be used for other rolling stock purchases.

STRATEGIC PLAN GOAL: Vehicle replacements and additions relate to the City's Goal "Service Excellence".

SUMMARY OF ITEM

Equipment Services request the purchase of one Chevrolet Police Tahoe and one Chevrolet Suburban through the HGAC Cooperative Purchase Program, awarded to Caldwell Country Chevrolet. The Tahoe is a new addition to the fleet for Dept 119/Risk Management per fiscal year 06/07, Account 119-8421, Supplement #71119002 and the Chevrolet Suburban is a replacement unit for #98123 for Dept 552/Fire, Account 071-8421, Supplement #00071001 also approved per fiscal year 06/07.

The City is authorized to purchase from a Local Cooperative Organization pursuant to Chapter 271, Subchapter F of the Texas Local Govt. Code and by doing so satisfies any State Law requiring local governments to seek competitive bids for items. (HGAC #VE03-06)

Total purchase price of both units including delivery and buyboard is \$63,581.00

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**CITY OF PLANO
COUNCIL AGENDA ITEM**

List of Supporting Documents: Memo, Agenda, Quote Sheets	Other Departments, Boards, Commissions or Agencies

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MEMORANDUM

Date: March 23, 2007
To: Steve Tillman, Senior Buyer
From: Reid Choate, Technical Coordinator
Subject: Request to purchase one (1) Chevrolet Tahoe (A07) and one (1) Chevrolet Suburban (A21) through the HGAC Cooperative Purchase Program, Contract #VE03-06, awarded to Caldwell Country Chevrolet.

	(DEPT 119) <u>TAHOE-A07</u>		(DEPT 552) <u>SUBURBAN-A21</u>	
Base Price:	\$29,981.00		\$35,938.00	
Published Options:	\$ 60.00		\$ 288.00	
Unpublished Options:	\$ 100.00		\$ 0.00	
Quantity Discount:	\$ -2,200.00		\$ -2,000.00	
Delivery Fee:	\$ 407.00		\$ 407.00	
HGAC Fee:	\$ 0.00		\$ 600.00	
TOTAL PURCHASE PRICE:	\$28,348.00	+	\$ 35,233.00	= \$63,581.00
Dept. Budget Amount:	\$35,000.00	+	\$40,000.00	= \$75,000.00

One (1) unit is a new addition to the fleet for Dept 119/Risk Management per fiscal year 06/07, Account 119-8421, Supplement #71119002 and the other is a replacement for unit 98123 for Dept 552/Fire per fiscal year 06/07 from Account 071-8421, Supplement #00071001.

Please reference Requisition No. 904277.

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

Cc: Jimmy Foster
Mark Jerome
Bob Acker
Mike Malone
Joey Page
Tim Billingham
Diane Palmer
Stephen Teiper

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Supplier BABY JACK II AUTOMOTIVE LTD
 CALDWELL COUNTRY CHEVROLET-PONTIAC
 P O BOX 27
 CALDWELL TX 77836

Ship To CITY OF PLANO
 FLEET & EQUIPMENT SERVICES DIVISION
 4200 W PLANO PARKWAY
 PLANO TX 75093

Ordered 03/22/07 Freight
 Requested 03/22/07 Order Taken By

Delivery

Description	Ordered	UOM	Unit Price	Extended Price	Request Date
CHEVROLET POLICE TAHOE A07 REQUEST TO PURCHASE ONE (1) CHEVROLET POLICE TAHOE (A07) AND ONE (1) CHEVROLET SUBURBAN (A21) THROUGH THE HGAC COOPERATIVE PURCHASE PROGRAM, CONTRACT VE03-06, AWARDED TO CALDWELL COUNTRY CHEVROLET. ONE (1) UNIT IS A NEW ADDITION TO THE FLEET FOR DEPT. 119/RISK MANAGEMENT PER FY06/07, ACCOUNT 119-8421, SUPPLEMENT #71119002 AND THE OTHER IS A REPLACEMENT FOR UNIT 98123, DEPT. 552/FIRE PER FY06/07 FROM ACCOUNT #071-8421, SUPPLEMENT #00071001.	1	EA	29,981.0000	29,981.00	03/22/07
PUBLISHED OPTIONS		EA	.0000	60.00	03/22/07
UNPUBLISHED OPTIONS		EA	.0000	100.00	03/22/07
QUANTITY DISCOUNT		EA	.0000	2,200.00-	03/22/07
DELIVERY FEE		EA	.0000	407.00	03/22/07
CHEVROLET SUBURBAN (A21)	1	EA	35,938.0000	35,938.00	03/22/07
PUBLISHED OPTIONS		EA	.0000	288.00	03/22/07

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CITY OF PLANO

03/22/07

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P.O. Number 904277 OR

Description	Ordered	UOM	Unit Price	Extended Price	Request Date
QUANTITY DISCOUNT		EA	.0000	2,200.00-	03/22/07
DELIVERY FEE		EA	.0000	407.00	03/22/07
HGAC ADMIN FEE		EA	.0000	600.00	03/22/07
				Total Order	
TermNet 30 Days				63,381.00	

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SUBURBAN



CONTRACT PRICING WORKSHEET
For Standard Equipment Purchases

Contract No.:

VE03-06

Date Prepared:

3/21/2007

This Form must be prepared by Contractor, and provided to End User to attach to Purchase Order, with copy to H-GAC. The H-GAC administrative fee shall be calculated and shown as a separate line item. Please type or print legibly.

Buying Agency:	CITY OF PLANO	Contractor:	CALDWELL COUNTRY CHEVROLET
Contact Person:	REID CHOATE	Prepared By:	AVERYT KNAPP
Phone:	972-769-4182	Phone:	979-567-6116
Fax:	972-461-9349	Fax:	979-567-0853
Email:		Email:	AKNAPP@CALDWELLCOUNTRY.COM

Product Code:	A21	Description:	2007 CHEVROLET 3/4 SUBURBAN
---------------	-----	--------------	-----------------------------

A. Product Item Base Unit Price Per Contractor's H-GAC Contract: 35,938.00

B. Published Options - Itemize below - Attach additional sheet(s) if necessary - Include Option Code in description if applicable.
(Note: Published Options are options which were submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
3RD SEAT AS3	288	6.0L V8	INCL
TOW PACKAGE HD	INCL	AUTOMATIC	INCL
LIGHT TINT WINDOWS	INCL		
NO LUGGAGE RACK	INCL		
NO ON STAR	INCL		
VINYL SEATS AND RUBBER FLOOR	INCL		
POWER WINDOWS, MIRRORS, LOCKS	INCL	Subtotal From Additional Sheet(s):	
		Subtotal B:	288

C. Unpublished Options - Itemize below / attach additional sheet(s) if necessary.
(Note: Unpublished options are items which were not submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
		Subtotal From Additional Sheet(s):	
		Subtotal C:	0

Check: Total cost of Unpublished Options (C) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B). For this transaction the percentage is: 0%

D. Other Cost Items Not Itemized Above (e.g. Installation, Freight, Delivery, Etc.)

Description	Cost	Description	Cost
DELIVERY	407	5YR/100,000 POWERTRAIN WARRANTY	INCL
EXTERIOR COLOR WHITE	INCL	PACKAGE DISCOUNT	-2000
		Subtotal D:	-1593

E. Total Cost Before Any Applicable Trade-In / Other Allowances / Discounts (A+B+C+D) 34633

Quantity Ordered: 1 X Subtotal of A + B + C + D: 34633 = Subtotal E: 34633

F. H-GAC Fee Calculation (From Current Fee Tables) Subtotal F: 600

G. Trade-Ins / Other Allowances / Special Discounts

Description	Cost	Description	Cost
		Subtotal G:	0

Delivery Date: 45-75 DAYS **H. Total Purchase Price (E+F+G):** 35233

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TALHOE



CONTRACT PRICING WORKSHEET
For Standard Equipment Purchases

Contract No.:

VE03-06

Date Prepared:

3/20/2007

This Form must be prepared by Contractor, and provided to End User to attach to Purchase Order, with copy to H-GAC. The H-GAC administrative fee shall be calculated and shown as a separate line item. Please type or print legibly.

Buying Agency:	CITY OF PLANO (REV#2C)	REID CHOATE	CALDWELL COUNTRY CHEVROLET
Contact Person:	REID CHOATE	Prepared By:	ADRIENNE GATTIS
Phone:	972-769-4182	Phone:	979-567-6115
Fax:	972-461-9349	Fax:	979-567-0853
Email:	REIDC@PLANO.GOV	Email:	agattis@caldwellcountry.com

Product Code:	A07	2007 Chevrolet Tahoe PPV Police #CC10706
---------------	-----	--

A. Product Item Base Unit Price Per Contractor's H-GAC Contract: 29,981.00

B. Published Options - Itemize below - Attach additional sheet(s) if necessary - Include Option Code in description if applicable.
(Note: Published Options are options which were submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
KEYLESS ENTRY AMF	60		
		Subtotal From Additional Sheet(s):	
		Subtotal B:	60

C. Unpublished Options - Itemize below / attach additional sheet(s) if necessary.
(Note: Unpublished options are items which were not submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
		BODY SIDE MOLDING B85	100
SOLID PAINT	INCL		
CLOTH BUCKET FRONT/VINYL REAR BENCH	INCL		
		Subtotal From Additional Sheet(s):	
		Subtotal C:	100

Check: Total cost of Unpublished Options (C) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B). For this transaction the percentage is: 0%

D. Other Cost Items Not Itemized Above (e.g. Installation, Freight, Delivery, Etc.)

Description	Cost	Description	Cost
DELIVERY	407	5 YEAR/100,000 POWERTRAIN WARRANTY	N/C
EXTERIOR COLOR WHITE	N/C		
QUANTITY DISCOUNT	-2200		
		Subtotal D:	-1793

E. Total Cost Before Any Applicable Trade-In / Other Allowances / Discounts (A+B+C+D): 28348

Quantity Ordered: 1 X Subtotal of A + B + C + D: 28348 = **Subtotal E:** 28348

F. H-GAC Fee Calculation (From Current Fee Tables): **Subtotal F:** 0

G. Trade-Ins / Other Allowances / Special Discounts

Description	Cost	Description	Cost
		Subtotal G:	0

Delivery Date: 90 -120 DAYS **H. Total Purchase Price (E+F+G):** 28348

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**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		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: 4/9/07		Reviewed by Legal <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Not Applicable
Department: Public Safety Communications		Initials: _____ Date: _____
Department Head: Ron Timmons		Executive Director: _____
Dept Signature: <i>Ron Timmons</i>		City Manager: <i>Mark Theurer</i> 4/2/07
Agenda Coordinator (include phone #): Mark Theurer, Ext 7928		

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

CAPTION

Approval of the purchase of the Communicator!NXT and GeoCastWeb critical notification service platforms for a period of three (3) years in the amount of \$27,900 for FY 07-08 (\$25,900 for FY 08-09 and \$25,900 for FY09-10) from Dialogic Communications Corporation through an existing contract/agreement with the HGAC Cooperative Purchase Program, and authorizing the City Manager or his designee to execute all necessary documents. (Contract #EC07-05)

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 06-07, 07-08, 08-09	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	20,000	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	-27,900	-51,800	-79,700
BALANCE	0	-7,900	-51,800	-59,700

FUND(s): GENERAL FUND

COMMENTS: The first year of this contract is included in the FY2006-2007 Budget. The overage will be funded through cost savings in various maintenance contracts. Years two and three of the contract, at an estimated cost of \$25,900 for each year, will need to be funded by additions to the Public Safety Communications budget in the respective fiscal years.

STRATEGIC PLAN GOAL: Providing for emergency event notification relates to the City's Goal of "Service Excellence".

SUMMARY OF ITEM

Staff requests Council approval for purchase of services, for a period of three (3) years, from Dialogic Communication Corporation (DCC). DCC shall provide the City of Plano, Texas, with a comprehensive solution for critical notification through the Communicator!NXT and GeoCastWeb applications. These web-based applications would augment, and be in addition to, existing notification platforms and will allow Public Safety Communications personnel to notify vital City of Plano personnel and/or citizens of the City of Plano during large scale emergencies or other threats to safety and security.

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**CITY OF PLANO
COUNCIL AGENDA ITEM**

List of Supporting Documents: Proposal, Memo, License Agreement	Other Departments, Boards, Commissions or Agencies

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Proposal

For:

GeoCastWeb

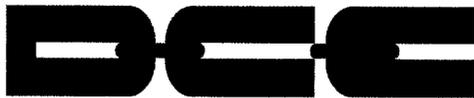
Communicator! NXT

A Comprehensive Solution for Critical Notification

Prepared For:

Plano, TX

This proposal is valid for 30 days from 3/27/2007



DIALOGIC COMMUNICATIONS CORP.

Lynn Barousse, Regional Account Manager
Dialogic Communications Corporation
A PlantCML Company
730 Cool Springs Blvd., Suite 300
Franklin, TN 37067
985.845.2184 • dccusa.com

*For
Complete
Management
of Hosting
Communications
via the
Internet*

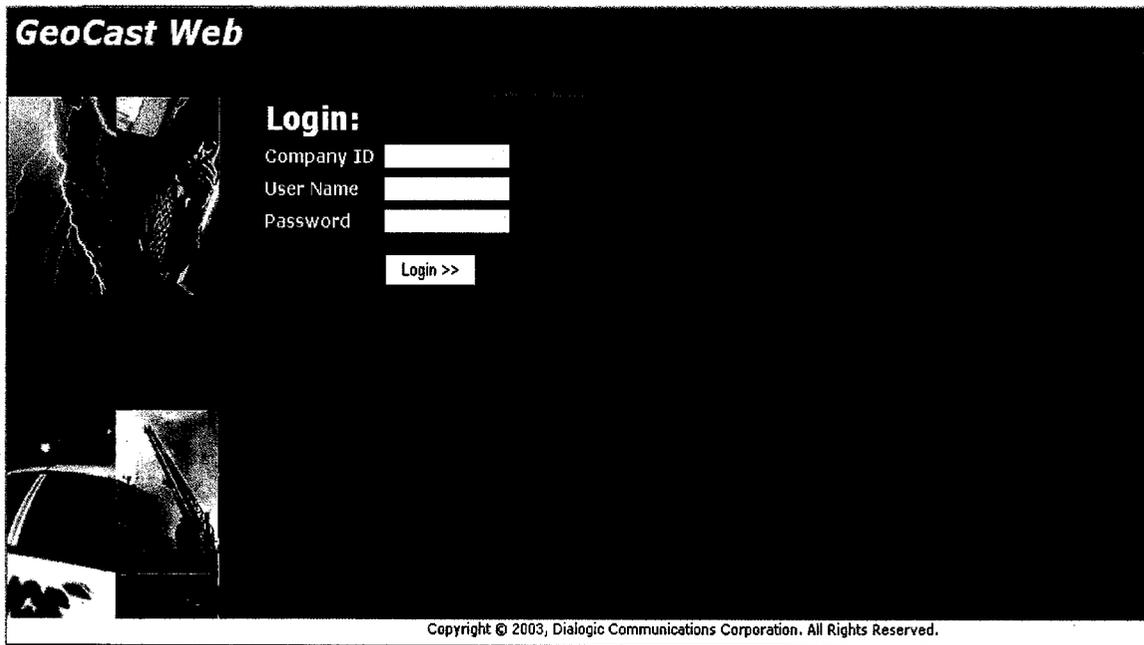
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GeoCastWeb

A Comprehensive Solution for Critical Notification

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GeoCastWeb

A Comprehensive Solution for Critical Notification

Introduction

GeoCast Web is a GIS-driven notification solution, available on the Internet, for emergency or routine communications with specific geographic locations. It utilizes ESRI's ArcIMS technology, enabling users, regardless of their physical location, to view designated maps, select notification areas and activate call-outs quickly and securely via the Internet.

DCC's GeoCast Web is available as a standalone solution; or as a companion product to Communicator! NXT, expanding its list-based communications to include geographical or map-based call-outs. It allows users to utilize on-site phone lines for notification, or off-load call-outs to any other on- or off-site system (e.g., DCC's Hosting Center) for high-volume communications.

GeoCast Web is installed within DCC's Hosting Center in a secured environment using the latest technology and most advanced physical controls. Using DCC as your critical communication service provider you have access to your application, including:

- Ease of use - easy access via the Internet
- Reliability and dependability - 99.95% uptime backed by a battle-tested proven track record
- State-of-the-art architecture - continually upgraded and maintained to make full use of new technologies
- Exceptional customer service – over 1300 notification customers provide continuous feedback
- Knowledge and experience - impressive client list across most industries, enabling DCC to understand and respond to your needs with proven methodologies, best practices and real solutions

In a hosted environment, you receive exceptional service through our professional hosting support team, with the added benefit of leaving the infrastructure ownership and management to the experts at DCC.

GeoCastWeb

A Comprehensive Solution for Critical Notification

Standard Features

Infrastructure & Facilities

- AT&T SONET Ring Access with Dual Redundancy
- HVAC
- Power with 2 three-hour UPS Units and Gas-Powered Generator
- Active – Active Back-up and Primary Systems
- Secured Access with Biometric Hand Scanners
- Webcam Security
- Card Access Security

Software & Training

- GeoCast on the Web
- GeoCast Web Browser Software for 1 Concurrent Users
- ESRI ArcIMS License
- Communicator NXT Web Browser Software for 2 Concurrent Users
- Microsoft® SQL 2000
- Fire Wall
- SSL Security Certificate with 128MB Data Encryption
- SiteScope Monitoring Software
- Internet Service Provider Access
- 1,000 Communicator NXT Contacts
- 25 Scenarios and 50 Groups
- Four Hours of Web-based Training



Support & Services

Domestic/International Long Distance Carrier Access
Normal Business Hours Phone/Email Support
24 x 7 Emergency Phone Support
Software Upgrades
User Manuals and Documentation
Monitoring of Drills and Tests
System Data Backups
Off-Site Storage of Data Backups
Off-Site Redundant Backup Service
Off-Site Redundant Backup Service Scenario Data Transfer
Documented Activation Procedures for Redundant Backup Service

Dialogic Communications Corporation
730 Cool Springs Blvd., Suite 300
Franklin, TN 37067
800.723.3207 • dccusa.com

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The Global Leader in Critical Communications Technology

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GeoCastWeb

A Comprehensive Solution for Critical Notification

Pricing

Shared Service Pricing Plans – Based on Service Level Agreement

Annual Pricing Plans

Primary System Service Levels (per year) - 3 Year Term				
NXT	GCW			Sub Total
\$12,400	\$7,500			\$19,900.00

- CPH = Calls per hours (based on 60-second calls with GeoCast Web)
- Account setup fee for all plans = \$2,000
- Site to provide all map and phone data
- GIS geocoding service = \$5,000 or site may provide

Domestic Usage Rate Schedule

Individual calls	\$.25 / minute
5,000 minutes	\$ 950 (.19 / minute)
10,000 minutes	\$ 1,500 (.15 / minute)
25,000 minutes	\$ 3,000 (.12 / minute)

International Usage Rate Schedule

\$.39 / minute	\$.91 / minute	\$.99 / minute	
Australia, Bahamas, Belgium, Bermuda, Denmark, Dominican Republic, Finland, France, Germany, Ireland, Italy, Japan, Liechtenstein, Mexico, Netherlands, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, United Kingdom	Argentina, Aruba, Austria, Bermuda, Brazil, Cayman Islands, Greece, Hong Kong, Israel, Luxembourg, Malaysia, Philippines, South Africa, Venezuela, South Korea, Taiwan	Anguilla, Antigua, Azerbaijan, Bahrain, Barbados, Barbuda, Bosnia, Botswana, Brunei, Bulgaria, Chile, China, Columbia, Croatia, Cyprus, Czech Republic, Dominica, Estonia, Egypt, Ghana, Gibraltar, Grenada, Guam, Hungary, Iceland, India, Indonesia, Jamaica, Jordan,	Kazakhstan, Kuwait, Latvia, Lebanon, Lithuania, Macedonia, Mauritius, Morocco, Mozambique, New Zealand, North Korea, Poland, Puerto Rico, Romania, Russian Federation, Saudi Arabia, Serbia, Slovakia, Slovenia, Sri Lanka, Thailand, Turkey, Ukraine, United Arab Emirates, Zimbabwe

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GeoCastWeb

A Comprehensive Solution for Critical Notification

Pricing (cont'd)

Description	Amount (in US dollars)	Term	Notes
XML API with Software Development Kit	\$ 2,500		
Personal Database Upgrade (1,000 additional persons)	2,000	Annual	
Personal Database Upgrade (5,000 additional persons)	5,000	Annual	
Personal Database Upgrade (10,000 additional persons)	7,500	Annual	
Personal Database Upgrade (25,000 additional persons)	12,500	Annual	
SMS Messaging	1,500	Annual	+ usage fees
Web Check-In	4,000	Annual	
Additional Concurrent Web User	1,000	Annual	
Additional Communicator! NXT Database(s)	3,000	Annual	
Professional Services	150	Hour	
Training at DCC (2-day class)	750	Per person	Does not include travel costs
On-Site Training (1/2-day class)	1,900	One-time	
Web-based Training	150	Hour	

Terms and Conditions

- Additional installments are to be made on the anniversary date for each year of the agreement
- All pricing is valid for 30 days from the date of this proposal
- Payment terms are Net 30 from purchase order
- The Installation/Set-up process will begin within ten days of payment
- Multi-year discounts apply to all optional recurring products and services with the initial purchase order

GeoCastWeb

A Comprehensive Solution for Critical Notification

Product Descriptions

Security

Because GeoCast Web is accessed and administered through the Internet, DCC recommends maximum security levels be in place. This is accomplished several ways: 1) GeoCast Web offers 128-bit SSL for data encryption, 2) all usernames and passwords are encrypted in the database for additional security and 3) the use of an extensive user security model limits user access to specific applications based on their assigned role. Each of these security elements reduces the risk of unauthorized access and use of the application.

Users log onto the system using a secured Company ID, User Name and Password. At the time of purchase you will receive a Company ID that will establish your account. When the account has been activated, a Company Administrator will add users and set their initial passwords. Please refer to the Company Administration section for more information on how the system is managed.

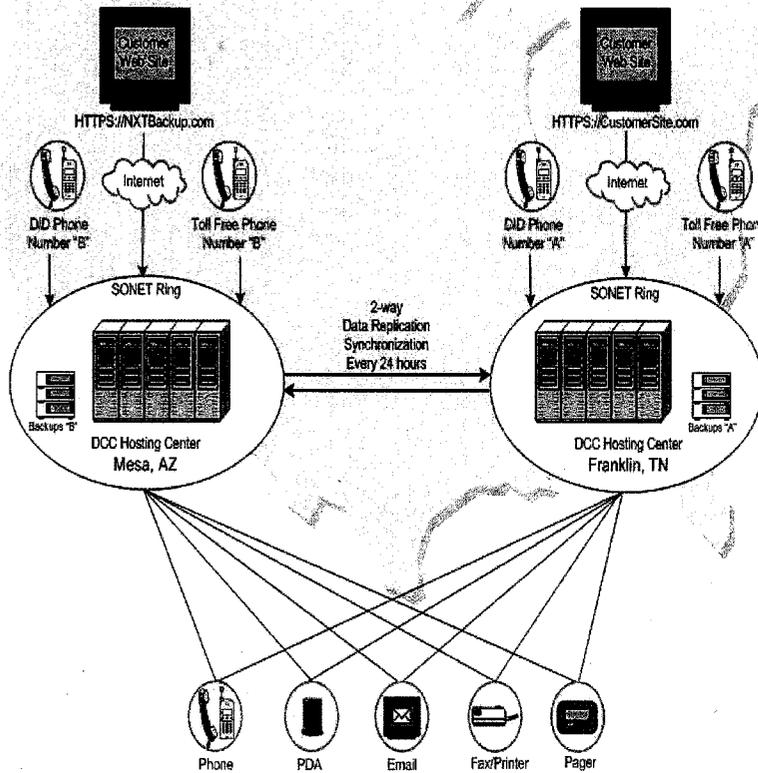
Function	Company Administrator	Activating User
Systems Security	X	X
User Management	X	
Map Layer Management	X	
Voice Message Management	X	X
Call-out Area Management	X	X
Web Mapping and Activation	X	X
Activation Summary Report	X	

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GeoCastWeb

A Comprehensive Solution for Critical Notification

Co-Location of Hosting Services



Minimum Throughput - excellent data transfer rates ensuring availability and speed.

No Single Point of Failure - two completely independent call centers ensuring availability 24x7x365.

Active/Active Architecture - both call centers operate in parallel allowing one or both systems to be activated at any time.

Loosely coupled infrastructure - ensures failure of one call center has zero impact on the other call center.

Data synchronized every 24 hours - allows user time to detect and correct corrupt data before impacting the secondary site.

Multiple Activation Options - each call center can be activated by internet or toll free number

GeoCastWeb

A Comprehensive Solution for Critical Notification

Product Descriptions (cont'd)

Messages

GeoCast Web supports pre-recorded messages providing users the ability to create or edit messages distributed during a call-out. The messages are used in templates, which include standard speech segments. The standard simple message template, one of the templates provided with GeoCast Web, is depicted below.

A greeting is spoken to the recipient.	➡	Standard pre-recorded speech segment
A message is spoken to the recipient.	➡	The message that you record in GeoCast Web
An option to repeat the message is asked of the recipient (Press 9 for Yes or 6 for No).	➡	Standard pre-recorded speech segment
A closing is spoken to the recipient.	➡	Standard pre-recorded speech segment

(If you are using GeoCast Web with Communicator! NXT, additional templates and speech segments may be available.)

The standard pre-recorded speech segments are used in all call-outs to provide a consistent format for all of your communications. This means that you do not need to record over every speech segment based on the nature of the call. Simply record the message you want heard and then save it with an appropriate title so you will be ready should the emergency occur. GeoCast Web also supports the recording of speech segments on-the-fly at the time of call-out activation.

GeoCast Web uses DCC's Voice Recorder to create the messages that are spoken to the call-recipients within the selected geographic areas. These outgoing messages can be changed on-the-fly at the time of scenario activation to allow the very latest incident-specific information to be delivered. Any workstation used to record speech segments requires a microphone (external is recommended) and speakers.

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GeoCastWeb

A Comprehensive Solution for Critical Notification

Product Descriptions (cont'd)

Activation

Using a process-oriented structure, GeoCast Web allows users to complete a call-out in the least amount of time possible. The steps are:

- 1. Define the call-out area** – Map areas can be selected using polygons, circles and boxes. You can also measure the distance between two points on any map, select multiple areas and identify focal points to set the calling sequence. Once the user clicks on the Activate button, the screen to the right will display. *Note:* Provide your DCC sales representative with your proposed call-out areas so that DCC can validate the availability of the most accurate map data within your desired area.
- 2. Select the notification host** – GeoCast Web supports multiple notification hosts so that a user can select the best one from which to send notifications. A user could select their on-site system or, for large call-outs, use the DCC Hosting Center for access to more phone lines. In the event one of the hosts is not available, the system will automatically direct the calls to the next available call-out host.
- 3. Specify the parameters for the notification** – This step involves specifying the duration of the call-out, how many attempts are to be made to contact the recipients and the delay between attempts. This step also includes selecting activation reports and identifying where the reports will be delivered (email addresses).
- 4. Select the call candidates (recipients)** – When the map areas were defined in step 1, GeoCast Web created a listing of all of the phone numbers in those particular areas. All of the phone numbers in the areas selected are displayed so that you can view and remove individuals from the list and determine the calling direction (e.g., closest to farthest, etc.).



The image above shows the time it will take to make the first call. This time is dependent on the number of individuals located

GeoCastWeb

A Comprehensive Solution for Critical Notification

Product Descriptions (cont'd)

5. **Select or record the voice message** – All of the messages (created in Manage Messages) available to you will be listed so that you can select one from the list or record a new message. The available call flow formats are available at this step, as well. If you are using Communicator! NXT as your notification host, additional call flow formats may be available (optional).
6. **Confirm the activation** – All of the results from the previous steps are provided so that you can verify your choices prior to activation. Once you are satisfied, you can activate the call-out and see when the call(s) will start.
7. **View the Activation Summary report** – The report is provided on the screen so you can immediately view the confirmation and statistics of the call-out.



The image the left shows a Call Activation-Confirmation. This screen will display all of the choices made prior to a call-out activation.

Validation

GeoCast Web's phone validation is performed prior to a call-out to ensure only valid numbers are called. This improves call-out performance and eliminates the need for manual validation prior to activation.

GeoCastWeb

A Comprehensive Solution for Critical Notification

Product Descriptions (cont'd)

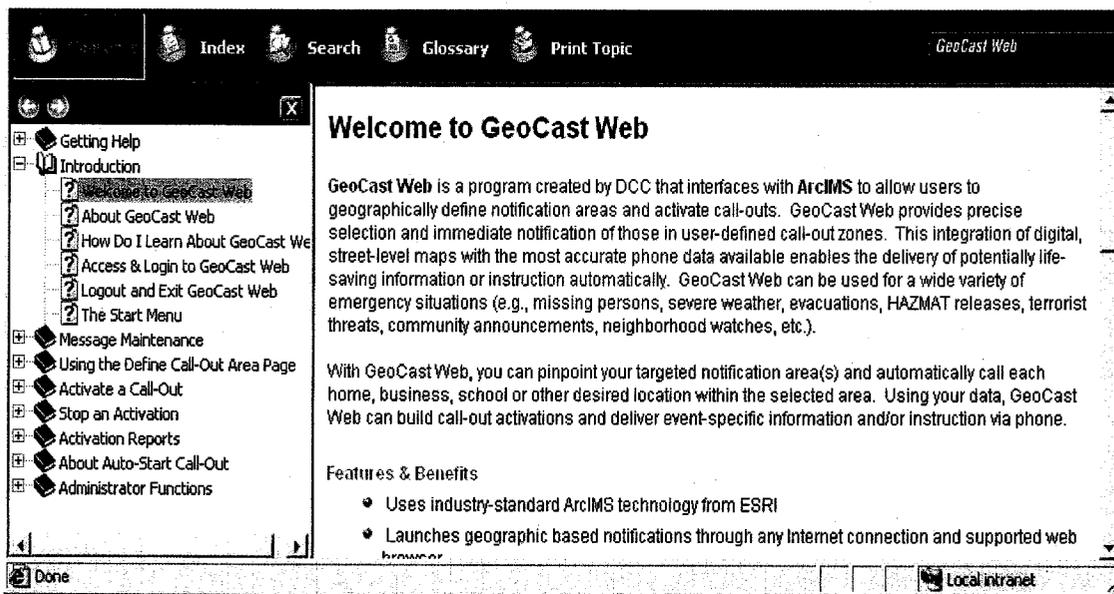
Activation Splitter

When activating a call-out, the larger the population within the selected area, the longer it takes to build the call list. For example, it may take ten minutes to build a call list of a mapped area with a population of 100,000. In an emergency, ten minutes is too long. In order to expedite this process, activations can be easily divided into smaller call lists. During installation your operation can designate the maximum "activation size," enabling the notification engine to split lists and start making calls more quickly. This provides a more efficient process, getting the much-needed information to people faster.

If a call-out is split, each one is treated as an individual activation; therefore, each activation will have its own reports. If the entire call-out needs to be stopped, each activation for the call-out will need to be stopped, as well.

On-line Help

GeoCast Web's interactive on-line help is available throughout the application, providing a search capability, an index and a glossary, so that you gain access to needed information quickly. DCC's support staff is also available to assist with any questions not answered via this instructive tool.



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GeoCastWeb

A Comprehensive Solution for Critical Notification

Product Descriptions (cont'd)

Reports

GeoCast Web includes an Activation Summary Report for each activated call-out. The report is provided on the screen for viewing call-out details or for download in a report packet zip file.

The report packet includes the following files:

- **activation.txt** - contains the call-out activation summary information as displayed on the Confirmation page
- **message.wav** - the actual voice message that was used for the call-out activation
- **map.svg** - a graphic of the map displaying the defined call-out activation area(s)
- **map.jpg** - a graphic of the map
- **candidates.txt** - lists the selected participants call-out information

GeoCast
Activation Summary

Company DCC User

From To

From	To
29 30 31 1 2 3 4	29 30 31 1 2 3 4
5 6 7 8 9 10 11	5 6 7 8 9 10 11
12 13 14 15 16 17 18	12 13 14 15 16 17 18
19 20 21 22 23 24 25	19 20 21 22 23 24 25
26 27 28 29 30 1 2	26 27 28 29 30 1 2
3 4 5 6 7 8 9	3 4 5 6 7 8 9

Activations

Date/Time	Name	C's	Meas
9/15/2004 9:10:58 AM	GWTest	2	admi
9/14/2004 5:12:24 PM	GWTest	4	admi

[Return >>](#)

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GeoCast
Activation Summary Report

Activation ID: 2678068c-197a-4a95-8eaf-71425241775c
Activation Name: GWTest
Company Name: DCC
Activating User: admin
Date / Time: 9/15/2004 9:10:58 AM
Number of Candidates: 2 [Show List](#)
Duration: 44 minutes
Number of Attempts: 4
Delay Between Calls: 4 minutes
Report Type: Exception
Interval Type: Interval and Completion
Interval Time: 15
Calling Direction: Outer to Inner
Notification Host: gwallace-p42660

Template: Simple
Priority: High
Message: Test

Communicator! NXT

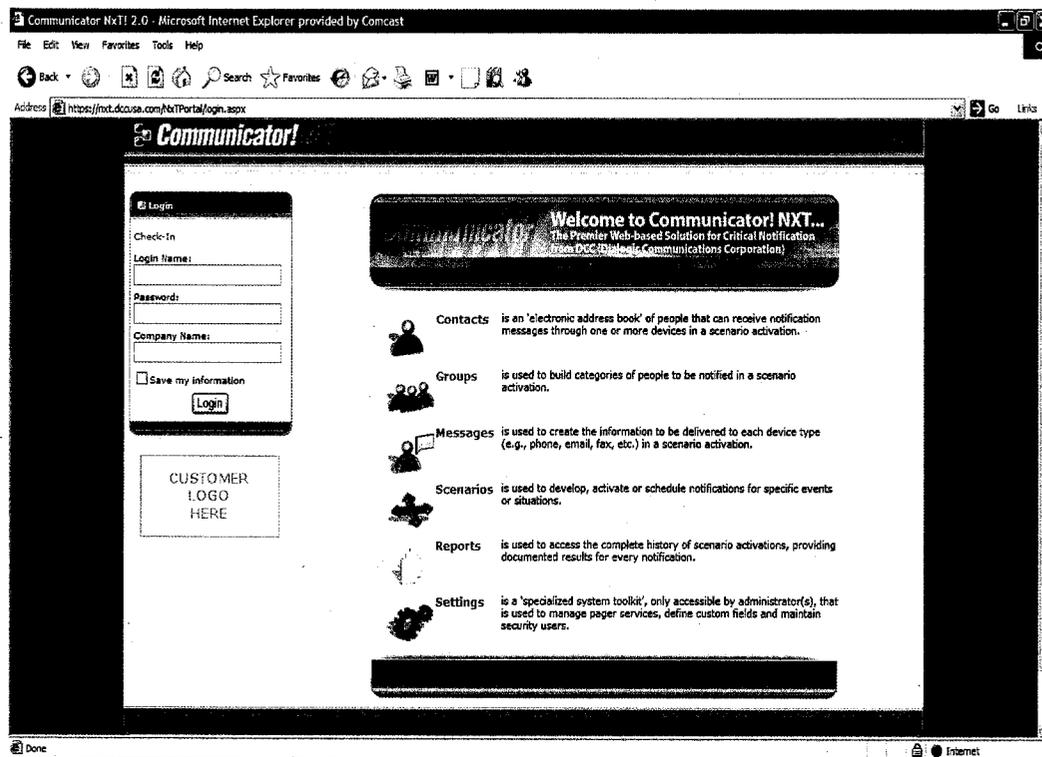
A Comprehensive Solution for Critical Notification

Introduction

Communicator! NXT is the latest critical communications software solution from DCC (Dialogic Communications Corporation). Communicator! NXT provides rules-based staff and group notification and allows easy integration with other technologies, such as LDRPS and PeopleSoft® using an XML API (Application Program Interface).

In a hosted environment, you receive exceptional service through our professional hosting support team, with the added benefit of leaving the infrastructure ownership and management to the experts at DCC.

In the last three years, critical communications technology offerings have expanded, providing a multitude of choices. DCC has been in the critical communications business for over 20 years and has watched this technology explosion. The decision to choose an ASP (Application Service Provider) can be confusing, to say the least, but there are several key qualifications that set Communicator! NXT apart from the rest:



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Communicator! NXT

A Comprehensive Solution for Critical Notification

Product Descriptions

Multiple methods for activations – No custom build and no hassle; activate the scenario as-is or change the message on-the-fly; it's painless and secure. Activations can be accomplished quickly over the phone or via the Internet.

Secure message retrieval – Secure messages are truly secure, requiring the call-recipients to provide their own PIN, not a shared PIN among a group of individuals.

Enhanced application security – Users who create scenarios and groups identify the individuals entitled to access, enabling multiple organizations to share one system while maintaining privacy and security.

Free email notifications – We do not charge for individual email notifications, period.

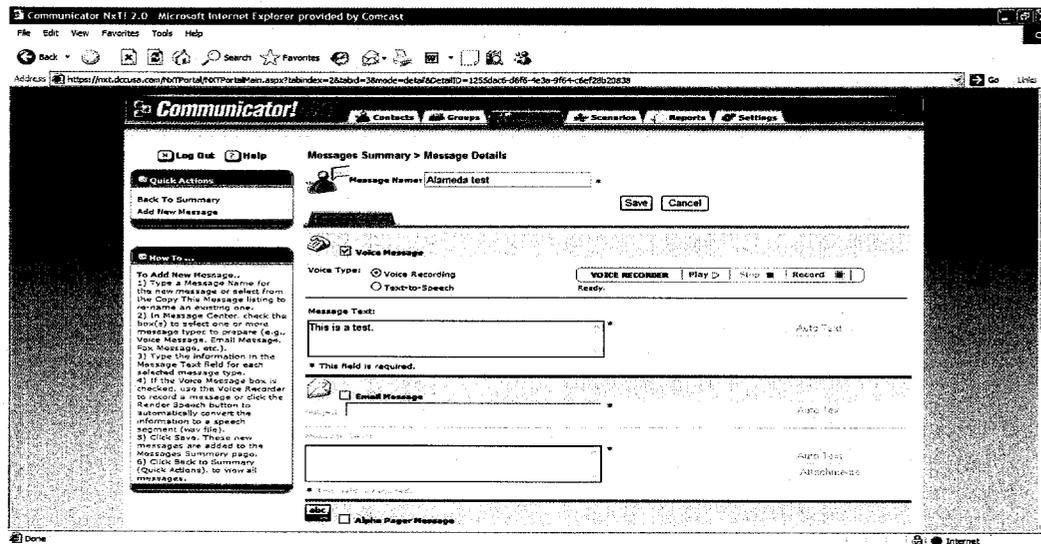
Multiple means of message creation – Messages can be recorded over the phone or from your PC over the Internet. While a message from a recognized person is best, messages can also be typed and converted to speech, using Text-to-Speech technology.

Active-Active Back-up – DCC can enable your back-up system to be used for call-outs, whether your existing system is on-line or not.

Simple Activation - Activate a call-out in just four clicks!

Additional Concurrent Web User

A web user is a person who logs into a website for maintenance of calls trees, personnel records, site administration, activation and on-line reporting. Communicator! NXT can easily be activated by phone by multiple users simultaneously, reducing the need for multiple concurrent web users. Additional concurrent web users can be purchased if needed.



9-17

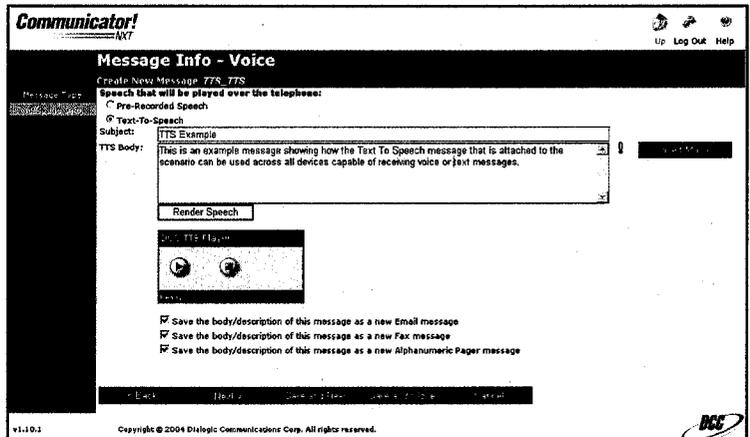
Communicator! NXT

A Comprehensive Solution for Critical Notification

Product Descriptions (cont'd)

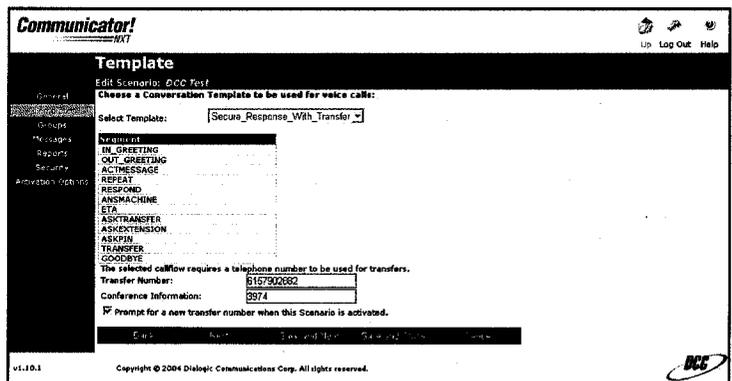
Voice and Text-to-Speech Messaging

Call recipients typically respond best to messages delivered by a recognized voice. With Communicator! NXT, you have the ability to do just that or to deliver messages created using Text-to-Speech (TTS). Voice messages can be recorded quickly and easily over the phone or using your computer with a microphone and SoundBlaster® compatible hardware. TTS enables your operation to create a text message that can be delivered via voice or text. The message is typed and then the user selects the device types that will get the message (voice, email, alpha pager or phone). Macros can be included in TTS messages, as well. The message can be predefined, created on-the-fly prior to a call-out or edited on-the-fly prior to a call-out.



Automatic Conference Bridge Link / Call Transfer

The optional, secure transfer call flow template provides the assignment of an automatic conference bridge link/call transfer. This will route call recipients to an alternate location such as a conference bridge, live operator or help desk. The call transfer field can contain a dial prefix, telephone number, pass code, pauses, symbols and dial suffix so that recipients can be routed to a specific destination with minimal interaction from the recipient during the call transfer. At the time of activation via the Internet, the user can change the destination number and settings if needed.



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Communicator! NXT

A Comprehensive Solution for Critical Notification

Product Descriptions (cont'd)

Inbound Bulletin Board Service

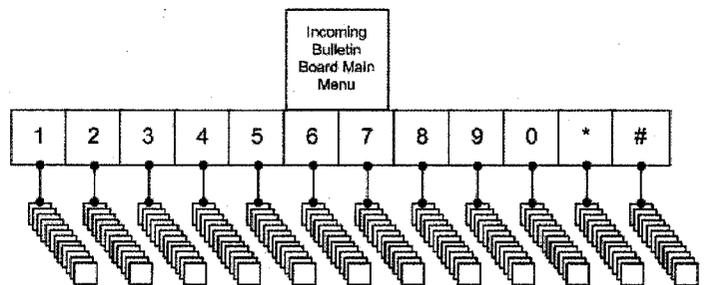
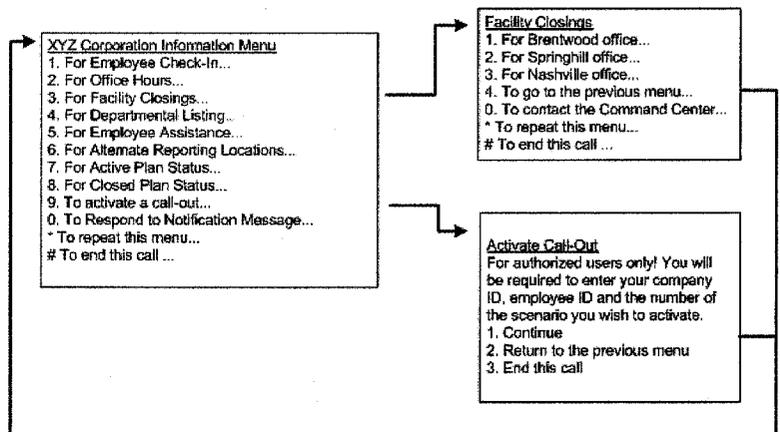
Use one toll-free number for all of your Notification needs! Communicator! NXT's Inbound Bulletin Board is used to provide status updates or general information to inbound callers. Typically offered as an option for on-site solutions, this hosted feature can also be the central point for telephone activation of scenarios or for call-backs from pager notifications.

Roster members can be given through an outbound notification a specific phone number that they can dial at any time to receive further details on an event or situation. The Inbound Bulletin Board can also be used to make information available to the general public, after the number has been communicated via a television broadcast, community flyer, etc. System administrators record these messages as often as necessary, keeping the very latest details posted at all times.

System administrators can assign up to three levels of menus and up to 12 options per menu, allowing hundreds of potential information segments. This bulletin board encourages daily use of the technology and will strengthen the effectiveness of your notification program.

The system can perform outbound call-outs, while simultaneously delivering information through the Inbound Bulletin Board. Inbound calls will not reduce lines available for outbound notifications.

The diagram on the right is an example of the Inbound Bulletin Board. The smaller graphic depicts how each segment can contain up to 12 menu options.



The voice segments can be recorded over the phone with the proper password or at your desktop by an authorized user or administrator. Call information can be obtained from your phone switch.

J 19

Memo

To: Ron Timmons, Director, PSC
From: Mark Theurer, Operations Coordinator, PSC
CC: Susan Carr, Administrative Manager, PSC
Date: 3/20/2007
Re: Communicator!NXT and GeoCastWeb

Sir,

Upon review of the critical notification capabilities of the Communicator!NXT and GeoCastWeb systems, which are available through the HGAC contract listing, I would recommend the purchase of these systems for a period of three (3) years. These systems will augment our existing methods (cable override, warning sirens, door-to-door notifications) of alerting the public in times of large-scale emergencies.

Mark Theurer, Operations Coordinator



3-20

This License Agreement ("**Agreement**") is between Dialogic Communications Corporation ("**DCC**") and the entity accepting this Agreement ("**Licensee**") and is part of the proposal or other documentation prepared by DCC and accepted by Licensee's signature ("**Proposal**") pursuant to which DCC is making the Product available to Licensee. In exchange for the covenants below and other good and valuable consideration, the parties agree as follows:

Definitions. "**Documentation**" means any written and/or on-line material provided by DCC to assist Licensee in the use of the Software. "**Product**" means the Software and Documentation. "**Site**" means Licensee's offices identified in the Proposal. "**Software**" means the DCC software hosted by DCC and made available to Licensee via the Internet. "**On-Line Date**" means the date on which DCC provides notice to Licensee that the System is available and ready for Licensee's Use.

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Payment and Taxes. Licensee will pay DCC the amounts listed in the Proposal at the times listed in the Proposal. All amounts owed pursuant to an invoice will be paid to DCC within thirty days of the date of invoice. Licensee will pay all shipping and insurance charges for shipments between DCC and Licensee. Licensee will pay all taxes arising out of this Agreement and the Proposal, except taxes on DCC's income. Licensee will pay DCC an amount equal to 1.5% of any amount not paid when due for each month it is past due or, if less, the maximum amount permitted by applicable law.

Warranties. DCC warrants to Licensee that during the term of this Agreement the Software will operate in material conformance with its then current Documentation. LICENSEE'S EXCLUSIVE REMEDY, AND DCC'S ENTIRE LIABILITY IN CONTRACT, TORT OR OTHERWISE FOR BREACH OF THIS WARRANTY WILL BE TO USE DCC'S COMMERCIALY REASONABLE EFFORTS TO PROVIDE A CORRECTION OR WORK AROUND FOR ANY MATERIAL NONCONFORMITY. DCC DISCLAIMS ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. ANY EQUIPMENT, THIRD PARTY SOFTWARE AND SERVICES ARE PROVIDED "AS IS".

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DCC's warranty will not apply to any defects or problems caused in whole or part by (i) failure of equipment, power, telecommunications facilities, third party software or other matters that are beyond DCC's reasonable control, (ii) modifications to the Software by anyone other than DCC, (iii) any software, hardware, firmware, peripheral or communication devices used with the Software, (iv) failure to follow DCC's most current instructions for proper use of the Software, or (v) negligence of Licensee or any third party. If Licensee requests services related to a defect or problem covered by one of the foregoing exceptions, Licensee will pay DCC for such services at DCC's then current time and materials rates.

Confidentiality. Neither party will disclose the other party's Information other than to its employees who have a need to know and who it will require to comply with this Agreement. Neither party will use the other party's Information except in accordance with this Agreement. "**Information**" means all information made available by one party to the other, including the Product, any databases and all intellectual property related thereto, but excluding all information generally available to the public or that is required to be disclosed by law.

Ownership. The Product is DCC's exclusive property. DCC owns all copies. DCC shall own all rights in all corrections, modifications, enhancements, programs, information and work product conceived, created or developed, alone or with Licensee or others, as a result of or related to the performance of this Agreement and the Proposal, including all proprietary rights therein. Licensee will not copy, modify, disassemble, decompile or reverse engineer the Software.

Term and Termination. This Agreement will commence upon the date of acceptance of the Proposal and will continue for the number of years specified in the Proposal. Thereafter this Agreement will automatically renew annually at DCC's then current prices unless either party provides the other notice of nonrenewal at least ninety days before the end of the then current term. DCC may terminate the License without further obligation or liability to Licensee if Licensee commits any material breach of this Agreement or the Proposal, including failure to timely pay any amount due, and fails to cure such breach within ten days of notice from DCC. Licensee may terminate the License if DCC commits any material breach of this Agreement and fails to cure such breach within sixty days of notice from Licensee. Upon termination, nonrenewal or

expiration, Licensee will immediately cease all use of the Product and return the Product and all copies thereof to DCC, all amounts owed to DCC will be immediately due and payable, and DCC will cease performance of all obligations under this Agreement without liability to Licensee. The terms of this Agreement (other than the License) will survive termination, nonrenewal or expiration; provided that payment obligations that have not yet accrued will not survive if this Agreement expires, is not renewed by either party or is terminated by Licensee. DCC's remedies will be cumulative.

Training. If applicable, DCC shall provide training at Licensee's site for the number of days, if any, specified in the Proposal.

Indemnity. Licensee will indemnify, defend and hold DCC, its employees, officers, directors, agents, successors and assigns harmless from all loss, cost, liability and claims (including reasonable attorneys' fees) arising out of or related to Licensee's use of the Product, Third Party Software and Equipment.

Assignment. Neither the Proposal nor this Agreement may be assigned, sublicensed or transferred by Licensee by assignment, operation of law, change of control or otherwise, without DCC's prior written consent.

U.S. Government Restricted Rights. The Product includes commercial technical data, commercial computer software and/or commercial computer software documentation, respectively, pursuant to DFAR Section 227.7202 and FAR Sections 12.211 and 12.212, as applicable, which were developed exclusively at private expense. Any use, modification, reproduction, release, performance, display or disclosure of the Product by the United States Government is governed solely by the terms of this Agreement and is prohibited except to the extent expressly permitted by the terms of this Agreement.

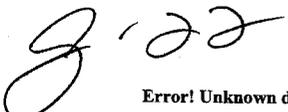
Compliance. Licensee will comply with all applicable international and national laws that apply to the Product and its use, including the U.S. Export Administration Regulations.

General. If any part of this Agreement or Proposal is ruled unenforceable by a court, the balance of this Agreement and the Proposal will be unaffected. This Agreement and the Proposal may not be amended or waived except in writing signed by the parties. This Agreement and the Proposal do not create any third party beneficiary. The parties are independent contractors. In the event of a conflict between the terms of this Agreement and the Proposal, the terms of this Agreement shall control. This Agreement and the Proposal are the entire agreement of the parties with respect to the subject matter hereof, and supersede all prior agreements between the parties with respect to the subject matter hereof.

Governing Law and Venue. This Agreement and the Proposal will be governed by the laws of the State of Tennessee, without regard to its conflict of laws provisions. Venue for any action arising out of or related to this Agreement or the Proposal will be exclusively in state or federal court in Davidson County, Tennessee. Any action arising out of or related to this Agreement or the Proposal must be commenced within one (1) year after the cause of action accrues.

Force Majeure. If an act of God, government, war, fire, flood, power shortages or blackouts, telecommunications failure, failure of the Internet, or other causes beyond the reasonable control of DCC prevent DCC from performing its obligations, such nonperformance will be excused and will not be a breach for so long as such conditions prevail.

Licensee: Address:	Dialogic Communications Corporation
By: _____ Name and Title:	By: _____ Name and Title:



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**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		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:	04/09/07		Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Technology Services			Date	
Department Head	David Stephens	Executive Director			
Dept Signature:	<i>David Stephens</i>	City Manager			
Agenda Coordinator (include phone #):		Lisa Prunty, ext 7342			

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

CAPTION

Approval of the purchase of maintenance and support for the network infrastructure servers in the amount of \$35,511.74 from IBM Corporation through an existing contract/agreement with Department of Information Resources (DIR), and authorizing the City Manager or his designee to execute all necessary documents. (DIR-SDD-190).

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2006-07	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	2,510,000	0	2,510,000
Encumbered/Expended Amount	0	-1,515,380	0	-1,515,380
This Item	0	-35,512	0	-35,512
BALANCE	0	959,108	0	959,018

FUND(S): **TECHNOLOGY SERVICES FUND**

COMMENTS: Funds are included in the 2005-06 Technology Services budget. The remaining balance will be used throughout the year for other maintenance agreements.

STRATEGIC PLAN GOAL: Server maintenance agreements relate to the City's Goal of "Service Excellence".

SUMMARY OF ITEM

Technology Services recommends Council approve an expenditure of \$35,511.74 to IBM Corporation through the Department of Information Resources (DIR) for a maintenance support contract on network infrastructure servers. The City is authorized to purchase from the State Contract List pursuant to Section 271 Subchapter D of the Local Government Code, and by doing so satisfies any State Law requiring the local government to seek competitive bids for the items. (DIR-SDD-190)

List of Supporting Documents:
Memo

Other Departments, Boards, Commissions or Agencies

B-1

Memorandum

To: David Stephens, Director of Technology Services
CC:
From: Chester M. Helt, Infrastructure Manager
Date: 3/26/2007
Re: IBM Server Maintenance

It is time for us to extend the maintenance on the majority of our infrastructure network servers. The servers covered as a part of this agenda item all have their three year maintenance expiring this calendar year. We have obtained pricing from IBM, a State of Texas, DIR vendor, to obtain maintenance for these servers for one additional year.

By extending the maintenance on these servers, we extend the life of the device for an additional year. Should any mechanical issues occur to the server in this year, IBM would replace the defective part. As these servers have aged, we have had several occurrences this last year that have required IBM provide service to several of these existing servers.

The quote obtained to extend the maintenance by one year is \$ 35,511.74. We recommend Council approve the purchase of this additional year of maintenance.

h-2



Schedule for ServiceElite

This Schedule contains a listing of the Eligible Machines at the Specified Locations identified below for which IBM will provide the Identified Services as described in the referenced Master Services Attachment and any referenced Statements of Work and Change Authorizations. The complete agreement between us about these Services consists of 1) this Schedule 2) the referenced Master Services Attachment and any referenced Statements of Work and Change Authorizations, and 3) the IBM Customer Agreement (or any equivalent agreement in effect between us) identified below.

Name and Address of Customer:

CITY OF PLANO WSCA DIR-SD-190
1117 E 15TH ST
PLANO TX 75074-6223

Customer Billing Address:

CITY OF PLANO
ACCOUNTING DEPT
PO BOX 860358
PLANO TX 75086-0358

Agreement Number: DIR-SDD
Master Services Attachment Number: 190
Statement of Work Number: AB3NB7
Change Authorization Number: 01765787
Customer Number: 01765787

Schedule Number: AB3NB7
Revised Schedule: No
Schedule Effective Date: 03/23/2007
Proposal Reference Date: 03/23/2007

Transaction Contract Period:
Start Date: 04/01/2007
End Date: 03/31/2008
Renewal Contract Period: 1 Year(s)

Charge Period Charges / Payment Plan (Inclusive of MES):
WSU One Time Charges: 0.00
SWMA ALF One Time Charges: 0.00
MMS for CISCO HW One Time Charges: 0.00
MMS for CISCO SW One Time Charges: 0.00
MMS for Nortel One Time Charges: 0.00

Maintenance Charges: 35,511.74
Service Charges: 0.00
TOTAL CHARGE PERIOD CHARGES: 35,511.74

Charge Period: 04/01/2007 - 03/31/2008
Start Date: 04/01/2007
End Date: 03/31/2008
Accumulated Adjustment Invoicing option: N
Price Protection Option: Prepay Price Protection
Pricing Method: Line Item

*Charges are based on the current inventory and services identified in this Schedule. Actual charges may vary with any additions, deletions, or changes to the inventory or services. Any applicable taxes are not included in the charge amounts herein but will be added to your invoice.
For a Machine subject to usage charges, in addition to the Service charge identified herein, you will be separately billed for usage in accordance with applicable usage rates and billing cycles.

The Parties need not to sign this Schedule, unless either of us requests it.

Agreed to:

CITY OF PLANO WSCA DIR-SD-190

By: _____ Authorized signature
Name (type or print): _____
Date: _____

Agreed to:

International Business Machines Corporation

By: _____ Authorized signature
Name (type or print): _____
Date: _____

Handwritten initials: B-3



Schedule for ServiceElite

Enterprise Total for Charge Period by Customer Number Inclusive of MES:

Customer No.	Customer Name	Customer Location	Charges
00147477	AGILYSYS INC	1117 E 15TH ST, CITY OF PLANO, PLANO TX 75074-6223	1,889.99
00732993	AVNET INC	1117 E 15TH ST, CITY OF PLANO, PLANO TX 75074-6223	2,602.48
01765787	CITY OF PLANO	1117 E 15TH ST, PLANO TX 75074-6223	31,019.27
Total			35,511.74

Note: One Time Charges are not included in the Total

B-4

IBM Schedule for ServiceElite

Maintenance Machine List

-----Eligible Machine Description-----

Mfg	Type	Model	Add/Retn	Order/Serial Number	Related Order/Serial Number	Product Description	Qty	Type of Svc	Main Svc	Charges	Charges Start	Charges Stop
IBM	3581	L23		001325238		ULTRIM 2 TAPE AUTOLOADER	1	B	1	1,889.99		
Subtotal Without MES										1,889.99		
Subtotal With MES										1,889.99		
Specified Location: 00147477 City, State: PLANO TX 75074-6223												
IBM	8664	8RY		0023GZ019		XSER240 1.0G 256 25	1	B	1	1,301.24	04/15/2007	
IBM	8664	8RY		0023GZ118		XSER240 1.0G 256 25	1	B	1	1,301.24	04/15/2007	
Subtotal Without MES										2,602.48		
Subtotal With MES										2,602.48		
Specified Location: 00732993 City, State: PLANO TX 75074-6223												
IBM	1733	1RU		0023B4217		EXP400 STOR. EXP. UNIT US	1	B	1	460.00	08/12/2007	
IBM	3531	1RU		006822306		EXP 300	1	B	1	208.19	04/15/2007	
IBM	3531	1RU		686822425		EXP 300	1	B	1	208.19	04/15/2007	
IBM	3531	1RU		686824752		EXP 300	1	B	1	199.79	04/29/2007	
IBM	3531	1RU		686831056		EXP 300	1	B	1	433.77	04/15/2007	
IBM	8479	61X		0078CW529		XSER200 1.26G 512 128/20.4 E	1	B	1	242.52	09/18/2007	
IBM	8479	61X		0078CW548		XSER200 1.26G 512 128/20.4 E	1	B	1	433.77	04/15/2007	
IBM	8479	61X		0078Z9627		XSER200 1.26G 512 128/20.4 E	1	B	1	433.77	04/15/2007	
IBM	8479	61X		0078Z9693		XSER200 1.26G 512 128/20.4 E	1	B	1	242.52	09/18/2007	
IBM	8479	61X		0078Z9699		XSER200 1.26G 512 128/20.4 E	1	B	1	242.52	09/18/2007	
IBM	8646	4AX		0078F0636		XSER220 1.26G 512 128/0HD S	1	B	1	433.77	04/15/2007	
IBM	8646	4AX		0078F0800		XSER220 1.26G 512 128/0HD S	1	B	1	433.77	04/15/2007	
IBM	8646	4AX		0078F0869		XSER220 1.26G 512 128/0HD S	1	B	1	433.77	04/15/2007	
IBM	8646	4AX		0078F0902		XSER220 1.26G 512 128/0HD S	1	B	1	433.77	04/15/2007	

See Legend for Details

h-5



Schedule for ServiceElite

Maintenance Machine List

Eligible Machine Description-----

Mfg	Type	Model/Feeder	Add/Rem	Order/Serial Number	Related Order/Serial Number	Product Description	Qty	Type of Svc	Maint Svc	Charges	Charges Start	Charges Stop
IBM	8670	L1X		00KPAXPTD		XSER345 2.80G 512 512/0HDD S	1	B	1	315.56 W F	09/25/2007	
IBM	8670	51X		00KPBAL88		XSER345 2.67G 512 512/0HDD S	1	B	1	560.24	04/30/2007	
IBM	8670	51X		00KPBAM35		XSER345 2.67G 512 512/0HDD S	1	B	1	560.24 W F	04/30/2007	
IBM	8670	G1X		00KPBKRR		XSER345 3.2G 1MB 512/0HDD S	1	B	1	276.75 W F	10/18/2007	
IBM	8670	G1X		00KPLKW23		XSER345 2.8G 512 512/0HDD S	1	B	1	310.50 W F	09/28/2007	
IBM	8670	G1X		00KPLL25		XSER345 2.8G 512 512/0HDD S	1	B	1	310.50 W F	09/28/2007	
IBM	8670	61X		00KPLL26		XSER345 2.8G 512 512/0HDD S	1	B	1	310.50 W F	09/28/2007	
IBM	8670	J1X		00KPPDRP7		XSER345 3.2G 512 1GB/0HDD S	1	B	1	469.12 W F	06/24/2007	
IBM	8670	51X		00KPPX014		XSER345 2.67G 512 512/0HDD S	1	B	1	585.56 W F	04/15/2007	
IBM	8670	61X		00KPPZC90		XSER345 2.8G 512 512/0HDD S	1	B	1	273.37 W F	10/20/2007	
IBM	8670	61X		00KPTMD23		XSER345 2.8G 512 512/0HDD S	1	B	1	276.75 W F	10/18/2007	
IBM	8670	61X		00KPTMD31		XSER345 2.8G 512 512/0HDD S	1	B	1	276.75 W F	10/18/2007	
IBM	8670	61X		00KPTMD35		XSER345 2.8G 512 512/0HDD S	1	B	1	276.75 W F	10/18/2007	
IBM	8670	G1X		00KPVBM08		XSER345 3.2G 1MB 512/0HDD S	1	B	1	529.87 W F	05/18/2007	
IBM	8670	G1X		00KPVBMW0		XSER345 3.2G 1MB 512/0HDD S	1	B	1	480.94 W F	06/17/2007	
IBM	8670	G1X		00KPVFR56		XSER345 3.2G 1MB 512/0HDD S	1	B	1	607.49 F		
IBM	8670	G1X		00KPYHFM3		XSER345 3.2G 1MB 512/0HDD S	1	B	1	426.93 W F	07/19/2007	
IBM	8670	G1X		00KPYHLV8		XSER345 3.2G 1MB 512/0HDD S	1	B	1	595.68 W F	04/09/2007	
IBM	8670	G1X		0078DH655		XSER345 2.4G 512 512/0HDD S	1	B	1	585.56 W F	04/15/2007	
IBM	8670	11X		0078X9847		XSER345 2.0G 512 512/0HDD S	1	B	1	307.12 W F	09/30/2007	
IBM	8670	11X		0078X9848		XSER345 2.0G 512 512/0HDD S	1	B	1	307.12 W F	09/30/2007	
IBM	8670	11X		0078W0786		XSER235 1.8G 512 512/0HDD S	1	B	1	654.75 W F	09/18/2007	
IBM	8671	1AX		0078GF475		XSER330 1.26 512 256/0HDD S	1	B	1	433.77 W F	04/15/2007	
IBM	8674	31X		0078GF511		XSER330 1.26 512 256/0HDD S	1	B	1	433.77 W F	04/15/2007	
IBM	8674	31X		0078GF591		XSER330 1.26 512 256/0HDD S	1	B	1	433.77 W F	04/15/2007	
IBM	8674	31X		0078GF683		XSER330 1.26 512 256/0HDD S	1	B	1	242.52 W F	09/18/2007	
IBM	8674	31X		0078GF768		XSER330 1.26 512 256/0HDD S	1	B	1	433.77 W F	04/15/2007	
IBM	8674	31X		0078GF774		XSER330 1.26 512 256/0HDD S	1	B	1	242.52 W F	09/18/2007	
IBM	8674	31X		0078GG426		XSER330 1.26 512 256/0HDD S	1	B	1	242.52 W F	09/18/2007	
IBM	8676	11X		00KPBMR88		XSER335 2.8G 512 512/0HDD S	1	B	1	288.77 W F	08/11/2007	
IBM	8676	11X		00KPBMR99		XSER335 2.8G 512 512/0HDD S	1	B	1	288.77 W F	08/11/2007	

See Legend for Details

Handwritten signature or initials



Schedule for ServiceElite

Maintenance Machine List

Eligible Machine Description

Mfg	Type	Model	Alt/	Order	Related	Product	Qty	Type	Maint	Charges	Charges	Charges
		Feat	Rem	Serial	Order	Description		of	Svc		Start	Stop
				Number	Serial			Svc				
IBM	8676	11X		00KPBM102		XSER335 2.8G 512 512/0HD S	1	B	1	288.77	WF	08/11/2007
IBM	8676	11X		00KPBM123		XSER335 2.8G 512 512/0HD S	1	B	1	288.77	WF	08/11/2007
IBM	8676	L1X		00KPMWV17		XSER335 2.8G 512 512/0HDD S	1	B	1	296.27	WF	08/05/2007
IBM	8676	L1X		00KPMWVYN4		XSER335 2.8G 512 512/0HDD S	1	B	1	296.27	WF	08/05/2007
IBM	8676	L1X		00KPMWVYN5		XSER335 2.8G 512 512/0HDD S	1	B	1	296.27	WF	08/05/2007
IBM	8676	61X		00KPPY073		XSER335 2.4G 512 512/0HD S	1	B	1	433.77	WF	04/15/2007
IBM	8682	6RY		0078L8880		XSER350 900 2 512/0HD S	1	B	1	1,301.24	WF	04/15/2007
IBM	8682	6RY		0078L8885		XSER350 900 2 512/0HD S	1	B	1	1,301.24	WF	04/15/2007
IBM	8682	6RY		0078L8890		XSER350 900 2 512/0HD S	1	B	1	1,301.24	WF	04/15/2007
IBM	8682	6RY		0078L8896		XSER350 900 2 512/0HD S	1	B	1	1,301.24	WF	04/15/2007
IBM	8682	6RY		0078L8937		XSER350 900 2 512/0HD S	1	B	1	1,301.24	WF	04/15/2007
IBM	8682	6RY		0078L8939		XSER350 900 2 512/0HD S	1	B	1	1,301.24	WF	04/15/2007
IBM	8682	6RY		0078L8959		XSER350 900 2 512/0HD S	1	B	1	1,301.24	WF	04/15/2007
IBM	8686	3RX		0078V3758		XSER360 1.6G 1 2/2X36.4 S	1	B	1	573.74	WF	04/22/2007
IBM	8686	3RX		0078V3829		XSER360 1.6G 1 2/2X36.4 S	1	B	1	573.74	WF	04/22/2007
IBM	8686	3RX		0078V3842		XSER360 1.6G 1 2/2X36.4 S	1	B	1	573.74	WF	04/22/2007
IBM	8686	3RX		0078V3891		XSER360 1.6G 1 2/2X36.4 S	1	B	1	573.74	WF	04/22/2007
IBM	8686	3RX		0078V3922		XSER360 1.6G 1 2/2X36.4 S	1	B	1	573.74	WF	04/22/2007
IBM	8837	35U		00KQKHHD		XSER336 3.4G 2MB 1GB/0HDD S	1	B	1	0.00	WF	01/23/2009
IBM	8840	32U		00KPAX070		XSER346 3.4G 1MB 1GB/0HDD S	1	B	1	189.00	WF	12/10/2007

Subtotal Without MES 31,019.27

Subtotal With MES 31,019.27

Total Charge Period Charges for Maintenance Machine List Without MES \$35,511.74

Total Charge Period Charges for Maintenance Machine List With MES \$35,511.74

See Legend for Details

Handwritten signature or initials



Schedule for ServiceElite

Legends:

¹ Change adjustments related to inventory and service changes will be accumulated and invoiced with your next standard invoicing cycle (may be sooner for annual or semiannual payment plans)

²TYPE OF SERVICE

- A) On-Site Repair/Exchange Services, Monday through Friday (excluding holidays), 8am to 5pm, next business day
- B) On-Site Repair/Exchange Services, 7 days a week, 24hrs/day
- C) On-Site Repair/Exchange Services, Monday through Friday (excluding holidays), 8am to 5pm, 4 hour response objective
This type of repair service includes a response objective and is not a guarantee.
- D) On-Site Repair/Exchange Services, 7 days a week, 24hrs/day, 2 hour response objective.
This type of repair service includes a response objective and is not a guarantee.
- X) EasyServe (remotely delivered services)

³MAINTENANCE SERVICES

- 1) Maintenance of IBM Machines
- 2) Maintenance of non-IBM Machines
- 3) Warranty Service Upgrade
- 4) Maintenance of Cisco Products
- 5) Maintenance of IBM Machines - Enhanced Service Response
- 6) Service for Machines Withdrawn from IBM Maintenance
- 7) Non-IBM Service for Machines Withdrawn from IBM Maintenance
- 8) Maintenance of IBM Machines (Labor Only)
- 9) Non-IBM Memory Exchange
- 10) Enhanced Parts Inventory
- 11) Spare Machine
- 12) Key Operator Support
- 13) Maintenance of non-IBM Machines during the Manufacturer's Warranty Period
- 16) IBM Maintenance Services - First Line Maintenance for Wincor Nixdorf ATMs
- 17) IBM Maintenance Services - Applications Maintenance Services for Wincor Nixdorf ATMs
- 18) Post Installation Coverage (PIC) Service Upgrade, for selected Non-IBM Machines

⁴Charges shown are for the Charge Period

- A (C) indicates a Machine that will have Usage Charges billed separately
- An (E) indicates a Machine that has been announced as withdrawn from generally available Maintenance Service
- An (F) indicates an Assumptive Product included in the total Charge Period Price that has a manually inserted serial number and configuration provided by the customer
- An (H) identifies a Machine on an existing ServiceElite/ServiceSuite/ ServiceElect CHIS contract with duplicate Maintenance Services Coverage
- A (K) indicates Assumptive Products included in the total Charge Period Price that are based on the customer provided configuration
- An (N) indicates that the product is a non-GSA Schedule item
- An (O) indicates a One Time Charge
- A (P) indicates averaged billing or annual prepayment
- An (R) indicates the usage charge rate (Fee, Hours, or Impressions) for a machine under a usage plan
- A (U) indicates Usage Charges which are measured in either Fee, Hours, or Impressions
- A (W) indicates a Machine under Warranty
- An (X) indicates On-order Products which are shown for planning purposes only
- A (Y) indicates On-order MES products which are shown for planning purposes only. These charges are included in the related machine.

⁵ Charges Start/Stop dates shown are those that differ from the Contract Period Start/End Dates



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		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: 4/9/07		Reviewed by Legal <i>JS</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department:	Technology Services		<i>JS</i>	Date	
Department Head	David Stephens	Executive Director	<i>JS</i>	4.3.07	
Dept Signature:	<i>David Stephens</i>	City Manager	<i>JS</i>	4/5/07	
Agenda Coordinator (include phone #): Lisa Prunty Ext. 7342					
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					
CAPTION					
Approval of the 5 th year of a 5 year Maintenance Agreement with eVerge Group of Texas, Ltd. In the amount of \$225,000, and authorizing the City Manager or his designee to execute all necessary documents. (B-041-01)					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP					
FISCAL YEAR: 2006-07	Prior Year (CIP Only)	Current Year	Future Years	TOTALS	
Budget		2,510,000	0	2,510,000	
Encumbered/Expended Amount		-1,533,419	0	-1,533,419	
This Item	0	-225,000	0	-225,000	
BALANCE	0	751,581	0	751,581	
FUND(S): TECHNOLOGY SERVICES FUND (66)					
COMMENTS: Funds are included in the 2006-07 Technology Services budget for this item. The remaining balance will be used throughout the year for other maintenance agreements.					
STRATEGIC PLAN GOAL: PeopleSoft support services relate to the City's Goal of "Service Excellence".					
SUMMARY OF ITEM					
Technology Services request approval of an expenditure in the amount of \$225,000 for year 5 of a 5 year contract with eVerge Group of Texas, Ltd. for professional services related to ongoing upgrades, problem resolution and technical/user support for PeopleSoft's human resources and payroll system. On April 22, 2002, Council approved a five (5) year contract with two (2) year renewal option periods. The multi-year technical services renewal allows the City to average the expenditures related to minor and major upgrades of the system, plus take advantage of a significant PeopleSoft knowledge base and problem solving expertise. Request Council approve this renewal for a sum of \$225,000 for this year and an annual sum of \$237,000 for year six (6) and a final annual sum of \$180,000 for year seven (7) subject to the availability and appropriation of funds after the first year. (B-041-01)					
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies			
Year 5 Invoice					

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**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		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:	04/09/07	Reviewed by Legal <i>W</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Telecommunications	Initials	Date	
Department Head	Edward Jenkins	Executive Director	<i>[Signature]</i>	03.23.07
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	<i>01/23/07</i>
Agenda Coordinator (include phone #):		Lisa Prunty Ext. 7342		
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				
CAPTION				
Approval of the purchase of wiring the Tom Muehlenbeck Recreation Center in the amount of \$58,305 from Henkel's and McCoy, Inc. through an existing contract with The City of Plano, and authorizing the City Manager or his designee to execute all necessary documents. (2004-114-C)				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR:	2006-07	Prior Year (CIP Only)	Current Year	Future Years
Budget		6,435,418	15,210,582	0
Encumbered/Expended Amount		-6,435,418	-13,679,813	0
This Item		0	-58,305	0
BALANCE		0	1,472,464	0
FUND(S): RECREATION CENTER FACILITIES CIP				
COMMENTS: Funds are included in the 2006-07 Recreation Center Facilities CIP. This item, in the amount of \$58,305, will leave a current year balance of \$1,472,464 for the Tom Muehlenbeck Center project.				
STRATEGIC PLAN GOAL: Wiring installation for recreation centers relates to the City's Goal of Premier City in which to live.				
SUMMARY OF ITEM				
Telecommunications recommends council approval of expenditure to Henkel's and McCoy, Inc. in the amount of \$58,305.00 for wiring installation of the Voice, Data and Video system for the Tom Muehlenbeck Recreation Center. The proposed work includes (80) standard voice and data workstations, (40) data only stations, (40) RG-6 cable runs, MDF management and connectivity to the Pool House.				
List of Supporting Documents: Memo, Quote		Other Departments, Boards, Commissions or Agencies		

MEMORANDUM

Date: 03/14/07
To: David Stephens, Director Technology Services
From: Edward Jenkins, Support Services Manager
RE: WIRING FOR TOM MUEHLENBECK RECREATION CENTER

This is a CIP project for Tom Muehlenbeck Center. This agenda item covers the wiring of 80 standard voice, data workstations. There will be 40 data only stations. Henkels & McCoy will also run 40 RG-6 cable runs. This work will be needed to supply voice, data and other services when it opens.

J-2



515 HUFFINES BLVD
LEWISVILLE, TX 75057
(972) 512-2926 • FAX (972) 512-2959

March 5, 2007
City of Plano
1520 K Avenue
P.O. Box 860358
Plano, Texas 75086-0358

Attn: David Kidd
RE: Tom Muehlenbeck Recreation Center

Scope of Work

Henkels & McCoy, Inc. is pleased to submit pricing for the installation of the Voice, Data and Video system for Tom Muehlenbeck Center. This proposal consist of installing Eighty (80) Standard voice and data workstations consisting of two (2) category 6 cables terminated to RJ-45 modules and one (1) category 5e cable split between two (2) RJ-25 modules. H&M will also install Forty (40) Data only stations consisting of category 6 cables terminated to RJ-45 modules, as well as Forty (40) Coax RG-6 cables terminated to an F-connector, both of these cables will run to the same location and terminate in a contractor provided floor box.

At the MDF, H&M will install two (2) 19" floor rack to accommodate, the (5) Data panels, (1) Fiber panels, and (6) Horizontal / (3) Vertical Management panels. The voice cabling Cat-5e will terminate to 110 blocks mounted on a painted plywood backboard.

H&M will provide connectivity out to the Pool House via a 6 strand single mode fiber cable and a 50 pair copper cable. For the fiber we will terminate each end with SC style connectors, Housed in a Rack mounted fiber cabinet in the MDF and a Wall Mounted Cabinet in the Pool House. The 50 pr. copper will terminate onto lightning protection at each end.

Labor:	\$ 22,388.00	Labor Breakout = 4 men @ 153.34 hrs each = 613.36 x \$36.50
Material:	\$ 35,917.00	
Total:	\$ 58,305.00	

Assign CRO number: _____

Authorization signature: _____ **Date:** _____

Please print: _____

Thank you for allowing Henkels & McCoy the opportunity to provide you with this proposal if further assistance is required please call me at (972) 512-2922.

Sincerely;
Al Hussey
04L Area Manager
Henkels & McCoy, Inc.

J-3

MATERIAL LIST

General	E-005024DFC	50 pr OSP Copper	500	FT	\$ 1.38	\$ 690
CIRCA	1880ENAI/NSC-50	50 PR Protector	2	EA	\$ 297.50	\$ 595
CIRCA	4B1S	Solid State Module	100	EA	\$ 3.85	\$ 385
Corning	006EW4-T4101D20	6 Fiber OSP Single-Mode	500	FT	\$ 0.60	\$ 300
Corning	FAN-OD25-06	6 Fiber Buffer Kit	2	FT	\$ 35.94	\$ 71
Corning	95-201-41-SP	SC Anarobic Connectors	12	ST	\$ 9.38	\$ 112
Pyramid	GP100T	1" innerduct	500	FT	\$ 1.37	\$ 685
H&M	HMPLYWD	Fire rated Plywood 4 x 8 x 3/4 "AC" rated	1	EA	\$ 93.75	\$ 93
H&M	HMPLYKIT	Plywood mounting kit	1	EA	\$ 15.63	\$ 15
Ortronics	110ABC5E050	50 Pr 110 block	2	EA	\$ 17.50	\$ 35
Ortronics	OR-30200007	300 pr 110 block	2	EA	\$ 32.50	\$ 65
Ortronics	110C4	C-4 Modules	8	EA	\$ 11.00	\$ 88
Ortronics	110C5	C-5 Modules	1	EA	\$ 12.50	\$ 12
CPI	30161-703	Vert Management	2	EA	\$ 372.85	\$ 745
CPI	30162-703	Vert Management	1	EA	\$ 414.71	\$ 414
Ortronics	808044508	Horz. Finger Duct	6	EA	\$ 49.38	\$ 296
CPI	10250-712	12" Ladder Rack Blk	1	FT	\$ 87.50	\$ 87
CPI	11421-712	Wall Support Kit	2	EA	\$ 22.83	\$ 45
Ortronics	PHD66U48	Cat - 6 48 port P/P	5	EA	\$ 278.13	\$ 1,390
Ortronics	MC605-06	5' Patch Cord Blue	120	EA	\$ 6.88	\$ 825
Ortronics	MC609-06	9' Patch Cord Blue	120	EA	\$ 8.20	\$ 984
CPI	55053-703	19" Black Free-standing rack	2	EA	\$ 141.25	\$ 282
CPI	40604-001	Nut/bolt kit for Rack to Slab Floor mounting	2	EA	\$ 19.81	\$ 39
T&B	256-30695-1298	Ground connectors # 6 AWG	2	EA	\$ 7.19	\$ 14
CPI	13622-010	Telecommunications Grounding Busbar (TGB)	1	EA	\$ 75.63	\$ 75
Ortronics	615MMC-36P-00	Rack Fiber Cabinet	1	EA	\$ 213.75	\$ 213
Ortronics	615SMFC-12P	Wall Fiber Cabinet	1	EA	\$ 45.63	\$ 45
Ortronics	615SCSM6C	SC Coupler Panels	2	EA	\$ 61.25	\$ 122
Berk-Tek	10032094	LANmark 1000 - Cat-6 plenum	35	EA	\$ 442.06	\$ 15,472
Berk-Tek	10032072	LANmark 350 - Cat-5e plenum	14	EA	\$ 263.75	\$ 3,692
Belden	633938	RG-6 Duofoil 90% AL sheild plenum	7	EA	\$ 550.00	\$ 3,850
Ortronics	63700005	RJ-25 6 pin module	160	JACK	\$ 4.13	\$ 660
Ortronics	TJ600-26	RJ-45 CAT-6 MODULE	200	JACK	\$ 6.94	\$ 1,388
Ortronics	63700006	F-Conn Module	40	EA	\$ 3.75	\$ 150
Gilbert	GF6AHP328	F-Conn	40	EA	\$ 0.75	\$ 30
Ortronics	40300546	Quad Faceplate	80	EA	\$ 1.48	\$ 118
Gilbert	GF6AHP328	F-Conn	40	PR	\$ 0.75	\$ 30
H&M	HM4INSLEVE	4 inch EMT sleeve	2	EA	\$ 43.71	\$ 87
Hilti	CP 618	Fire Putty	2	EA	\$ 16.26	\$ 32
Hilti	ECH-FRL	Large Category 5 hanger (60 to 70)	80	EA	\$ 2.16	\$ 173
Misc		Misc. labels, cable ties, tapes, lubricates	1	EA		\$ 1,500

J-4



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		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:	4/09/07	Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	Engineering Department		Initials	Date
Department Head	Upchurch	Executive Director	<i>[Signature]</i>	3/30/07
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	4/2/07
Agenda Coordinator (include phone #):	Irene Pegues (7198) <i>[Signature]</i>		Project No. 5513	
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 – APPROVAL OF EXPENDITURE				
CAPTION				
Approval of the purchase of material testing services for Parker Road from K Avenue to Raton Lane in the amount of \$55,937.50 from Terracon Consultants, Inc., through an existing Contract authorizing the City Manager, or his designee, to execute all necessary documents (Contract No. 2006-243-D). This will provide for construction material testing for the paving project on Parker Road from K Avenue to Raton Lane.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR:	2006-07	Prior Year (CIP Only)	Current Year	Future Years
Budget		129,786	3,603,214	0
Encumbered/Expended Amount		-129,786	-105,568	0
This Item		0	-55,938	0
BALANCE		0	3,441,708	0
FUND(s): STREET IMPROVEMENT CIP				
COMMENTS: Funds are included in the 2006-07 Street Improvement CIP. This item, in the amount of \$55,938, will leave a current year balance of \$3,441,708 for the Parker Road from K Avenue to Raton Lane project. STRATEGIC PLAN GOAL: Material testing services for street projects relate to the City's Goal of Safe, Efficient Travel.				
SUMMARY OF ITEM				
Staff recommends approval of this expenditure for construction material testing on Parker Road from K Avenue to Raton Lane in the amount of \$55,937.50. Terracon Consultants, Inc., is one of the six contracted vendors for this service during Fiscal Year 2006-2007. Funding is available from the Street Improvement Community Investment Program; therefore, staff recommends approval.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies:		
Exhibit C		N/A		

R-1

EXHIBIT C

TERRACON CONSULTANTS, INC.
COMPENSATION

Client: City of Plano
Attn: Mr. James Caswell, P.E.
P.O. Box 860358
Plano, Texas 75086-0358

Date: March 20, 2007

Project: Parker Road
From K Avenue to Raton Lane
Plano, Texas

Proposal No.: P07940462R

	Unit Rate	Quantity	Total
EARTHWORK			
Material sampling, per hour	35.00	8	280.00
Optimum Moisture/Density relationship(ASTM D698), ea.	145.00	7	1,015.00
Atterberg limits, each	45.00	7	315.00
Material finer than #200 sieve, each	22.50	7	157.50
Lime determination, (5 points PI & pH), each	250.00	5	1,250.00
Lime gradations, each (min. 4 per trip)	20.00	30	600.00
In-place moisture density test, each (min. 4 per trip)	28.00	400	11,200.00
Vehicle charge, per trip	40.00	68	2,720.00
			<hr/>
		Subtotal	\$ 17,537.50
CONCRETE			
Concrete mix design review, each	100.00	3	300.00
Engineering technician, hour	35.00	400	14,000.00
Overtime engineering technician, hour	52.50	80	4,200.00
Concrete test cylinders, each	13.00	600	7,800.00
Concrete thickness check, per core	10.00	0	-
Coring equipment, per day	75.00	0	-
Cylinder pick-up, per hour	35.00	48	1,680.00
Vehicle charge, trip	40.00	96	3,840.00
			<hr/>
		Subtotal	\$ 31,820.00
ASPHALTIC CONCRETE			
Engineering technician, hour	45.00	40	1,800.00
Extraction & gradation test, each	170.00	4	680.00
Laboratory density test, each	75.00	4	300.00
Stability test, each	75.00	4	300.00
Max. theoretical specific gravity test, each	75.00	4	300.00
Asphalt disposal fee, each	25.00	10	250.00
Coring equipment charge, per day	75.00	4	300.00
Core hole patches, each	10.00	10	100.00
Core in-place density test, each	20.00	10	200.00
Vehicle charge, trip	40.00	10	400.00
			<hr/>
		Subtotal	\$ 4,630.00

EXHIBIT C

**TERRACON CONSULTANTS, INC.
COMPENSATION**

Client: City of Plano
Attn: Mr. James Caswell, P.E.
P.O. Box 860358
Plano, Texas 75086-0358

Date: March 20, 2007

Project: Parker Road
From K Avenue to Raton Lane
Plano, Texas

Proposal No.: P07940462R

	Unit Rate	Quantity	Total
ENGINEERING / MANAGEMENT			
Final observation letter, each (if required)	300.00	0	-
Project manager, hour	97.50	20	<u>1,950.00</u>
		Subtotal	\$ 1,950.00
ESTIMATED TOTAL COST / BUDGET			\$ 55,937.50

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**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		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: 4/9/07		Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
Department:	Parks and Recreation			Initials	Date
Department Head	Don Wendell	Executive Director	<i>[Signature]</i>		4.2.07
Dept Signature:	<i>[Signature]</i>	City Manager			
Agenda Coordinator (include phone #): Susan Berger, ext. 7255					

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

CAPTION

Authorize the purchase and installation from Existing Contract/Agreement of FitLinxx Intelligent Exercise Solutions (TXMAS #7-780-20) in the amount of \$37,804.14 at Oak Point Center through a Texas Building and Procurement Commission-Multiple Award Schedule contract, and authorizing the City Manager or his designee to execute all necessary documents.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2006-07	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	176,618	0	176,618
Encumbered/Expended Amount	0	0	0	0
This Item	0	-37,804	0	-37,804
BALANCE	0	138,814	0	138,814

FUND(S): GENERAL FUND

COMMENTS: Funding for this item is available in the approved FY 2006-07 Budget. Remaining funds will be used for the purchase of other fitness equipment related items.

SUMMARY OF ITEM

This agenda item authorizes an expenditure of \$37,804.14 for the purchase and installation of a computerized system for fitness equipment that tracks and monitors the user's workouts. The system will be installed on the fitness equipment at Oak Point Center. The City is authorized to purchase from the State contract list (TXMAS #7-780-20) pursuant to Section 271 Subchapter D of the Local Government Code, and by doing so satisfies any State law requiring local government to seek competitive bids for item(s).

STRATEGIC PLAN GOAL: Providing for state-of-the-art fitness equipment relates to the City's Goal of Premier City in Which to Live.

List of Supporting Documents: Sales Proposal	Other Departments, Boards, Commissions or Agencies
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[Handwritten signature]

FitLinxx®

Intelligent Exercise Solutions™

Oak Point Recreation Center
 Plano, TX
 TXMAS Contract No.: 7-78020

Sales Proposal

FitLinxx
 860 Canal Street
 Stamford, CT 06902

QTY	MODEL	DESCRIPTION	UNIT PRICE	TOTAL PRICE
FitLinxx System				
1	CS-BAHW	FitLinxx C-Series Base system	5,995.00	5,995.00
1	CS-CV	C-Series CV Application	2,995.00	2,995.00
1	CS-TPSW	C-Series Strength Application	5,995.00	5,995.00
15	CS-STTP	C-Series Strength Training Partner	995.00	14,925.00
0	CS-ADKHB	Additional Kiosk	5,995.00	-
1	CS-SHIP	5.5% Shipping & Handling		164.05
1	CS-INST	12.5% Installation & Training (Covers One Installation Trip)		3,738.75
	CS-DISC	Discount		(2,108.66)
TOTAL ORDER PRICE (ALL APPLICABLE STATE & LOCAL SALES TAX WILL BE ADDED):				31,704.14

Network				
16	CS-CVST, CS-MIS	FitLinxx Cat 5 Network Connections	300.00	4,800.00
22	CS-CVWI	FitLinxx Wireless CV Radio Network Connections	50.00	1,100.00
1	CS-CVWT	FitLinxx Wireless CV Radio Transmitter	200.00	200.00
TOTAL NETWORK PRICE (ALL APPLICABLE STATE & LOCAL SALES TAX WILL BE ADDED):				6,100.00

Total Price				
		FitLinxx System		31,704.14
		FitLinxx Network		6,100.00
TOTAL NETWORK PRICE (ALL APPLICABLE STATE & LOCAL SALES TAX WILL BE ADDED):				37,804.14

Monthly Support Contract				
2	CS-BSUB	C-Series Software Module licences	250.00	500.00
0	CS-MSUB	Additional 500 member user licenses	99.00	-
TOTAL Monthly ACH Amount (first 12 months):				500.00

The above pricing is valid only if the customer accepts this agreement ,which consists of this sales proposal and the attached Terms &

Above pricing is valid only if installation occurs within 90 days of the date this Agreement is accepted by the Customer.

AGREED AND ACCEPTED:

Customer:

By (Name):

Signature:



Date:

FitLinxx®

Intelligent Exercise Solutions™

Oak Point Recreation Center
 Plano, TX
 TXMAS Contract No.: 7-78020

Sales Proposal

FitLinxx
 860 Canal Street
 Stamford, CT 06902

QTY	MODEL	DESCRIPTION	UNIT PRICE	TOTAL PRICE
FitLinxx System				
1	CS-BAHW	FitLinxx C-Series Base system	5,995.00	5,995.00
1	CS-CV	C-Series CV Application	2,995.00	2,995.00
1	CS-TPSW	C-Series Strength Application	5,995.00	5,995.00
15	CS-STTP	C-Series Strength Training Partner	995.00	14,925.00
0	CS-ADKHB	Additional Kiosk	5,995.00	-
1	CS-SHIP	5.5% Shipping & Handling		164.05
1	CS-INST	12.5% Installation & Training (Covers One Installation Trip)		3,738.75
	CS-DISC	Discount		(2,108.66)
TOTAL ORDER PRICE (ALL APPLICABLE STATE & LOCAL SALES TAX WILL BE ADDED):				31,704.14

Network				
16	CS-CVST, CS-MIS	FitLinxx Cat 5 Network Connections	300.00	4,800.00
22	CS-CVWI	FitLinxx Wireless CV Radio Network Connections	50.00	1,100.00
1	CS-CVWT	FitLinxx Wireless CV Radio Transmitter	200.00	200.00
TOTAL NETWORK PRICE (ALL APPLICABLE STATE & LOCAL SALES TAX WILL BE ADDED):				6,100.00

Total Price				
		FitLinxx System		31,704.14
		FitLinxx Network		6,100.00
TOTAL NETWORK PRICE (ALL APPLICABLE STATE & LOCAL SALES TAX WILL BE ADDED):				37,804.14

Monthly Support Contract				
2	CS-BSUB	C-Series Software Module licences	250.00	500.00
0	CS-MSUB	Additional 500 member user licenses	99.00	-
TOTAL Monthly ACH Amount (first 12 months):				500.00

The above pricing is valid only if the customer accepts this agreement, which consists of this sales proposal and the attached Terms &

Above pricing is valid only if installation occurs within 90 days of the date this Agreement is accepted by the Customer.

AGREED AND ACCEPTED:

Customer: _____

By (Name): _____

Signature: _____

Date: _____

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**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		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:	4/9/07		Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	Parks and Recreation		Initials	Date	
Department Head	Don Wendell	Executive Director	<i>[Signature]</i>	4.2.07	
Dept Signature:	<i>[Signature]</i>	City Manager			
Agenda Coordinator (include phone #):	Susan Berger ext. 7255				

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

CAPTION

Authorize the purchase and installation from Existing Contract/Agreement of fitness equipment at Oak Point Center in the amount of \$68,215.30 from Cybex International Inc. (TXMAS #-6-78010) through a Texas Building and Procurement Commission-Multiple Award Schedule contract, and authorizing the City Manager or his designee to execute all necessary documents.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2006-07	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	188,618	0	188,618
Encumbered/Expended Amount	0	0	0	0
This Item	0	-68,215	0	-68,215
BALANCE	0	120,403	0	120,403

FUND(S): GENERAL FUND

COMMENTS: Funding for this item is available in the approved FY 2006-07 Budget. Remaining funds will be used for the purchase of other fitness equipment related items.

SUMMARY OF ITEM

The Recreation Division staff recommends Council approve expenditure not to exceed \$68,215.30 to Cybex for the purchase of fitness room strength equipment and cardio equipment through the use of Texas Building and Procurement Commission – Multiple Award Schedule (TXMAS #-6-78010). The City is authorized to purchase from the State contract list pursuant to Section 271 Subchapter D of the Local Government Code, and by doing so satisfies any State law requiring local government to seek competitive bids for item(s).

STRATEGIC PLAN GOAL: Providing for state-of-the-art fitness equipment relates to the City's Goal of Premier City in Which to Live.

List of Supporting Documents: Sales Quote	Other Departments, Boards, Commissions or Agencies
--	--

This quote expires on 04/01/2007



Date: 02/01/2007

For Questions, Contact Your CYBEX Representative

Zane Carlson
 15510 Quorum Dr. Apt. 3609
 Addison, TX 75001
 Phone:
 Cell: 972-523-0843
 Fax:
 Email: zcarlson@cybexintl.com

Send Purchase Orders/Deposits to:

Cybex Order Fulfillment
 Cybex International, Inc.
 10 Trotter Dr.
 Medway, MA 02053
 Phone: 1-888-462-9239
 FAX: 508-533-0873

Ship To Address

City of Plano
 6000 Jupiter
 Plano, TX 75086
 United States
K'Ann Parham
Phone: 972 941 7540
Fax: 972 941 7694

Sold To Address

City of Plano
 6000 Jupiter
 Plano, TX 75086
 United States
K'Ann Parham
Phone: 972 941 7540
Fax: 972 941 7694
E-Mail: kannp@plano.gov

Bill To Address

City of Plano
 6000 Jupiter
 Plano, TX 75086
 United States
K'Ann Parham
Phone: 972 941 7540
Fax: 972 941 7694

Qty	Product Number	Product Description	Price Per Unit	Disc %	Disc Price	Total Price
Cardio - 530T						
2	530T-41-4	Cybex Pro+ Treadmill - (115V)	\$6,795.00	45.00%	\$3,737.25	\$7,474.50
Cardio - Arc						
2	630A	Total Body Arc Trainer - Cordless	\$6,495.00	40.00%	\$3,897.00	\$7,794.00
Eagle - Fitlinx						
1	11008	Eagle Chest Press w/Fitlinxx	\$4,545.00	35.00%	\$2,954.25	\$2,954.25
1	11018	Eagle Overhead Press w/Fitlinxx	\$4,545.00	35.00%	\$2,954.25	\$2,954.25
1	11038	Eagle Row w/Fitlinxx	\$4,545.00	35.00%	\$2,954.25	\$2,954.25
1	11048	Eagle Leg Press w/Fitlinxx	\$6,095.00	35.00%	\$3,961.75	\$3,961.75
1	11059	Eagle Leg Exten w/SRLD w/Fitlinxx	\$4,145.00	35.00%	\$2,694.25	\$2,694.25
1	11069	Eagle Seated Leg Curl w/SRLD w/Fitlinxx	\$4,145.00	35.00%	\$2,694.25	\$2,694.25
1	11078	Eagle Arm Curl w/Fitlinxx	\$3,645.00	35.00%	\$2,369.25	\$2,369.25
1	11098	Eagle Abdominal w/Fitlinxx	\$3,695.00	35.00%	\$2,401.75	\$2,401.75
1	11109	Eagle Back Extension w/SRLD w/Fitlinxx	\$4,145.00	35.00%	\$2,694.25	\$2,694.25
1	11138	Eagle Lat Pull w/Fitlinxx	\$4,545.00	35.00%	\$2,954.25	\$2,954.25
1	11178	Eagle Glute w/Fitlinxx	\$4,245.00	35.00%	\$2,759.25	\$2,759.25
1	11188	Eagle Hip Ab/Ad w/Fitlinxx	\$5,545.00	35.00%	\$3,604.25	\$3,604.25
FW						
1	5380	Twin Tier Dumbbell Rack	\$690.00	25.00%	\$517.50	\$517.50
1	5385	Single Tier Dumbbell Rack	\$515.00	25.00%	\$386.25	\$386.25
2	5437	Adjustable -10 to 80 Bench	\$645.00	25.00%	\$483.75	\$967.50
1	5460	Scott Curl	\$645.00	25.00%	\$483.75	\$483.75
VR3 - Fitlinxx						
1	12080X	VR3 Arm Extension - Fitlinxx	\$3,095.00	35.00%	\$2,011.75	\$2,011.75
1	12110X	VR3 Fly/Rear Delt - Fitlinxx	\$3,895.00	35.00%	\$2,531.75	\$2,531.75
1	12190X	VR3 Torso Rotation - Fitlinxx	\$3,495.00	35.00%	\$2,271.75	\$2,271.75

CV Frame Color:

Product Total \$59,434.75

Quote #: CY00030576

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Strength Frame Color:

Inside Delivery With
Installation

Upholstery Color:

National Account: GSA GS-07F-9211G

MN Delivery	\$5,644.43
MN Install	\$2,218.80
MA Delivery	\$713.48
MA Install	\$203.85
Total Delivery & Install	\$8,780.55
Sales Tax Rate: 0.00%	Tax: \$0.00
TOTAL AMOUNT	\$68,215.30
Your Total Savings:	\$34,610.25

All prices quoted are in US Dollars

Notes: Purchase to be made of TXMAS contract TXMAS-6-78010

BOOKING ORDERS & PAYMENT TERMS:

25% Down to Book Order
Balance Due 2 weeks prior to shipment
OR
Approved Purchase Order - Net 30 Days

www.cybexinternational.com

All delivery times given prior to Cybex receiving a final order are subject to change and are estimates provided for information only. Cybex will not confirm any delivery dates until a final order has been received by Cybex.

By signing and dating this proposal, I agree to all the terms and conditions as stated in the Cybex Terms and Conditions of Sale. I hereby confirm that this is an order and I am authorized to place orders on this account.

Authorized Signature

Date

Name of Authorized Company Official

Date Order Requested for Delivery

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CYBEX INTERNATIONAL, INC.
STANDARD TERMS AND CONDITIONS

1. SELLER'S TERMS TO GOVERN: This document, whether designated as a quote, offer, or sales acknowledgment, is an offer to sell made by Cybex International, Inc. ("Cybex" or "Seller"). Acceptance is expressly limited to the terms of Cybex's contract, and in the event that Buyer's acceptance or other response hereto states terms additional to or different from those set forth herein, this document shall be deemed a notice of objection to such additional or different terms and rejection thereof.

2. PRICES: Prices shown on quote are Seller's prices in effect on that date and are shown in U.S. dollars. Quotes shall expire in thirty (30) days unless otherwise noted thereon. Verbal price representations cannot supersede a written price quote. Seller reserves the right to correct any clerical or mathematical errors prior to Buyer acceptance. Shipments will be billed at prices stated on accepted orders unless delays have been initiated or requested by Buyer which shall entitle Seller to any and all additional costs and expenses resulting from the delay.

3. TAXES AND DUTIES: The price does not include any federal, state or local taxes, assessments or duties. Therefore, in addition to the price stated herein, any applicable sales, use or other taxes and government charges imposed by any governmental body upon the transaction shall be an additional charge and shall be the responsibility of the Buyer, unless the Buyer is exempt from such taxes and the Seller receives the Buyer's Certificate of Exemption prior to shipment.

4. TERMS OF PAYMENT: Unless the Seller's credit department has given the Buyer its prior written approval, the terms of payment are as they appear at the top of the quote or sales order documents. Seller reserves the right to require full or partial payment in advance of any shipment, or other payment arrangements whenever, in its judgment, the financial condition of Buyer does not justify shipment of the goods on the terms specified. If payment on the goods to Seller is in arrears, Seller shall have the right and option to withhold warranty rights, as outlined in the Cybex written Limited Warranty pertaining to each product or service sold or provided hereunder (the "Limited Warranty"), or to withhold service and parts. Buyer agrees to pay all costs of collections, specifically including but not limited to reasonable attorney's fees and all court costs.

5. SHIPMENT: All products are shipped F.O.B. from origin, unless otherwise specified. The title of the equipment passes to Buyer upon receipt of full payment. Buyer is responsible for any loss or damage to shipments after leaving the point of manufacture. Buyer is responsible for recording any shortages, damages or losses on the Delivery Receipt at the time of delivery. A copy of Buyer's Delivery Receipt must be forwarded to the Cybex Customer Service Department, at the address identified in paragraph 10 hereof, when damage or losses are claimed. All concealed damage, or damage not apparent until the equipment is unpacked and examined, must be reported to the Cybex Customer Service Department at the address or telephone number identified in paragraph 10 hereof within 48 hours of delivery. All concealed damage claims must be made within fifteen (15) days from the delivery date. Buyer is responsible for notifying the Carrier to perform an inspection of the damages before the close of business on the fifteenth day after delivery. All packaging materials must be kept available by Buyer for the inspection. Failure to report a concealed damage claim as outlined above will affect Buyer's ability to fully recover damages from the Carrier and will result in Buyer assuming any costs incurred for replacing or repairing the damage.

6. BIDS AND PERFORMANCE BONDS: Any or all administrative and handling charges that may occur over and above the prices quoted will be assumed by Buyer.

7. INSTALLATION: Seller is responsible for installation of the equipment, except as otherwise provided herein or requested by Buyer. Installation includes unpacking, assembly and an operational check of the equipment. Unless otherwise specifically provided in writing, Buyer has full responsibility for assuring the Carrier places the equipment in its final use location. Shipping and handling charges cover trucking and placement of equipment in any predetermined location in your facility or home. Buyer will assume all costs and expenses incurred as a result of deliveries requiring the equipment to be carried more than 100 feet from the closest point accessible by a commercial tractor trailer or those deliveries requiring the use of a hoist, other special equipment, services or additional manpower. Installation does not include the anchoring of product. Buyer is responsible for all anchoring. Buyer will assume all costs and expenses associated with transportation, storage, manpower, and waiting time for the equipment that is delivered to the requested location when delivery cannot be accepted for any reason.

8. DELIVERY: Any delivery date stated under this contract is the Seller's best estimate and is based upon prompt receipt of all necessary information and payment from Buyer. Seller makes no guarantee of delivery by such date and shall have no liability or other obligation for failure to deliver on such date, regardless of cause, unless expressly stated otherwise. Seller shall have no liability or other obligation hereunder if its performance is delayed or prevented to any extent by any event such as, but not limited to, any act of God, strike or work stoppage, fire, flood, accident, allocation or other controls of the Government authorities, shortage of transportation, fuel, material and labor, or any other cause beyond the Seller's reasonable control.

9. CANCELLATION or ALTERATION: No order may be canceled or altered after the mailing of the sales acknowledgment unless agreed to by Seller. Cancellation or alteration of orders, if agreed to by Seller, will obligate Buyer to pay to Seller a handling charge of 25% of the sales order amount plus any and all expenses incurred and damages sustained by Seller to return the product to the point of manufacture. Custom orders obligate Buyer to pay Seller 100% of the sales order amount plus any and all expenses sustained by Seller to return the product to the point of manufacture. Seller will make every reasonable effort to ship by the estimated date, but failure to do so shall not be cause for cancellation.

10. RETURNED GOODS: When agreed to by Seller, Buyer may return products with a Return Authorization Number, obtainable by writing to Cybex International, Inc., Attn: Customer Service Department, 10 Trotter Drive, Medway, MA 02053 or by calling the Customer Service Department at 1-888-GO-CYBEX. Buyer's failure to obtain this Return Authorization Number will prevent Seller from being liable when the product is not accepted by Seller's receiving dock. Buyer must ship all returned products freight prepaid.

11. PRODUCT AND QUOTATION CHANGES: Seller reserves the right to change or revise specifications and product design in connection with any feature of Seller's products. Such changes do not entitle Buyer to corresponding changes, improvements, additions, or replacements for product previously sold or shipped. In addition, Seller reserves the right to change any products and/or prices quoted to a customer if the customer has not confirmed the quotation by placing an order with Seller and/or Seller believes that market conditions have changed since the quotation was made.

12. INDEMNIFICATION BY NON-CONSUMER BUYERS: Non-consumer Buyers agree to and do hereby indemnify and hold harmless Seller against all costs and expenses, including attorney's fees, damages, liabilities and judgments for personal injuries, including death, resulting from the use or misuse of Seller's products, the Buyer's failure to provide adequate instructions to individuals using the products, failure to provide required product maintenance, and/or failure to bolt product as provided in Seller's Owner's Manual, however caused or alleged to have been caused directly or indirectly by Buyer, its agents, officers, directors and employees.

13. AMENDMENT, MODIFICATION or SUBSTITUTION: This document, together with the Limited Warranty, shall contain the entire agreement between the parties. Any modifications thereof must be in writing and signed by Seller. No prior dealings of the parties or trade custom not embodied herein shall alter the interpretation or enforcement of this contract.

14. DISCLAIMER OF WARRANTIES AND LIMITATION OF REMEDIES:

SELLER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH REGARD TO GOODS OR SERVICES PROVIDED BY SELLER OTHER THAN THOSE SET FORTH IN THE APPLICABLE LIMITED WARRANTY. BUYER SHOULD CONSULT THE LIMITED WARRANTY FOR THE TERMS, CONDITIONS AND LIMITATIONS OF THE EXPRESS WARRANTY PROVIDED HEREUNDER. BUYER ACKNOWLEDGES AND AGREES THAT BUYER HAS RECEIVED A COPY OF THE LIMITED WARRANTY APPLICABLE TO THE PRODUCT OR PRODUCTS PURCHASED HEREUNDER. ADDITIONAL COPIES OF THE LIMITED WARRANTY MAY BE OBTAINED BY CALLING CYBEX CUSTOMER SERVICE TOLL FREE AT 1-888-GO-CYBEX.

NO PERSON HAS AUTHORITY TO MAKE ANY STATEMENTS ABOUT THE PRODUCTS SOLD HEREUNDER AND SUCH STATEMENTS DO NOT CONSTITUTE WARRANTIES, SHALL NOT BE RELIED UPON BY THE BUYER, AND ARE NOT PART OF THESE STANDARD TERMS AND CONDITIONS, INCLUDING THE LIMITED WARRANTY INCORPORATED HEREIN. ALL WARRANTIES OTHER THAN THE WARRANTIES EXPRESSLY PROVIDED HEREIN AND IN THE LIMITED WARRANTY ARE SPECIFICALLY EXCLUDED. IN THE CASE OF NON-CONSUMER BUYERS, ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED.

IN THE CASE OF CONSUMER BUYERS, THE DURATION OF ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE IS LIMITED TO THE DURATION OF THE EXPRESS WARRANTIES PROVIDED HEREIN AND IN THE APPLICABLE LIMITED WARRANTY.

SELLER WILL NOT BE LIABLE FOR ANY DIRECT OR INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES, LOSSES, OR EXPENSES, INCLUDING, BUT NOT LIMITED TO COMMERCIAL LOSSES, BUSINESS INTERRUPTION, OR DAMAGE TO PROPERTY OTHER THAN THE PRODUCT OR PRODUCTS SOLD HEREUNDER.

Notice to Consumer Buyers: Some States do not allow limitations on how long an implied warranty lasts, so the above limitation may not apply to you. Some States do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you. This warranty gives you specific legal rights, and you may also have other rights which vary from State to State.

15. ALTERNATIVE DISPUTE RESOLUTION FOR NON-CONSUMER BUYERS ONLY:

SELLER RESERVES THE RIGHT TO MANDATE ALTERNATIVE DISPUTE RESOLUTION TO SETTLE ANY OR ALL CLAIMS RESULTING FROM THIS SALES TRANSACTION. ALTERNATIVE DISPUTE RESOLUTION PROCEEDINGS WILL BE CONDUCTED IN THE STATE OF MASSACHUSETTS ACCORDING TO THE COMMERCIAL RULES OF THE AMERICAN ARBITRATION ASSOCIATION.

It is understood between the parties that damage to the product, ineffectiveness of the product, or other unintended consequences may result because of many factors including the manner of use or application of the product, all of which are beyond the control of the Seller. All such risks shall be assumed by the Buyer.

Quote #: CY00030576

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This quote expires on 04/01/2007



Date: 02/01/2007

For Questions, Contact Your CYBEX Representative

Zane Carlson
 15510 Quorum Dr. Apt. 3609
 Addison, TX 75001
 Phone:
 Cell: 972-523-0843
 Fax:
 Email: zcarlson@cybexintl.com

Send Purchase Orders/Deposits to:

Cybox Order Fulfillment
 Cybox International, Inc.

10 Trotter Dr.
 Medway, MA 02053
 Phone: 1-888-462-9239
 FAX: 508-533-0873

Ship To Address

City of Plano
 6000 Jupiter
 Plano, TX 75086
 United States
K'Ann Parham
Phone: 972 941 7540
Fax: 972 941 7694

Sold To Address

City of Plano
 6000 Jupiter
 Plano, TX 75086
 United States
K'Ann Parham
Phone: 972 941 7540
Fax: 972 941 7694
E-Mail: kannp@plano.gov

Bill To Address

City of Plano
 6000 Jupiter
 Plano, TX 75086
 United States
K'Ann Parham
Phone: 972 941 7540
Fax: 972 941 7694

Qty	Product Number	Product Description	Price Per Unit	Disc %	Disc Price	Total Price
Cardio - 530T						
2	530T-41-4	Cybox Pro+ Treadmill - (115V)	\$6,795.00	45.00%	\$3,737.25	\$7,474.50
Cardio - Arc						
2	630A	Total Body Arc Trainer - Cordless	\$6,495.00	40.00%	\$3,897.00	\$7,794.00
Eagle - Fitlinxx						
1	11008	Eagle Chest Press w/Fitlinxx	\$4,545.00	35.00%	\$2,954.25	\$2,954.25
1	11018	Eagle Overhead Press w/Fitlinxx	\$4,545.00	35.00%	\$2,954.25	\$2,954.25
1	11038	Eagle Row w/Fitlinxx	\$4,545.00	35.00%	\$2,954.25	\$2,954.25
1	11048	Eagle Leg Press w/Fitlinxx	\$6,095.00	35.00%	\$3,961.75	\$3,961.75
1	11059	Eagle Leg Exten w/SRLD w/Fitlinxx	\$4,145.00	35.00%	\$2,694.25	\$2,694.25
1	11069	Eagle Seated Leg Curl w/SRLD w/Fitlinxx	\$4,145.00	35.00%	\$2,694.25	\$2,694.25
1	11078	Eagle Arm Curl w/Fitlinxx	\$3,645.00	35.00%	\$2,369.25	\$2,369.25
1	11098	Eagle Abdominal w/Fitlinxx	\$3,695.00	35.00%	\$2,401.75	\$2,401.75
1	11109	Eagle Back Extension w/SRLD w/Fitlinxx	\$4,145.00	35.00%	\$2,694.25	\$2,694.25
1	11138	Eagle Lat Pull w/Fitlinxx	\$4,545.00	35.00%	\$2,954.25	\$2,954.25
1	11178	Eagle Glute w/Fitlinxx	\$4,245.00	35.00%	\$2,759.25	\$2,759.25
1	11188	Eagle Hip Ab/Ad w/Fitlinxx	\$5,545.00	35.00%	\$3,604.25	\$3,604.25
FW						
1	5380	Twin Tier Dumbbell Rack	\$690.00	25.00%	\$517.50	\$517.50
1	5385	Single Tier Dumbbell Rack	\$515.00	25.00%	\$386.25	\$386.25
2	5437	Adjustable -10 to 80 Bench	\$645.00	25.00%	\$483.75	\$967.50
1	5460	Scott Curl	\$645.00	25.00%	\$483.75	\$483.75
VR3 - Fitlinxx						
1	12080X	VR3 Arm Extension - Fitlinxx	\$3,095.00	35.00%	\$2,011.75	\$2,011.75
1	12110X	VR3 Fly/Rear Delt - Fitlinxx	\$3,895.00	35.00%	\$2,531.75	\$2,531.75
1	12190X	VR3 Torso Rotation - Fitlinxx	\$3,495.00	35.00%	\$2,271.75	\$2,271.75

CV Frame Color:

Product Total \$59,434.75

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Strength Frame Color:

Inside Delivery With
Installation

Upholstery Color:

National Account: GSA GS-07F-9211G

MN Delivery	\$5,644.43
MN Install	\$2,218.80
MA Delivery	\$713.48
MA Install	\$203.85
Total Delivery & Install	\$8,780.55
Sales Tax Rate: 0.00%	Tax: \$0.00
TOTAL AMOUNT	\$68,215.30

Your Total Savings: \$34,610.25

All prices quoted are in US Dollars

Notes: Purchase to be made of TXMAS contract TXMAS-6-78010

BOOKING ORDERS & PAYMENT TERMS:

*25% Down to Book Order
Balance Due 2 weeks prior to shipment
OR
Approved Purchase Order - Net 30 Days*

www.cybexinternational.com

All delivery times given prior to Cybex receiving a final order are subject to change and are estimates provided for information only. Cybex will not confirm any delivery dates until a final order has been received by Cybex.

By signing and dating this proposal, I agree to all the terms and conditions as stated in the Cybex Terms and Conditions of Sale. I hereby confirm that this is an order and I am authorized to place orders on this account.

Authorized Signature

Date

Name of Authorized Company Official

Date Order Requested for Delivery

CYBEX INTERNATIONAL, INC.
STANDARD TERMS AND CONDITIONS

1. **SELLER'S TERMS TO GOVERN:** This document, whether designated as a quote, offer, or sales acknowledgment, is an offer to sell made by Cybex International, Inc. ("Cybex" or "Seller"). Acceptance is expressly limited to the terms of Cybex's contract, and in the event that Buyer's acceptance or other response hereto states terms additional to or different from those set forth herein, this document shall be deemed a notice of objection to such additional or different terms and rejection thereof.

2. **PRICES:** Prices shown on quote are Seller's prices in effect on that date and are shown in U.S. dollars. Quotes shall expire in thirty (30) days unless otherwise noted thereon. Verbal price representations cannot supersede a written price quote. Seller reserves the right to correct any clerical or mathematical errors prior to Buyer acceptance. Shipments will be billed at prices stated on accepted orders unless delays have been initiated or requested by Buyer which shall entitle Seller to any and all additional costs and expenses resulting from the delay.

3. **TAXES AND DUTIES:** The price does not include any federal, state or local taxes, assessments or duties. Therefore, in addition to the price stated herein, any applicable sales, use or other taxes and government charges imposed by any governmental body upon the transaction shall be an additional charge and shall be the responsibility of the Buyer, unless the Buyer is exempt from such taxes and the Seller receives the Buyer's Certificate of Exemption prior to shipment.

4. **TERMS OF PAYMENT:** Unless the Seller's credit department has given the Buyer its prior written approval, the terms of payment are as they appear at the top of the quote or sales order documents. Seller reserves the right to require full or partial payment in advance of any shipment, or other payment arrangements whenever, in its judgment, the financial condition of Buyer does not justify shipment of the goods on the terms specified. If payment on the goods to Seller is in arrears, Seller shall have the right and option to withhold warranty rights, as outlined in the Cybex written Limited Warranty pertaining to each product or service sold or provided hereunder (the "Limited Warranty"), or to withhold service and parts. Buyer agrees to pay all costs of collections, specifically including but not limited to reasonable attorney's fees and all court costs.

5. **SHIPMENT:** All products are shipped F.O.B. from origin, unless otherwise specified. The title of the equipment passes to Buyer upon receipt of full payment. Buyer is responsible for any loss or damage to shipments after leaving the point of manufacture. Buyer is responsible for recording any shortages, damages or losses on the Delivery Receipt at the time of delivery. A copy of Buyer's Delivery Receipt must be forwarded to the Cybex Customer Service Department, at the address identified in paragraph 10 hereof, when damage or losses are claimed. All concealed damage, or damage not apparent until the equipment is unpacked and examined, must be reported to the Cybex Customer Service Department at the address or telephone number identified in paragraph 10 hereof within 48 hours of delivery. All concealed damage claims must be made within fifteen (15) days from the delivery date. Buyer is responsible for notifying the Carrier to perform an inspection of the damages before the close of business on the fifteenth day after delivery. All packaging materials must be kept available by Buyer for the inspection. Failure to report a concealed damage claim as outlined above will affect Buyer's ability to fully recover damages from the Carrier and will result in Buyer assuming any costs incurred for replacing or repairing the damage.

6. **BIDS AND PERFORMANCE BONDS:** Any or all administrative and handling charges that may occur over and above the prices quoted will be assumed by Buyer.

7. **INSTALLATION:** Seller is responsible for installation of the equipment, except as otherwise provided herein or requested by Buyer. Installation includes unpacking, assembly and an operational check of the equipment. Unless otherwise specifically provided in writing, Buyer has full responsibility for assuring the Carrier places the equipment in its final use location. Shipping and handling charges cover trucking and placement of equipment in any predetermined location in your facility or home. Buyer will assume all costs and expenses incurred as a result of deliveries requiring the equipment to be carried more than 100 feet from the closest point accessible by a commercial tractor trailer or those deliveries requiring the use of a hoist, other special equipment, services or additional manpower. Installation does not include the anchoring of product. Buyer is responsible for all anchoring. Buyer will assume all costs and expenses associated with transportation, storage, manpower, and waiting time for the equipment that is delivered to the requested location when delivery cannot be accepted for any reason.

8. **DELIVERY:** Any delivery date stated under this contract is the Seller's best estimate and is based upon prompt receipt of all necessary information and payment from Buyer. Seller makes no guarantee of delivery by such date and shall have no liability or other obligation for failure to deliver on such date, regardless of cause, unless expressly stated otherwise. Seller shall have no liability or other obligation hereunder if its performance is delayed or prevented to any extent by any event such as, but not limited to, any act of God, strike or work stoppage, fire, flood, accident, allocation or other controls of the Government authorities, shortage of transportation, fuel, material and labor, or any other cause beyond the Seller's reasonable control.

9. **CANCELLATION or ALTERATION:** No order may be canceled or altered after the mailing of the sales acknowledgment unless agreed to by Seller. Cancellation or alteration of orders, if agreed to by Seller, will obligate Buyer to pay to Seller a handling charge of 25% of the sales order amount plus any and all expenses incurred and damages sustained by Seller to return the product to the point of manufacture. Custom orders obligate Buyer to pay Seller 100% of the sales order amount plus any and all expenses sustained by Seller to return the product to the point of manufacture. Seller will make every reasonable effort to ship by the estimated date, but failure to do so shall not be cause for cancellation.

10. **RETURNED GOODS:** When agreed to by Seller, Buyer may return products with a Return Authorization Number, obtainable by writing to Cybex International, Inc., Attn: Customer Service Department, 10 Trotter Drive, Medway, MA 02053 or by calling the Customer Service Department at 1-888-GO-CYBEX. Buyer's failure to obtain this Return Authorization Number will prevent Seller from being liable when the product is not accepted by Seller's receiving dock. Buyer must ship all returned products freight prepaid.

11. **PRODUCT AND QUOTATION CHANGES:** Seller reserves the right to change or revise specifications and product design in connection with any feature of Seller's products. Such changes do not entitle Buyer to corresponding changes, improvements, additions, or replacements for product previously sold or shipped. In addition, Seller reserves the right to change any products and/or prices quoted to a customer if the customer has not confirmed the quotation by placing an order with Seller and/or Seller believes that market conditions have changed since the quotation was made.

12. **INDEMNIFICATION BY NON-CONSUMER BUYERS:** Non-consumer Buyers agree to and do hereby indemnify and hold harmless Seller against all costs and expenses, including attorney's fees, damages, liabilities and judgments for personal injuries, including death, resulting from the use or misuse of Seller's products, the Buyer's failure to provide adequate instructions to individuals using the products, failure to provide required product maintenance, and/or failure to bolt product as provided in Seller's Owner's Manual, however caused or alleged to have been caused directly or indirectly by Buyer, its agents, officers, directors and employees.

13. **AMENDMENT, MODIFICATION or SUBSTITUTION:** This document, together with the Limited Warranty, shall contain the entire agreement between the parties. Any modifications thereof must be in writing and signed by Seller. No prior dealings of the parties or trade custom not embodied herein shall alter the interpretation or enforcement of this contract.

14. **DISCLAIMER OF WARRANTIES AND LIMITATION OF REMEDIES:**

SELLER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH REGARD TO GOODS OR SERVICES PROVIDED BY SELLER OTHER THAN THOSE SET FORTH IN THE APPLICABLE LIMITED WARRANTY. BUYER SHOULD CONSULT THE LIMITED WARRANTY FOR THE TERMS, CONDITIONS AND LIMITATIONS OF THE EXPRESS WARRANTY PROVIDED HEREUNDER. BUYER ACKNOWLEDGES AND AGREES THAT BUYER HAS RECEIVED A COPY OF THE LIMITED WARRANTY APPLICABLE TO THE PRODUCT OR PRODUCTS PURCHASED HEREUNDER. ADDITIONAL COPIES OF THE LIMITED WARRANTY MAY BE OBTAINED BY CALLING CYBEX CUSTOMER SERVICE TOLL FREE AT 1-888-GO-CYBEX.

NO PERSON HAS AUTHORITY TO MAKE ANY STATEMENTS ABOUT THE PRODUCTS SOLD HEREUNDER AND SUCH STATEMENTS DO NOT CONSTITUTE WARRANTIES, SHALL NOT BE RELIED UPON BY THE BUYER, AND ARE NOT PART OF THESE STANDARD TERMS AND CONDITIONS, INCLUDING THE LIMITED WARRANTY INCORPORATED HEREIN. ALL WARRANTIES OTHER THAN THE WARRANTIES EXPRESSLY PROVIDED HEREIN AND IN THE LIMITED WARRANTY ARE SPECIFICALLY EXCLUDED. IN THE CASE OF NON-CONSUMER BUYERS, ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED.

IN THE CASE OF CONSUMER BUYERS, THE DURATION OF ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE IS LIMITED TO THE DURATION OF THE EXPRESS WARRANTIES PROVIDED HEREIN AND IN THE APPLICABLE LIMITED WARRANTY.

SELLER WILL NOT BE LIABLE FOR ANY DIRECT OR INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES, LOSSES, OR EXPENSES, INCLUDING, BUT NOT LIMITED TO COMMERCIAL LOSSES, BUSINESS INTERRUPTION, OR DAMAGE TO PROPERTY OTHER THAN THE PRODUCT OR PRODUCTS SOLD HEREUNDER.

Notice to Consumer Buyers: Some States do not allow limitations on how long an implied warranty lasts, so the above limitation may not apply to you. Some States do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you. This warranty gives you specific legal rights, and you may also have other rights which vary from State to State.

15. **ALTERNATIVE DISPUTE RESOLUTION FOR NON-CONSUMER BUYERS ONLY:**

SELLER RESERVES THE RIGHT TO MANDATE ALTERNATIVE DISPUTE RESOLUTION TO SETTLE ANY OR ALL CLAIMS RESULTING FROM THIS SALES TRANSACTION. ALTERNATIVE DISPUTE RESOLUTION PROCEEDINGS WILL BE CONDUCTED IN THE STATE OF MASSACHUSETTS ACCORDING TO THE COMMERCIAL RULES OF THE AMERICAN ARBITRATION ASSOCIATION.

It is understood between the parties that damage to the product, ineffectiveness of the product, or other unintended consequences may result because of many factors including the manner of use or application of the product, all of which are beyond the control of the Seller. All such risks shall be assumed by the Buyer.

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CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		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: 4/9/07		Reviewed by Legal <i>MA</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Parks and Recreation		Initials	Date
Department Head	Don Wendell <i>DW</i>	Executive Director		
Dept Signature:		City Manager	<i>MA</i>	<i>4/4/07</i>
Agenda Coordinator (include phone #): Susan Berger (7255)				
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 <i>contract</i>				
CAPTION				
Approving the terms and conditions of the funding agreement between the City of Plano and the Plano Early Lions Club Charities, Inc. for production of the 2007 July 4 th Parade; authorizing its execution by the City Manager, or in his absence, an Executive Director; and providing an effective date.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: 2006-07	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	6,500	0	6,500
Encumbered/Expended Amount	0	0	0	0
This Item	0	-8,610	0	-8,610
BALANCE	0	-2,110	0	-2,110
FUND(s): GENERAL				
COMMENTS: The grant contract, if approved, provides additional funding in the amount of \$2,110 for the production of the 2007 July 4 th Parade. Additional funding is available from savings in the General Fund balance.				
SUMMARY OF ITEM				
This item includes total funding of the grant approved in the FY 2006-07 budget for \$6,500. The Plano Early Lions Club Charities, Inc. is requesting an additional \$2,110 to cover increased Police expenses for safe production of the parade. The total request for this Grant is now \$8,610.				
STRATEGIC PLAN GOAL: Increased funding for the production of the 2007 July 4th Parade relates to the City's Goals of "Premier City in Which to Live and "Service Excellence."				
List of Supporting Documents: Funding Agreement		Other Departments, Boards, Commissions or Agencies		

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**AGREEMENT BETWEEN CITY OF PLANO
AND PLANO EARLY LIONS CLUB CHARITIES, INC.**

STATE OF TEXAS §
 § **KNOW ALL PERSONS BY THESE PRESENTS:**
COUNTY OF COLLIN §

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 the **PLANO EARLY LIONS CLUB CHARITIES, INC.**, a Texas non-profit organization, acting herein through its duly authorized representative (hereinafter referred to as "Contractor");

WHEREAS, Contractor desires to put on the 2007 Independence Day Parade to celebrate our national heritage with the City of Plano; and

WHEREAS, the City Council of the City of Plano deems it to be in the best interest of the City of Plano and its citizens to expend public funds to assist Contractor with funding the 2007 Independence Day Parade (hereinafter the "Parade"); and

WHEREAS, the City Council finds that expending public funds for the Parade is a valid public purpose; and

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:

SECTION I.
PURPOSES / CONSIDERATION / OBLIGATIONS.

The purpose of this Agreement is to provide terms and conditions under which City will make available the sum of **FIVE THOUSAND ONE HUNDRED AND NO/100 DOLLARS (\$5,100.00)** to be used for the performance of the Parade to be held July 4, 2007, in Plano, Texas.

In addition to the funding referenced above, the City further agrees to make available City Services as described in **Exhibit "C"** in an amount not to exceed **\$3,510.00** to assist with the Parade on July 4, 2007. The City will notify Contractor if Contractor's request for City Services exceeds the amount indicated in Exhibit "C". Any City Services requested by Contractor that exceed the Exhibit "C" amount

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will be billed back to Contractor by City. Payments for those additional City Services are to be paid by Contractor, in full within 30 days of the invoice date.

It is further agreed and understood that the Parade is a privately sponsored event for which the City provides assistance in many forms. City's assistance should not be construed as creating any type of joint venture or joint enterprise between Contractor and City. When contracting with any third party for the purpose of the location of, participation in, or services or materials provided as a result of the Parade, Contractor shall require that all such third parties maintain insurance as specified by the terms of this Agreement in order to protect the City from liability.

SECTION II.
PERMITTED USES OF FUNDS; CONDITIONS OF USE.

A. Contractor shall use any and all funds furnished by City under this Agreement for the purposes as outlined in **Exhibit "A"** and **Exhibit "C"**, a copies of which are attached hereto and incorporated herein.

1. If during the term of this Agreement, the Contractor wishes to utilize funds for purposes other than stated in **Exhibit "A"** and **Exhibit "C"**, such change will only be allowed as follows:

a. All changes must first be approved by Contractor's Board, as evidenced by the official minutes of the Board authorizing the change;

b. The Board shall submit the request for the change to the City Manager, or his designee, for approval.

No expenditure of funds contrary to **Exhibit "A"** and **Exhibit "C"** is permitted until written approval is received from the City Manager or his designee.

B. All funds shall be utilized in compliance with the Agreement and attachments hereto. Agreement compliance is defined as:

1. At least 90% of expenses funded by City monies and budgeted in each category of the Application must be spent in that category;

2. All other conditions of this Agreement must be met.

C. Contractor agrees to and shall fully comply with the general conditions of the grant as set forth in the attachment entitled "General Conditions of Contract" (hereinafter referred to as the "General Conditions"), a copy of which is attached hereto and incorporated herein as **Exhibit "B"**.

D. Contractor agrees to and shall fully comply with the special conditions of the grant as set forth in the attachment entitled "Special Conditions of Contract" (hereinafter referred to as the "Special Conditions"), a copy of which is attached hereto and incorporated herein as **Exhibit "C"**.

E. Any City grant funds remaining with Contractor that are not expended for or that are not encumbered for expenses related to the 2007 Parade prior to the event start date, will revert to the City general revenues. Notwithstanding the above, excess funds may be retained and used as start up funds for the same event in the following year. Such use of excess funds shall not constitute a commitment by the City to fund future events.

F. In the event of inconsistencies or conflict among the documents, priority of interpretation shall be in the following order: This Agreement, **Exhibit "A"**, **Exhibit "B"**, **Exhibit "C"**, **Exhibit "D"**, and **Exhibit "E"**.

SECTION III. **BUDGET.**

Contractor will furnish to City a detailed budget 150 days prior to the event start date.

SECTION IV. **INDEPENDENT CONTRACTOR.**

Each party hereto covenants and agrees that it is an independent contractor and not an officer, agent, servant or employee of the other; that each party shall have exclusive control of and exclusive right to control the details of the work performed by it hereunder and all persons performing same on its behalf, and shall be responsible for the acts and omissions of its respective officials, officers, agents, employees, contractors, subcontractors, consultants, and other third parties for whom each is legally liable; that the doctrine of respondeat superior shall not apply as between City and Contractor, their respective officers, agents, employees, contractors, subcontractors, consultants, and any other third parties for whom each is liable respectively, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Contractor.

SECTION V. **DISBURSEMENT OF FUNDS / REPORTING / AUDIT.**

Funds and City Services provided for under this Agreement shall be disbursed in accordance with **Exhibit "A"** and **Exhibit "C"** attached hereto. Within

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sixty (60) days following the end of the contract term, Contractor agrees to provide financial statements sufficiently describing the expenditure of funds provided by the City and affirmatively verify that such funds were expended in accordance with the terms of this Agreement. These reports shall be furnished in writing to the Contract Administrator at the following address:

Dana Conklin
Parks and Recreation Department
City of Plano
P.O. Box 860358
Plano, Texas 75086-0358
Telephone: 972-941-7321

Contractor agrees that City shall, until the expiration of three (3) years after final payment under this contract, have access to and the right to examine any directly pertinent books, documents, papers and records of Contractor involving transactions relating to this contract. Contractor agrees that City shall have access during normal working hours to all necessary Contractor facilities and shall be provided adequate and appropriate workspace in order to conduct audits in compliance with the provisions of this section. City shall give Contractor reasonable advance notice of intended audits.

Contractor further agrees to include in third party contract(s), if any, a provision that any such third party agrees that City shall, until the expiration of three (3) years after final payment under any contract, have access to and the right to examine any directly pertinent books, documents, papers and records of such third party involving transactions related to the third party contract, and further, that City shall have access during normal working hours to all third party contractor facilities, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this paragraph. City shall give third party contractor reasonable advance notice of intended audits.

SECTION VI.
INSURANCE REQUIREMENTS.

At its own expense, Contractor agrees to maintain during the term of this Agreement, or any extension thereof, insurance in the type and amounts as shown in Exhibit "D". Additionally, this insurance must specifically cover any and all activities occurring on City property, including those activities of Contractor's employees, volunteers, vendors, contractors, or subcontractors. Contractor must provide proof of this insurance to the Contract Administrator prior to disbursement of funds under this Agreement. A properly executed certificate of insurance issued by Contractor's insurance agency is sufficient proof of insurance. Contractor must maintain a current copy of the certificate(s) and provide proof of its current insurance to City throughout the entire term of this Contract. Contractor shall require each individual and organization participating in the Parade and all subcontractors of Contractor and individuals and participating organizations to provide insurance coverage as specified in **Exhibit "D"**.

SECTION VII.
TERM.

The term of this Agreement begins on the date of execution by all parties and ends sixty (60) days after conclusion of the Parade or on September 30, 2007, whichever occurs first. At the expiration of this Agreement, the Contractor 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 Contract Administrator.

SECTION VIII.
TERMINATION.

Either party shall have the right to terminate this Agreement early by giving the other party written notice of its intent to terminate, with such notice to be given in writing forty-eight (48) hours prior to the proposed early termination date. The right to terminate this Agreement early is specifically reserved to both parties. However, Contractor's obligations under this Agreement incurred prior to notice of early termination shall be honored and said early termination shall not affect the right of Contractor to pay such expenses previously incurred. In the event of such early termination, or at the end of the term of this Contract, the Contractor agrees to return to City the unused balance of any funds previously disbursed to the Contractor by City pursuant to this Agreement within ten (10) days of either event.

In the event Contractor 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 written notice to the Contractor,

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notwithstanding any provisions to the contrary. In the event of termination for breach, Contractor shall be solely responsible for funds expended contrary to the terms and conditions of this Agreement.

SECTION IX.
AFFIDAVIT OF NO PROHIBITED INTEREST.

Contractor acknowledges and represents it is aware of the laws, City Charter, and City Code of Conduct regarding conflicts of interest. At the time of execution of this Agreement, a duly authorized representative of the Contractor shall execute the Affidavit of No Prohibited Interest, which is attached hereto and incorporated herein as **Exhibit "E"**. By execution, Contractor acknowledges and accepts that the existence of a prohibited interest at any time during the term of this Agreement will render the Agreement voidable.

SECTION X.
INDEMNIFICATION

Contractor shall release, defend, indemnify and hold the City, 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 Parade or caused by the negligent act or omission or intentional act or omission of Contractor, its officers, agents, employees, contractors, subcontractors, participating organizations or entities, licensees, invitees or any other third parties for whom Contractor is legally responsible (hereinafter "Claims"). Contractor is expressly required to defend City against all such Claims.

In its sole discretion, City shall have the right to select or to approve defense counsel to be retained by Contractor 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 Contractor's obligation to defend City or as a waiver of Contractor's obligation to indemnify City pursuant to this Contract. Contractor 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 Contract. If Contractor fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Contractor shall be liable for all costs incurred by City.

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SECTION XI.
MISCELLANEOUS

A. Entire Agreement/Amendment.

This Agreement and its attachments embody the entire agreement between the parties and may only be modified, amended or supplemented, in writing if executed by both parties.

B. Authorized to Execute/Binding on Contractor.

The undersigned represents and warrants that he or she is the duly authorized representative of the Contractor and that this Agreement has been approved and accepted by the Board of Trustees (or equivalent) of the Contractor.

C. 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 Contractor, the City Manager or his designee, and the City Secretary, and 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 Contractor a certified copy of the Resolution as evidence of the authority of the City Manager or his designate 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, agents, successors, legal representatives and administrators are bound to the terms and conditions of this Agreement. This Agreement may not be assigned by Contractor without the written permission of City.

D. Notice.

Notice as required by this Agreement shall be in writing delivered to the parties as follows:

City
Dana Conklin
Parks and Recreation Dept.
City of Plano
P.O. Box 860358
Plano, Texas 75086-0358
Telephone: 972-941-7321

Contractor
Doug Chapman
President
Plano Early Lions Club Charities, Inc.
P O Box 866262
Plano, Texas 75086-6262

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E. 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.

F. Contract Interpretation.

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

G. Venue.

In the event of breach of this Agreement, exclusive venue for all causes of action shall be instituted and maintained in Collin County, Texas.

H. Severability.

If any of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, conditions or any other part of this contract are for any reason held to be invalid, void or unenforceable, the remainder of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, conditions or any other part of this contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

I. Applicable Law.

Contractor agrees to abide by all laws, ordinances, and regulations applicable to its use of the Property, whether state, federal, or local.

J. Non-Waiver.

It is further agreed that one (1) or more instances of forbearance by either party in the exercise of their rights herein shall in no way constitute a waiver thereof.

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IN TESTIMONY OF WHICH THE PARTIES HERETO AFFIXED THEIR
SIGNATURES ON THIS THE _____ DAY OF _____, 2007.

CITY OF PLANO, TEXAS

BY: _____
Thomas H. Muehlenbeck
CITY MANAGER

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

PLANO EARLY LIONS CLUB
CHARITIES, INC.

BY: _____
Doug Chapman
President
Plano Early Lions Club Charities, Inc.

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ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 2007, by **DOUG CHAPMAN**, President, Plano Early Lions Club Charities, Inc.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2007 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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EXHIBIT "A"

The purpose of this Agreement is to provide terms and conditions under which the City shall make available the sum of \$8,610.00 to be used for some or all of the following:

1. Directly contracted City services;
2. Police and Traffic Control Officers;
3. Traffic control expenses required by the City both internal and external to the Parade grounds;
4. Event insurance (excluding payment of deductibles and vendor pass-throughs);
5. Barricades;
6. Other expenses expressly authorized and approved by the City Manager.

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EXHIBIT "B"
GENERAL CONDITIONS OF AGREEMENT

The Contractor agrees to the following general conditions:

1. The Contractor will provide the City a written report of its activities and expenditures no less than sixty (60) days after the last day of the event.
2. The Contractor agrees to maintain accounting records for three (3) 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 Contractor agrees to the on-site inspection of its facilities and/or programs by the City.
5. Improper use of funds provided by City will result in termination of the Contract, forfeiture of any outstanding grant money, and recovery of previous payments.
6. Programs, activities, employment opportunities, and other participatory events funded totally or partially by the City must be made available to all people regardless of race, color, religion, sex, age, national origin, handicap or political affiliation.
7. The Contractor and any person or organization it contracts with shall comply with all applicable laws, regulations, ordinances, and code of the United States of America, the State of Texas, and the City of Plano.
8. The Contractor shall comply with all Federal, State and Local conflict of interest laws, statutes, and regulations; these laws shall apply to all parties and beneficiaries under this Agreement, as well as to all officers, employees, and agents of the City.
9. Contractor shall not assign any interest in this Agreement without prior written consent of the City of Plano City Council.
10. None of the funds, materials, property, or services provided directly or indirectly under this Agreement shall be used for any partisan political activity, to further the election/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

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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 of Contractor's agreements and contracts prior to execution by Contractor. City further has the right to require the modification, addition, or deletion of such terms and conditions in Contractor's agreements of contracts as it deems necessary to protect the City's interests.
12. Conditions of this Agreement may not be changed or adjusted without the prior written approval of Plano City Council.

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EXHIBIT "C"
SPECIAL CONDITIONS OF AGREEMENT

The Contractor agrees to the following special conditions:

Five Thousand One Hundred and No/100 Dollars (\$ 5,100.00) shall be disbursed, lump sum, to the Parade upon execution of the Agreement and proof of insurance acceptable to the City Risk Manager as required by this Agreement. This disbursement will occur no earlier than one hundred twenty (120) days prior to the event start date.

Public safety for the event will be provided by the Plano Police personnel under the direction of the Plano Police Chief or the Police Chief's designee.

Expenses for City services, i.e., Police, Parks and Recreation, Fire, and Public Works Departments will be appropriated by the City in the amounts listed on the chart below. These expenses shall be considered a part of the grant by the City.

Police Department (traffic, security service)	\$3,510.00
Total	\$3,510.00

The Parade shall not be charged by City departments for planning or administrative time performed during regular business hours.

The Contractor must show evidence of all incurred expenses for funds received under this Agreement.

Any surplus of City contributed funds following payment of all qualified expenses shall be remitted to the City of Plano.

Settlement of all qualified expenses, and return of surplus funds to the City of Plano shall occur no later than sixty (60) days after the event end date.

The Parade shall be considered an officially sponsored event of the City of Plano, and as such follow and be subject to all regulations and guidelines of other City of Plano events.

The Parade shall reserve one (1) voting seat on its planning board for an official representative of the City of Plano, designated by the City Manager.

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The Parade shall require all vendors to comply with applicable laws and regulations and publicly display all appropriate health, fire, sales tax, or other permits.

The Parade shall provide adequate handicapped parking or transportation.

The Parade will be responsible for application and completion of the Special Event Permit as proscribed by ordinance.

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EXHIBIT "D"

INSURANCE REQUIREMENTS FOR SPECIAL EVENTS

Parade shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Parade's operation and use of the leased premises. The cost of such insurance shall be borne by the Parade.

A. MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage "occurrence" form CG 00 01 (10 01). **"Claims Made" form is unacceptable.**

B. MINIMUM LIMITS OF INSURANCE

Parade shall maintain limits no less than:

1. Commercial General Liability: \$500,000 limit per occurrence for bodily injury, personal injury and property damage, \$1,000,000 Aggregate.
NOTE: The aggregate loss limit applies to each event.
2. Participant Liability (where applicable – races, walks, etc.) \$500,000 limit per occurrence for bodily injury, personal injury, and property damage, \$1,000,000 aggregate.

C. DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either 1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials and employees, or 2) the Parade shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. OTHER INSURANCE PROVISIONS

The policies are to contain or be endorsed to contain the following provisions:

1. General Liability

- a. The City, its officers, officials, employees and volunteers are to be covered as "additional insured" as respects: liability arising out of premises owned, occupied or used by the Parade. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.
- b. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, officials, employees or volunteers.
- c. Coverage shall state that the Parade's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respects to the limits of the insurer's liability.
- d. Parade's insurance shall be primary as respects to the City, its officers, officials, employees or volunteers.

2. All Coverages.

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

E. ACCEPTABILITY OF INSURERS

City prefers that insurance be placed with insurers with a Best's rating of **A-:VI or A or better** by Standard and Poors. This rating requirement may be waived for Workers' Compensation coverage only by the Risk Manager or his designee.

F. VERIFICATION OF COVERAGE

Parade shall furnish the Agency with certificates of insurance affecting coverage required by this clause. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates are to be received and approved by the City before the Parade commences. The City reserves the right to require complete, certified copies of all required insurance policies at any time.

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G. FOOD AND/OR LIQUOR COVERAGE

If food is being provided to attendees or participants, Parade must provide Product Liability in the amounts listed above. If liquor is being served, Parade must provide Host Liquor Liability, unless Parade is in the business of manufacturing, distributing, selling, serving, or furnishing alcoholic beverages, wherein a minimum \$1,000,000 Liquor Liability Policy will be required.

H. SPECIAL EVENTS

Insurance provided by the Parade must cover all operations of the Special Event including but not limited to; participants, subcontractors, vendors, exhibitors, volunteers, etc. If the policy of the Parade excludes any activity or group involved in the Special Event, the Parade must provide proof of insurance as required by this agreement. Parade must furnish separate certificates for each group or activity not included or covered by Parade's insurance.

I. HOLD HARMLESS AND INDEMNIFICATION

Parade covenants to save, defend, keep harmless and indemnify the City, its officers, officials, employees or volunteers (collectively the "City") from and against any and all claims, loss, damage, injury, cost (including court costs and attorney fees), charges, liability or exposure, however caused, resulting from or arising out of or in any way connected to Parade's event or activity, including any and all participants, exhibitors, sub-vendors, or otherwise involved in the event or activity.

The other party agrees to investigate, handle, respond to, provide defense for and defend any such claims, demand, or suit at its sole expense, and agrees to bear all other costs and expenses related thereto even if it is groundless, false, or fraudulent.

J. PROOF OF INSURANCE

Parade is required to submit original proof of insurance on a form acceptable to the City of Plano. Certificates of Insurance similar to the ACORD form are acceptable. City will not accept Memorandums of Insurance or Binders as proof of insurance. City, at its own discretion, may require a copy of any policy presented to the City. Endorsement naming City of Plano as additional insured and waiver of subrogation must be submitted with proof of insurance.

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Two original certificates of insurance must be submitted. Certificates should be submitted to:

ICA - C/O City of Plano
P.O. Box 2566
Fort Worth, TX 76113-2566

And

City of Plano
Attention: Risk Management
P.O. Box 860358
Plano, TX 75086-0358

The following language must be included in the description box of the certificate. No other language will be accepted, and will result in the certificate being rejected.

“City of Plano is additional insured as respects the General and Auto Liability Policies. Waiver of subrogation in favor of City of Plano as respects Workers’ Compensation.”

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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 _____, 2007.

Notary

Handwritten signature/initials



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		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: 04/09/07		Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department:	Technology Services		Initials	Date	
Department Head	David Stephens	Executive Director	<i>[Signature]</i>	4.2.07	
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>		
Agenda Coordinator (include phone #): Lisa Prunty Ext. 7342					

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

CAPTION

Approval of a Distribution Pole License Agreement by and between the City of Plano and TXU Electric Delivery Company, Inc. in the amount not to exceed \$500,000 to allow the City of Plano to mount Mesh Network devices on agreed to distribution poles for the purpose of Motorola's City Wide Build Out, and authorizing the City Manager or his designee to execute all necessary documents. (S0527271C)

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2006-07	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	20,550,000	0	20,550,000
Encumbered/Expended Amount	0	-7,896,000	0	-7,896,000
This Item	0	-500,000	0	-500,000
BALANCE	0	12,154,000	0	12,154,000 0

FUND(S): **TECHNOLOGY IMPROVEMENTS (C.O.'s)**

COMMENTS: Funds will be provided by the sale of Certificates of Obligation. This item, in the amount of \$500,000, will leave a current year allocation of \$12,154,000 for the Moto Mesh project.

STRATEGIC PLAN GOAL: The distribution pole license agreement for the wireless mesh network extension relates to the City's Goal of "Service Excellence".

SUMMARY OF ITEM

Distribution Pole License Agreement by and between the City of Plano and TXU Electric Delivery Company. This agreement will allow the City to mount our Mesh Network devices on agreed to TXU Distribution Poles for the purpose of Motorola's City Wide Build Out. The cost to make the poles ready for connection is not to exceed \$500,000. (S0527371C)

List of Supporting Documents: Agreement, Memo	Other Departments, Boards, Commissions or Agencies
--	--

Interoffice Memo

Date: 03/13/07
To: David Stephens, Director Technology Services
Cc:
From: Chester M. Helt, Infrastructure Manager
RE: Mesh Network TXU Connection

We are recommending that the attached TXU Distribution Pole License Agreement be approved and the City Manager be authorized to sign this agreement. This agreement will allow us to mount our Mesh Network devices on agreed to TXU Distribution Poles for the purpose of Motorola's City-Wide Build out – Phase I.

Associated with this license agreement will be the distribution pole make-ready costs for mounting the wireless devices and the electrical service to provide electricity to these devices. The Distribution Pole make-ready costs for this Phase of our project is to be a not to exceed amount of \$ 500,000.00. A not to exceed amount of \$ 25,000.00 is needed to cover the electricity costs for the project.

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TXU Joint Use and TXU Legal's Comments are in Blue

The following are my comments concerning the agreement and points for consideration:

Paragraph 4.1.2 Preparation Cost – Note that TXU may demand additional fees and costs associated with the review and approval of permit applications.

Paragraph 4.2.5 Work with the Power Space – To the extent you may be placing equipment within the power space, all work must be done by a TXU approved contractor. (Is Scientel an approved contractor – One of the certificates of insurance that we provided)

Paragraph 4.3: We suggest you increase the number of attachments submitted per 30 days to 240 from 120. (At a rate of 120 per month, the phase 2 Plano rollout would take 11 months which would require us to start next week to finish this year.) USS typically can handle more than 120/month and will do so if the number is reasonable. If they got bogged down, Plano could pay for extra resources.

Paragraph 4.5 Unauthorized Work – TXU can collect a fee of up to \$50 for each installation that is not approved in advance.

Paragraph 4.8: We suggest that the number of installations that TXU witnesses be limited to the first 2 or 3 since the City of Plano will be billed for their time. TXU will not limit what they can inspect, but will actually do less if the contractor is doing what they are supposed to do.

Paragraph 10.4 Adjustments to Rental Rate - Each year the rate of \$23.03 per pole may increase to reflect increases in the CPI. There is no provision for a decrease if the CPI goes down. TXU typically does not have a rental reduction clause in any agreement.

Paragraph 10.6 Physical Inspection – A physical inspection of all installed equipment is required every 5 years with TXU personnel or contractors with the cost to be paid by the city. The cost of these inspections should be determined and budgeted.

Paragraph 12 Indemnification - TXU requires the city to indemnify TXU from all claims arising out of this agreement not caused by the sole negligence or misconduct of TXU. Generally we do not consent to such provisions without some qualifiers, such as, “to the extent allowed by law and without waiving any immunities, rights or defenses provided under state or federal law”. Paragraph 12.1 begins, “To the fullest extent allowed by Texas law, ...” no other changes are acceptable.. TXU specifically requires waiver of our immunities and defenses under the Texas Tort Claims Act or the Texas Workers’ Compensation Act. TXU will not negotiate this – we want to be made whole, and do not think it is unreasonable to ask for such protection.

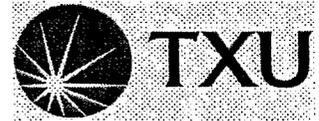
Paragraph 12.3 No Liability for Damage to Equipment – TXU will only assume responsibility for damage to our equipment if the damage was caused by the gross negligence or willful misconduct of TXU. Gross negligence should be changed to ‘simple’ negligence. TXU will not negotiate this. If we are grossly negligent, or do something willful, then we will pay for the damage. We are not going to put ourselves in a position where if, for example, our lineman working in the power

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space drops a tool and accidentally damages one of their attachments. For simple negligent acts, that risk should be borne by the City.

Paragraph 13.1/Exhibit E - TXU requires that we carry the insurance as listed in Exhibit E. We just need the notification that the City of Plano is self-insured. Does the City do the work themselves? If they don't, then the agreement doesn't require them to carry insurance, and their self insurance is fine. If City employees do the work, then they must provide the insurance.

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TXU Electric Delivery Company
Energy Plaza 15TH floor
1601 Bryan Street
Dallas, TX 75201

January 18, 2007

City of Plano
1117 E. 15 St.
Plano, Texas 75074

Attn: Michael Branch

Re: Attached Distribution Pole License Agreement No. S 0527371 C

Dear Mr. Branch:

Two (2) originals of the above referenced Agreement are being forwarded to you under cover of this letter. Please indicate your acceptance by signing these documents and returning both to the following address:

Ron Coan
TXU Electric Delivery Company
1601 Bryan St. Suite 19-010B
Dallas, Texas 75201

Please feel free to contact me at (214) 812-2211 if you have any questions, concerns or comments.

Sincerely,

A handwritten signature in black ink that reads "Ron Coan". The signature is written in a cursive style with a large initial "R".

Ron Coan
Supply Chain Representative
Energy Plaza, Suite 19-010B
1601 Bryan Street
Dallas, Texas 75201

Attachment

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DISTRIBUTION POLE LICENSE AGREEMENT

BY AND BETWEEN

CITY OF PLANO

AND

TXU ELECTRIC DELIVERY COMPANY

DATED

JANUARY 18, 2007

NO. S 0527371 C

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DISTRIBUTION POLE LICENSE AGREEMENT

January 18, 2007

WHEREAS, This DISTRIBUTION POLE LICENSE AGREEMENT (the "Agreement") is made by and between TXU ELECTRIC DELIVERY COMPANY, a Texas Corporation ("TXU Electric Delivery"), and the City of Plano, a municipality organized under the laws of and existing within the State of Texas, ("Licensee"); and

WHEREAS, TXU Electric Delivery is a public utility company transmitting and distributing electric power to its customers, and owns or has acquired the right to use certain rights of way and easements for the construction and operation of its business, and has installed distribution poles on portions of such rights of way and easements in connection with the construction and operation of its business; and

WHEREAS, Licensee desires to attach to and thereafter maintain its Equipment (as hereinafter defined) that is attached pursuant to this Agreement on Poles (as hereinafter defined) solely for the purpose of engaging in the Permitted Use; and

WHEREAS, TXU Electric Delivery is willing to allow Licensee, pursuant to the terms and conditions of this Agreement, to attach to and thereafter maintain its Equipment on Poles solely for the purpose of allowing Licensee to engage in the Permitted Use;

NOW, THEREFORE, in consideration of the covenants, agreements and undertakings set forth below, the Parties agree as follows:

The words and phrases listed in this Section 1 shall have the corresponding meanings set forth in this Section 1, wherever such words and phrases appear in this Agreement with an initial capital letter on each word. The meanings stated in this Section 1 shall control the meanings of all such words and phrases when so capitalized, notwithstanding the context or associations in which such words or phrases may appear in this Agreement. Words and phrases not listed in this Section 1, and words and phrases contained in this Section 1 without initial capital letters, shall have the meanings necessary to achieve the intentions of the Parties as expressed in this Agreement.

This word shall mean any other person or entity, directly or indirectly controlling or controlled by, or under the direct or indirect common control with, a specified person or entity. The term "control" (including the terms "controlling," "controlled by," and "under the direct or indirect common control with") of a specified person or entity means the possession, direct or indirect, of the power to: (a) vote fifty percent (50%) or more of the voting securities or other voting interests of any such entity; or (b) affirmatively direct, or cause the direction of, the management and policies of any such person or entity, whether through the ownership of voting shares, by contract or otherwise.

This word shall mean this Distribution Pole License Agreement, including all attachments and exhibits to this Distribution Pole License Agreement, whether now or hereafter existing.

EFFECTIVE DATE

RECITALS

SECTION 1. DEFINITIONS

1.1 Affiliate

1.2 Agreement

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DISTRIBUTION POLE LICENSE AGREEMENT

This phrase shall mean the individuals identified on Attachment B to this Agreement and any replacements for them made pursuant to the procedures prescribed in Section 21.

1.3 Authorized Representatives

This word shall mean any and all claims, losses, expenses, damages, demands, judgments, attorneys' fees, causes of action, suits and liability, whether in tort, warranty, contract, or asserted or claimed on any other basis, and of every kind and character, including, without limitation, claims, losses, expenses, damages, demands, judgments, causes of action, suits and liability on account of personal injuries or death, damage to property or economic loss.

1.4 Claims

This word shall mean the equipment, including appurtenances, attached by or on behalf of Licensee to any Pole. Such equipment shall include, without limitation, fiber optic or other cables, amplifiers, wires (including Service Drops), and appliances, together with associated cable messengers and anchors, as well as radios, antennas, cameras, and other wireless equipment.

1.5 Equipment

This phrase shall mean a public utility company, governmental entity, or other person or entity, which owns or controls equipment attached to any Pole, or has a right or privilege to attach equipment it owns or controls to a Pole.

1.6 Joint User

This word shall mean the City of Plano, Texas.

1.7 Licensee

This phrase shall mean (a) Licensee; (b) any official, employee, independent contractor, supplier, customer, licensee or concessionaire of Licensee; or (c) any director, officer, agent, servant, or employee of the independent contractor, supplier, customer, advertiser, client, licensee or concessionaire of Licensee.

1.8 Licensee Party

This term shall have the meaning specified in section 4.1.3.

1.9 NJUNS

This word shall mean the practice of tying or connecting fiber optic cable, conductors, or other telecommunications equipment, to Equipment attached to Poles.

1.10 Overlashing

This word shall mean TXU Electric Delivery or Licensee; collectively TXU Electric Delivery and Licensee shall be referred to as "Parties."

1.11 Party

This phrase shall mean a written application in the form of Attachment A to this Agreement, as the same may be amended by TXU Electric Delivery from time to time.

1.12 Permit Application

This phrase shall mean the transmission and exchange of information (including image and video signals) by means of the Equipment, among and between Licensee's facilities, solely in furtherance of Licensee's governmental services or purposes, and at no time for commercial or profit-making activities or purposes.

1.13 Permitted Use

This word shall mean distribution poles and street light standards owned solely by TXU Electric Delivery, each of which has a circuit with a nominal voltage of less than 69,000 volts. Such term does not

1.14 Poles

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DISTRIBUTION POLE LICENSE AGREEMENT

mean or include, without limitation, poles owned by TXU Electric Delivery which are used for the transmission, rather than distribution, of electric energy.

This phrase shall have the meaning specified in Section 4.1.2

This phrase shall mean a service line or wire connection between a Pole and a building or other structure, being served by other Equipment.

This word shall have the meaning specified in Section 4.2

This phrase shall mean TXU Electric Delivery Company.

This phrase shall mean: (a) TXU Electric Delivery; (b) any Affiliate of TXU Electric Delivery; (c) any director, officer, agent, servant, employee, independent contractor or supplier of TXU Electric Delivery or any Affiliate of it; or (d) any director, officer, agent, servant or employee of the independent contractors and suppliers of TXU Electric Delivery or any Affiliate of it.

This phrase shall mean any agent or contractor, as designated in writing by TXU Electric Delivery, and acting, at TXU Electric Delivery's discretion, for or on behalf of TXU Electric Delivery or in furtherance of TXU Electric Delivery's rights or obligations, pursuant to or in connection with this Agreement, and as authorized in accordance with such written designation.

This shall mean any space on the Poles normally and primarily utilized by TXU Electric Delivery for the distribution of electric power, including the space from the tops of the Poles down to and including the neutral space.

This shall mean any party retained by Licensee and acting for or on behalf of Licensee, or in furtherance of Licensee's obligations, pursuant to or in connection with this Agreement that is approved to perform certain installation, repair and maintenance functions on the Equipment attached to the Poles in the Power Space.

The singular of a word shall also refer to the plural and visa versa, unless the context otherwise requires.

Subject to the provisions of this Agreement, Licensee shall be permitted to attach Equipment to, and thereafter maintain, replace, relocate, repair, or modify its Equipment on, Poles, solely for the purpose of engaging in the Permitted Use.

Licensee shall not attach Equipment on any TXU Electric Delivery equipment or facilities other than Poles, including, without limitation, any portion of TXU Electric Delivery's underground duct system.

1.15 Preparation Costs

1.16 Service Drops

1.17 Standards

1.18 TXU Electric Delivery

1.19 TXU Electric Delivery Party

1.20 TXU Electric Delivery Representative

1.21 Power Space

1.22 Approved Contractor

1.23 Singular and Plural Words

SECTION 2. TXU ELECTRIC DELIVERY'S GRANT OF PRIVILEGE TO LICENSEE TO ATTACH, MAINTAIN, REPLACE, RELOCATE, REPAIR AND MODIFY EQUIPMENT ON POLES

2.1 Facilities to Which License Applies

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DISTRIBUTION POLE LICENSE AGREEMENT

Licensee shall exercise its license under this Agreement solely to engage in the Permitted Use, in accordance with the terms of this Agreement and any applicable franchises and/or permits needed to operate its Equipment and engage in the Permitted Use. Licensee shall not lease or sublet the Equipment, including, without limitation, dark fiber, to a third party, or otherwise allow a third party to attach its equipment to Licensee's Equipment; provided, however, that Licensee may allow third parties to use the Equipment on Licensee's behalf, but only in furtherance of Licensee engaging in the Permitted Use. Further, in the event that Licensee's Equipment requires the supply or provision of electric power, Licensee shall be solely responsible for separately arranging for such power with its retail electric provider.

2.2 Use of Equipment

Nothing in this Agreement shall be construed as requiring TXU Electric Delivery to give Licensee permission to use any particular Pole or to allow Licensee to continue to use any particular Pole after Licensee has received TXU Electric Delivery's permission to do so. TXU Electric Delivery may refuse Licensee permission to use any Pole, or may, as provided for in this Agreement, require Licensee to replace, relocate, modify, remove or perform other work with respect to Licensee's Equipment on any Pole.

2.3 Rights of Pole Use

No use, however extended, of Poles under this Agreement shall create or vest in Licensee any ownership or property right in them, but Licensee's rights in such Poles shall be and remain a mere license terminable at any time as provided herein. Nothing in this Agreement shall be construed to compel TXU Electric Delivery to maintain any Pole for any period of time.

2.4 No Ownership of Poles

**SECTION 3.
FRANCHISES, LICENSES
AND RIGHTS OF WAY**

Licensee represents and warrants that: (a) it has obtained, or prior to undertaking any construction or other work by which it contacts TXU Electric Delivery's property it will obtain, all legally required franchises, licenses, waivers, consents, approvals, easements, rights of way and permits needed to construct and operate its Equipment and engage in the Permitted Use; (b) it shall use its best efforts to maintain such franchises, licenses, waivers, consents, approvals, easements, rights of way and permits in full force and effect throughout the term of this Agreement; (c) it shall comply with such franchises, licenses, waivers, consents, approvals, easements, rights of way and permits in connection with engaging in the Permitted Use; and (d) it shall promptly notify TXU Electric Delivery in writing of any change in the status of such franchises, licenses, waivers, consents, approvals, easements, rights of way and permits. Upon TXU Electric Delivery's request, Licensee shall promptly deliver to TXU Electric Delivery documentation satisfactory to TXU Electric Delivery, evidencing that all such franchises, licenses, waivers, consents, approvals, easements, rights of way and permits have been obtained.

3.1 Licensee's Required Approvals and Rights of Way

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DISTRIBUTION POLE LICENSE AGREEMENT

TXU Electric Delivery shall not be required to obtain any additional license, waiver, consent, easement, right of way or permit in connection with this Agreement; provided, however, upon Licensee's request, TXU Electric Delivery may provide such assistance as TXU Electric Delivery deems appropriate to Licensee, in furtherance of obtaining any such license, waiver, consent, easement, right of way or permit, as Licensee may need in order to engage in the Permitted Use. Licensee shall reimburse TXU Electric Delivery for any expenses reasonably incurred by TXU Electric Delivery in providing such assistance. All costs of obtaining such additional licenses, waivers, consents, easements, rights of way or permits needed by Licensee will be borne by Licensee.

3.2 Additional Approvals and Rights of Way

TXU ELECTRIC DELIVERY MAKES NO REPRESENTATION OR WARRANTY OF ANY NATURE THAT ITS EXISTING OR FUTURE RIGHTS OF WAY, EASEMENTS OR OTHER PROPERTY RIGHTS, PRIVATE OR PUBLIC, WERE, ARE, OR WILL BE SUFFICIENT TO PERMIT THE ATTACHMENT, MAINTENANCE, REPLACEMENT, RELOCATION, REPAIR, MODIFICATION OR REMOVAL OF EQUIPMENT ON OR BETWEEN ANY POLES. FURTHER, TXU ELECTRIC DELIVERY MAKES NO REPRESENTATION OR WARRANTY OF ANY NATURE WITH RESPECT TO THE CONDITION OR FITNESS FOR A PARTICULAR PURPOSE OR USE OF ANY POLE OR POLES OR ANY OF ITS OTHER REAL OR PERSONAL PROPERTY WHICH LICENSEE MAY USE. LICENSEE CONFIRMS THAT IT HAS NOT IN THE PAST RELIED, IT IS NOT PRESENTLY RELYING, AND IT WILL NOT IN THE FUTURE RELY, ON ANY REPRESENTATION OR WARRANTY OF TXU ELECTRIC DELIVERY CONCERNING: (A) TXU ELECTRIC DELIVERY'S EXISTING OR FUTURE RIGHTS OF WAY, EASEMENTS OR OTHER PROPERTY RIGHTS, PUBLIC OR PRIVATE, OR (B) THE CONDITION OR FITNESS FOR A PARTICULAR PURPOSE OR USE OF ANY POLE OR POLES OR ANY OTHER REAL OR PERSONAL PROPERTY OR PROPERTY RIGHT OF TXU ELECTRIC DELIVERY.

3.3 **NO WARRANTIES AS TO TXU ELECTRIC DELIVERY'S RIGHTS OF WAY**

SECTION 4. ATTACHMENT, REPLACEMENT, RELOCATION AND MODIFICATION OF EQUIPMENT

Throughout the term of this Agreement, Licensee may designate a Pole or Poles on which it desires to attach, replace, relocate or modify any Equipment. For purposes of this requirement, modification of Equipment shall include, without limitation, any Overlashing, on or undertaken with respect to that Equipment or the equipment of any third party. Each such designation shall be made by Licensee, by submitting to TXU Electric Delivery or, as appropriate, a TXU Electric Delivery Representative, at least thirty (30) days before the date when Licensee desires to begin such work, a Permit Application, in such number, manner, and format as prescribed by TXU Electric Delivery from time to time, signed by any Authorized Representative of Licensee and specifying, in the appropriate spaces thereon, the type

4.1 Permit Applications for the Attachment, Replacement, Relocation or Modification of Equipment

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of work Licensee desires to perform and the Pole or Poles on which such work is to be performed, and providing drawings, data and specifications necessary to review and evaluate such Permit Application

Notwithstanding the requirements of Section 4.1, Licensee may attach a Service Drop to any Pole without first submitting a Permit Application requesting such attachment; provided, however, that Licensee shall notify TXU Electric Delivery within fifteen (15) days after Licensee makes such attachment. Licensee shall thereafter notify TXU Electric Delivery within fifteen (15) days after Licensee makes any change to a Service Drop previously attached to any Pole, as more fully described in Attachment A. Within thirty (30) days of receiving any such notice, TXU Electric Delivery may, at Licensee's sole cost, inspect the Service Drop, for the purpose of confirming that such attachment is in compliance with the Standards. In the event that TXU Electric Delivery (or, as appropriate, a TXU Electric Delivery Representative) determines that such attachment is not in compliance with the Standards, Licensee shall, at its sole cost, promptly correct any condition of such attachment, as necessary to ensure that such attachment is in compliance with the Standards.

Licensee acknowledges that TXU Electric Delivery or, as appropriate, a TXU Electric Delivery Representative, shall incur various costs and expenses in reviewing and responding to each Permit Application; such costs may include, without limitation, costs incurred in connection with inspection, design, construction, attachment or removal activities, and related processes, pertaining to the Poles or Equipment identified or described in the Permit Application (the "Preparation Costs"). TXU Electric Delivery may, in its sole discretion, invoice Licensee for any Preparation Costs, at any time after TXU Electric Delivery, or a TXU Electric Delivery Representative, has either incurred such Preparation Costs, or has provided to Licensee an estimate of such Preparation Costs to be reasonably incurred. Section 10.8 notwithstanding, Licensee shall pay the full amount of such Preparation Costs to TXU Electric Delivery within ten (10) days following its receipt of such invoice.

Licensee shall pay Preparation Costs, to the extent actually incurred by TXU Electric Delivery or a TXU Electric Delivery Representative, notwithstanding Licensee's withdrawal, cancellation, or suspension of the related Permit Applications, or TXU Electric Delivery's disapproval of such Permit Applications. In the event that Licensee fails to pay the full amount of such Preparation Costs to TXU Electric Delivery within that ten (10) day period, TXU Electric Delivery may suspend further efforts, pertaining to its review of and response to that Permit Application, until Licensee has paid the full amount of such Preparation Costs.

TXU Electric Delivery may, upon advance written notice of at least thirty (30) days, direct Licensee to submit each Permit Application by means of such formats and electronic procedures as TXU Electric Delivery may reasonably specify, consistent with customary or accepted practices within the utility industry. Such formats and electronic procedures may include, without limitation, those prescribed

4.1.1 Service Drops

4.1.2 Preparation Costs Incurred in Reviewing and Responding to Permit Application

4.1.3 Applicable Formats and Electronic Procedures

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by the National Joint Utilities Notification System ("NJUNS"). Licensee will thereafter submit each Permit Application by means of such formats and electronic procedures. In addition, Licensee will, to the extent directed by TXU Electric Delivery, make any other notifications or submittals, as required or contemplated by this Section 4, or by other provisions of this Agreement, by means of such formats and electronic procedures. Licensee shall be responsible, at its sole cost and expense, for obtaining the necessary resources and capabilities to enable it to use such designated formats and electronic procedures in the manner contemplated by this Agreement.

TXU Electric Delivery shall deny, approve or conditionally approve each Permit Application for the attachment, replacement, relocation or modification of Equipment by returning one copy of it to Licensee, reflecting TXU Electric Delivery's denial, approval or conditional approval in the appropriate spaces thereon. All work undertaken by or on behalf of Licensee on any Poles shall be performed in accordance with the following safety and engineering standards: (a) the National Electrical Safety Code; (b) the rules and regulations of the Occupational Safety & Health Administration ("OSHA"); (c) other applicable laws or regulations of any governing authority or regulatory body, having jurisdiction over the subject matter of this Agreement; and (d) TXU Electric Delivery's standards and procedures applicable to the Poles, as referred to or included in Attachment "C" hereto, which are reasonably in furtherance of and not expressly inconsistent with the other engineering and safety standards referenced above. Such engineering and safety laws, regulations, and standards, as described in subsections (a) through (d) above, both as effective on the Effective Date of this Agreement and as may be hereafter amended from time to time, are hereinafter collectively referred to as the "Standards". No approval or other response to a Permit Application shall constitute a guarantee or representation that adequate space exists on the subject Poles for the attachment of Equipment.

TXU Electric Delivery may approve a Permit Application for the attachment, replacement, relocation or modification of Equipment attached to Poles, on the condition that Licensee modifies the Permit Application in certain respects. In such event, TXU Electric Delivery or, as appropriate, a TXU Electric Delivery Representative shall return one copy of the Permit Application to Licensee, reflecting such conditional approval and detailing the required modifications to the Permit Application and the estimated costs of making any resulting or related modification or rearrangement, whether of Equipment or existing attachments. If Licensee is willing to assume all costs associated with such modification or rearrangement, Licensee shall return that copy of the Permit Application to TXU Electric Delivery within thirty (30) days of its receipt, signed by an Authorized Representative of Licensee and reflecting Licensee's acceptance of such costs in the appropriate spaces thereon. The copy of the Permit Application shall be accompanied by payment (payable to TXU Electric Delivery) of the amount of the estimated cost of making such modifications. Upon receipt by TXU Electric Delivery, or by a TXU Electric Delivery Representative, of the modified Permit Application and the accompanying payment, the Permit Application, as modified,

4.2 TXU Electric Delivery's Response to Permit Applications

4.2.1 Approval Conditioned Upon Modifications to Permit Application

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shall be deemed approved. Sections 4.2.2 and 4.2.3 are specific examples of situations in which TXU Electric Delivery may conditionally approve a Permit Application for the attachment, replacement, relocation, or modification of Equipment. Those sections shall not be construed as limiting TXU Electric Delivery's right to conditionally approve Permit Applications in other situations, or to impose other or additional conditions in the future.

If approval of a Permit Application for the attachment, replacement, relocation or modification of Equipment will require a modification or rearrangement of the attachments of Licensee, TXU Electric Delivery, any other TXU Electric Delivery Party, or a Joint User on any Pole, TXU Electric Delivery may approve the Permit Application on the condition that Licensee agrees to assume all costs associated with such modification or rearrangement. In such event, TXU Electric Delivery or, as appropriate, a TXU Electric Delivery Representative shall return one copy of the Permit Application to Licensee, reflecting such conditional approval and detailing the attachments that must be modified or rearranged, and the estimated cost of making the modification or rearrangement in the appropriate spaces thereon. If Licensee is willing to assume all costs associated with such modification or rearrangement, Licensee shall return that copy of the Permit Application to TXU Electric Delivery, within thirty (30) days of its receipt, signed by an Authorized Representative and reflecting Licensee's acceptance of such costs in the appropriate spaces thereon. The copy of the Permit Application shall be accompanied by payment (payable to TXU Electric Delivery) of the amount of the estimated cost of making such modification or rearrangement. Upon receipt by TXU Electric Delivery, or by a TXU Electric Delivery Representative, of the modified Permit Application, the Permit Application, as modified, shall be deemed approved.

4.2.2 Approval Conditioned Upon Modification or Rearrangement of Existing Attachments

If approval of a Permit Application for the attachment, replacement, relocation or modification of Equipment will require the replacement of one or more Poles to accommodate the attachments of Licensee, any other TXU Electric Delivery Party, and any Joint Users, TXU Electric Delivery may approve the Permit Application on the condition that Licensee agrees to assume all costs associated with the replacement of the existing Poles with new poles sufficient to accommodate the attachments of Licensee, any other TXU Electric Delivery Party, and any Joint Users. In such event, TXU Electric Delivery shall return a copy of the Permit Application to Licensee, reflecting such conditional approval and specifying the conditions for approval in the appropriate spaces thereon. If Licensee is willing to assume all costs associated with such replacement, Licensee shall return that copy of the Permit Application to TXU Electric Delivery, within thirty (30) days of its receipt, signed by an Authorized Representative and reflecting Licensee's acceptance of such costs in the appropriate spaces thereon. The copy of the Permit Application shall be accompanied by payment (payable to TXU Electric Delivery) of the amount of the estimated cost of making such replacement. Upon receipt by TXU Electric Delivery, or by a TXU Electric Delivery Representative, of the modified Permit Application, and said payment, the Permit Application, as modified, shall be deemed approved.

4.2.3 Approval Conditioned Upon Replacement of Poles

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If TXU Electric Delivery conditionally approves a Permit Application applicable to a Pole pursuant to the provisions of Sections 4.2.2 or 4.2.3, and at or about the same time TXU Electric Delivery approves a request of a third party for use of such Pole, requiring that such Pole be replaced, or that attachments thereon be modified or rearranged to provide additional space, to provide room for the attachments of TXU Electric Delivery, any other TXU Electric Delivery Party, Licensee and the third party, TXU Electric Delivery shall pro rate between Licensee and the third party the costs of such modification, rearrangement or replacement. Such costs, as pro rated to Licensee, shall be deemed to be and considered part of the Preparation Costs pertaining to that Permit Application. TXU Electric Delivery shall notify Licensee of such pro ration, and such modification, rearrangement or replacement shall take place as provided for in Sections 4.2.2 or 4.2.3.

Any work undertaken on or in furtherance of Licensee's use of the Equipment, on or within any Power Space of a Pole, shall be performed exclusively by an Approved Contractor. Work performed on other portions of a Pole need not be performed by an Approved Contractor. Licensee shall pay all costs and expenses incurred by such Approved Contractor in performing such work, and, in addition, shall reimburse TXU Electric Delivery for its costs reasonably incurred in furtherance of: (a) providing any material or equipment to the Approved Contractor, for use or inclusion on a Pole as part of the work; and (b) any required engineering assessment or other technical support provided by TXU Electric Delivery. Licensee shall provide fifteen (15) days prior written notice to TXU Electric Delivery of each occasion on which Licensee shall perform any activity within the Power Space.

Licensee shall limit its submission of Permit Applications for the attachment, replacement, relocation or modification of Equipment to TXU Electric Delivery so as to allow TXU Electric Delivery to respond to them in an orderly and timely fashion. In particular, and except as may be otherwise expressly agreed to by TXU Electric Delivery, Licensee shall, within any thirty (30) day period, submit no more than ten (10) Permit Applications, collectively requesting a total of no more than one hundred twenty (120) attachments to the Poles. TXU Electric Delivery shall use reasonable efforts to respond to each Permit Application within thirty (30) days of its submission. If Licensee submits more than one such Permit Application at the same time or submits additional Permit Applications during the pendency of another such Permit Application, Licensee shall designate, in writing, an order of priority for their review by TXU Electric Delivery. In the absence of such a designation, TXU Electric Delivery shall review them in the order of their submission.

Licensee may, with TXU Electric Delivery's prior express, written consent, submit Permit Applications that exceed the quantity limitations specified above, for either Permit Applications or attachments. TXU Electric Delivery shall not unreasonably withhold its consent to such submittals, provided that the Parties shall first agree to a reasonable period of time, in excess of thirty (30) days, during which TXU Electric Delivery may review and respond to such

4.2.4 Proration of Costs of Replacing Poles, or Modifying or Rearranging Attachments

4.2.5 Work Within the Power Space

4.3 Number and Priority of Permit Applications; Time to Respond

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submittals.

If Licensee desires to locate Equipment on any right of way, easement or other property right of TXU Electric Delivery on which no Poles or an insufficient number of Poles are located, Licensee shall so notify TXU Electric Delivery. Within a reasonable time after TXU Electric Delivery's receipt of such notice, the Parties shall commence good faith negotiations to determine the locations of Poles that will meet the present or anticipated future service requirements of both TXU Electric Delivery and Licensee. At its option, TXU Electric Delivery may install the necessary Poles, and Licensee shall pay all of the costs associated with their installation. Notwithstanding such payment, such Poles shall be owned by TXU Electric Delivery and Licensee shall not acquire any ownership or property interest in them.

Except as permitted by Sections 4.7 and 7.1, in the event Licensee attaches, replaces, relocates or modifies Equipment on one or more Poles without first obtaining TXU Electric Delivery's approval of a Permit Application for such work, Licensee shall pay TXU Electric Delivery as a processing charge, upon receipt of an invoice therefor and in addition to any unpaid rental due for such Equipment (together with interest applied to such unpaid rental, calculated in accordance with Section 10.8) and any other expenses or costs incurred by TXU Electric Delivery on account of such work, fifty dollars (\$50.00) for each such attachment, replacement, relocation or modification. In the event that the time of any such unauthorized work cannot be determined, such work shall be deemed to have occurred on the date succeeding the day on which the last physical inspection was made in accordance with Section 10.6; provided, however, that, with respect to any such unauthorized work, Licensee shall not be obligated to pay any unpaid rental, or any such fifty dollars (\$50.00) processing charge, for or attributable to any period more than five (5) years prior to the date on which TXU Electric Delivery notifies Licensee of such unauthorized work. At the option of and upon notice from TXU Electric Delivery, Licensee, at its sole risk and expense, shall either: (a) remove, replace, relocate or modify all or any portion of such Equipment within the time period specified in the notice; or (b) prepare and submit one or more Permit Applications for such Equipment. Licensee shall notify TXU Electric Delivery of the performance of such work within fifteen (15) days of its completion. If Licensee fails to perform such work within the period specified in the notice, TXU Electric Delivery may, without notice or demand to Licensee, and at the sole expense of Licensee, either perform all or any portion of such work or remove all or any portion of the Equipment from such Poles.

After the approval of a Permit Application for the attachment, replacement, relocation or modification of Equipment and the completion of all work required in connection with that Permit Application (including work for which any Preparation Costs were paid and other required engineering or make-ready construction work), Licensee may, at its sole expense, consistent with that approval, attach, replace, relocate or modify the Equipment identified in the Permit Application on the Poles specified in that Permit Application, during a period of ninety (90) days from the date of its approval, but not thereafter unless a new Permit Application is submitted to, and

4.4 Location of Equipment on TXU Electric Delivery Right of Way That Has Insufficient Poles

4.5 Unauthorized Work

4.6 Time to Complete Work After Approval of a Permit Application

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approved by, TXU Electric Delivery, pursuant to the procedures described in this Section 4. Notwithstanding Licensee's rights as provided for in the preceding sentence, in the event that Licensee determines that the locations, configuration, or other physical characteristics of equipment attached to such Poles (including, without limitation, equipment attached to such Poles by any third parties) are materially different from those identified or depicted in that approved Permit Application, or if Licensee otherwise determines that it cannot complete its work, as contemplated by or approved in that Permit Application, in accordance with the Standards, then Licensee shall promptly notify TXU Electric Delivery, and shall not undertake any such work until such time as TXU Electric Delivery has authorized such work. While performing any work identified in and approved pursuant to a Permit Application, the Licensee Party performing such work shall maintain a copy of that Permit Application at the location where such work is being performed. That copy of the Permit Application shall be made available for inspection by TXU Electric Delivery, or by TXU Electric Delivery Representatives, upon request.

Upon written notice from TXU Electric Delivery, Licensee shall, at its sole expense and within the period specified in the notice, replace, relocate or modify all or any portion of the Equipment on a Pole that TXU Electric Delivery requests in such notice. Licensee, in the exercise of its sole discretion and in accordance with the provisions of Sections 6.1, 6.5 and 8, may, instead of performing such work, remove all of the Equipment on the Pole, within the time period specified in the notice, and provided that such removal does not create a safety hazard or otherwise result in a condition of non-compliance with the Standards. Licensee may perform such work without prior notice to TXU Electric Delivery and without first submitting a Permit Application to TXU Electric Delivery; provided, however, Licensee shall notify TXU Electric Delivery of the performance of such work within fifteen (15) days of its completion. If Licensee fails to perform such work within the period specified in the notice, TXU Electric Delivery may, without notice or demand to Licensee and at the sole expense of Licensee, either perform all or any portion of such work, or remove all or any portion of the Equipment from that Pole.

Licensee shall notify TXU Electric Delivery before it begins any work authorized by a Permit Application, approved by TXU Electric Delivery pursuant to the procedures prescribed by this Section 4; such notice shall include, without limitation, the date on which Licensee anticipates beginning that work. TXU Electric Delivery may have a representative present during all or any portion of such work. Licensee shall notify TXU Electric Delivery of the attachment, replacement, relocation or modification of Equipment on any Pole within fifteen (15) days of the completion of such work. The notice shall identify the nature of the work and the Equipment and Poles involved. TXU Electric Delivery may inspect all or any portion of such work at any time after its completion, for the purpose of: (a) initially evaluating the work, to determine if it was performed in accordance with the Permit Application; and (b) subsequently evaluating any follow-up or "punch list" work performed by Licensee, reasonably determined to be necessary during the initial evaluation. Licensee

4.7 Relocation, Replacement or Modification of Equipment at TXU Electric Delivery's Request

4.8 Notice to TXU Electric Delivery

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shall reimburse TXU Electric Delivery or, as appropriate, TXU Electric Delivery Representatives, for all expenses incurred by TXU Electric Delivery or, as appropriate, TXU Electric Delivery Representatives, in connection with such entities' presence at or inspection of such work, or for all expenses otherwise incurred by TXU Electric Delivery or TXU Electric Delivery Representatives in completing the post-work evaluations described above.

Except as otherwise expressly authorized in writing by TXU Electric Delivery's designated representative, Licensee shall not attach any Equipment to any portions of a Pole consisting of: (a) guy wires or anchor rods; or (b) cross-arms or brackets. In addition, when making attachments to any non-wood Poles, Licensee shall comply with any applicable specialized attachment methods, as prescribed in the Standards or otherwise specified by TXU Electric Delivery.

At such time as any Equipment is attached to a Pole, Licensee shall attach or otherwise securely affix to that Equipment an identification tag, readable from ground level beneath the Pole that identifies such Equipment as belonging to Licensee and contains an emergency phone number at which Licensee's Authorized Representative may be contacted. The identification tag and required attachment hardware shall be provided by the Licensee. Licensee shall not attach any other identification tag to its Equipment, attached to any Pole, without the prior written consent of TXU Electric Delivery's designated representative. Licensee shall attach or otherwise affix the identification tag to its Equipment, attached to any Pole, as close to that Pole as is practicable, consistent with the Standards. As part of its routine and periodic maintenance of its Equipment, and throughout the term of this Agreement, Licensee will ensure that the identification tags remain securely attached or otherwise affixed to that Equipment, including any Equipment which may have been previously attached to a Pole without an identification tag. In the event that Licensee determines that any of its Equipment, attached to any Pole, is no longer tagged, Licensee shall thereafter promptly attach to that Equipment a replacement identification tag. In addition to and apart from the requirements provided for above in this Section 4.10, Licensee shall, with respect to its Equipment, comply with any other tagging, labeling, or other identification requirements, as may be imposed by any governmental entities.

Licensee shall, at its sole expense, maintain all Equipment on Poles in a safe condition and in thorough repair (including, without limitation, in compliance with the Standards). Licensee may perform maintenance and repair work on such Equipment without giving prior notice to, or obtaining the prior approval of, TXU Electric Delivery. If Licensee fails to maintain any such Equipment in a safe condition and in thorough repair, TXU Electric Delivery may, in its sole discretion, without notice or demand to Licensee and at the sole expense of Licensee, perform such repairs or maintenance as it deems necessary to restore that Equipment to a safe condition and in thorough repair. As part of its

4.9 Guy Wires, Anchor Rods, Cross-arms And Brackets/Non-Wood Poles

4.10. Identification of Licensee's Equipment

**SECTION 5.
MAINTENANCE AND
REPAIR OF EQUIPMENT**

5.1 Maintenance of Equipment

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maintenance work, Licensee shall promptly remove, from the vicinity of any Pole, any debris (including, without limitation, wood chips or cut limbs) resulting from Licensee's maintenance or repair of its Equipment. Licensee's right to maintain and repair its Equipment, as provided for in this Section 5.1, shall not extend to or include the attachment or other positioning of new Equipment, or the placement of new facilities to upgrade or increase the capacity of Licensee's existing Equipment, or any Overlashing, of or pertaining to existing Equipment.

At an interval no more frequent than once every twelve (12) months, TXU Electric Delivery may inspect all or any portion of the Equipment on any Pole, for the purpose of determining whether such Equipment is in a safe condition and in thorough repair (including, without limitation, in compliance with the Standards). Upon notice from TXU Electric Delivery, Licensee shall, at its sole expense and within such reasonable period as may be specified in the notice, perform any repair or maintenance work, relating to the Equipment on any Pole specified in such notice, as necessary to ensure that such Equipment is in a safe condition and in thorough repair. Licensee shall notify TXU Electric Delivery of the performance of such work within fifteen (15) days of its completion. If Licensee fails to perform such work, TXU Electric Delivery may, without notice or demand to Licensee, and at the sole expense of Licensee, either perform all or any portion of such necessary work, or remove all or any portion of the Equipment from that Pole. TXU Electric Delivery's actions and decisions in either performing or choosing not to perform such inspections shall not operate to relieve Licensee of any responsibility, obligation, or liability Licensee may have pursuant to this Agreement.

5.2 Routine Inspection of Equipment by TXU Electric Delivery

In addition to the inspection rights provided for in Section 5.2, in the event that TXU Electric Delivery should otherwise determine or discover that one or more of Licensee's attachments of Equipment to Poles is not in compliance with the Standards or, in TXU Electric Delivery's reasonable judgment, otherwise presents a safety hazard, TXU Electric Delivery may, at Licensee's expense, inspect all or any portion of Licensee's other Equipment on any Pole, for the purpose of determining whether such Equipment is in a safe condition and in thorough repair (including, without limitation, in compliance with the Standards). Upon notice from TXU Electric Delivery, Licensee shall, at its sole expense and within such reasonable period as may be specified in the notice, perform any repair or maintenance work, relating to the Equipment on any Pole specified in such notice, as necessary to ensure that such Equipment is in a safe condition and in thorough repair. Licensee shall notify TXU Electric Delivery of the performance of such work within fifteen (15) days of its completion. If Licensee fails to perform such work, TXU Electric Delivery may, without notice or demand to Licensee, and at the sole expense of Licensee, either perform all or any portion of such necessary work or remove all or any portion of the Equipment from that Pole. TXU Electric Delivery's actions and decisions in either performing or choosing not to perform such inspections shall not operate to relieve Licensee of any responsibility, obligation, or liability Licensee may have pursuant to this Agreement.

5.3 Special Inspection of Equipment by TXU Electric Delivery

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SECTION 6. REMOVAL OF EQUIPMENT

Licensee, in the exercise of its sole discretion, may remove any Equipment on any Pole, without prior notice to or the prior approval of TXU Electric Delivery; provided, however, that Licensee shall submit a Permit Application pertaining to such completed work, pursuant to Section 6.5. If TXU Electric Delivery determines that such removal or related work performed by Licensee resulted in a safety hazard (including, without limitation, a condition of non-compliance with the Standards) then Licensee shall, at its sole expense and within such reasonable period as may be specified in the notice, replace such Equipment or perform any other corrective action, as necessary to correct that safety hazard or other condition of non-compliance. Licensee shall notify TXU Electric Delivery of the performance of such work within fifteen (15) days of its completion. If Licensee fails to perform such work within the period specified in the notice, TXU Electric Delivery may, without notice or demand to Licensee and at the sole expense of Licensee, perform all or any portion of such work.

In the event that Licensee either: (a) discontinues its use of any Equipment for purposes of the Permitted Use; or (b) does not use any Equipment, for purposes of the Permitted Use, for any consecutive period of one-hundred eighty (180) days, then Licensee shall, at its sole expense and within thirty (30) days of either such occurrence, remove that Equipment from any Pole. The Overlapping of any Equipment shall not constitute use of that Equipment, for purposes of this paragraph.

Upon notice from TXU Electric Delivery, Licensee shall, at its sole expense, remove all of the Equipment on any Pole, which TXU Electric Delivery is abandoning, or otherwise discontinuing its use of for purposes of providing electric utility service (including, without limitation, discontinuance due to TXU Electric Delivery being required to relocate its facilities to underground locations). Licensee shall remove all such Equipment within thirty (30) days of receiving such notice.

In the event that TXU Electric Delivery contracts to sell or sells a Pole on which Equipment is attached, TXU Electric Delivery shall notify Licensee of such fact. Unless Licensee obtains the permission of the new owner of the Pole to maintain its Equipment on the Pole, Licensee shall, at its sole expense, remove the Equipment from that Pole within the time period specified in such notice.

Licensee shall, at its sole expense, remove all of the Equipment on all Poles prior to the end of the term of this Agreement (as provided for in Section 9) or within thirty (30) days of receiving notice of TXU Electric Delivery's intent to terminate this Agreement for other reasons, as expressly provided for in this Agreement (including, without limitation, pursuant to Section 11).

6.1 Removal of Equipment by Licensee

6.2 Removal of Equipment Upon Abandonment of Pole, or Discontinuance of Utility Service

6.3 Removal when TXU Electric Delivery Sells a Pole

6.4 Removal Upon Termination of this Agreement

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Whenever Licensee removes any Equipment from a Pole, it shall submit to TXU Electric Delivery, within fifteen (15) days thereafter, a Permit Application, signed by an appropriate Authorized Representative and identifying, in the appropriate spaces thereon, the Equipment removed and the Pole from which it was removed.

6.5 Submission of a Permit Application Following the Removal of Equipment on a Pole

In the event that Licensee fails to remove all or any portion of the Equipment on any Pole within the time period required by the provisions of this Section 6 or by other applicable provisions of this Agreement, TXU Electric Delivery may, without notice or demand to Licensee, remove such Equipment. Such removal shall be at the sole expense of Licensee and Licensee shall pay TXU Electric Delivery, upon receipt of an invoice therefor and in addition to any expenses incurred by TXU Electric Delivery in connection with such removal, as a processing charge, fifty dollars (\$50) for each Pole from which Equipment is removed.

6.6 Licensee's Failure to Timely Remove Equipment

**SECTION 7.
EMERGENCIES**

In the event of an emergency pertaining to a Pole, Licensee shall, at its sole risk and expense, have the right to attach, replace, relocate or modify Equipment on any Pole without first obtaining TXU Electric Delivery's approval of a Permit Application for such work; provided, however, that before performing such work, an Authorized Representative shall obtain the oral approval of TXU Electric Delivery's designated representative, and provided further that such work is performed within the time period and under such conditions as may be reasonably specified by such representative of TXU Electric Delivery. Any such oral approval shall be confirmed, within five (5) days of the performance of the work, by Licensee to TXU Electric Delivery in writing, identifying both the work performed and the Poles affected. If TXU Electric Delivery determines that such emergency attachment, replacement, relocation or modification resulted in a safety hazard (including, without limitation, a condition of non-compliance with the Standards), and TXU Electric Delivery provides Licensee with a written notice of such determination, then Licensee shall, at its sole expense and within such reasonable period as may be specified in the notice, remove, replace, relocate or modify all or any portion of such Equipment, as necessary to correct that safety hazard or other condition of non-compliance. Licensee shall notify TXU Electric Delivery of the performance of such work within fifteen (15) days of its completion. If Licensee fails to perform such work, TXU Electric Delivery may, without notice or demand to Licensee and at the sole expense of Licensee, either perform all or any portion of such work or remove the Equipment from the Pole.

7.1 Licensee's Rights in an Emergency

In the event of an emergency, TXU Electric Delivery may, without prior notice to Licensee and at Licensee's sole expense, permanently or temporarily replace, relocate, modify, remove or perform any other work in connection with the Equipment on any Pole. In such event, TXU Electric Delivery shall notify Licensee of both the work performed

7.2 TXU Electric Delivery's Rights in an Emergency

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and the Pole affected by such work within a reasonable time after its performance.

Licensee agrees that it will not, directly or indirectly, create, incur, assume or suffer to exist any lien (whether mechanics, materialman or other) or other encumbrances on the Equipment attached to any Pole, or to any property, real or personal, owned or controlled by a TXU Electric Delivery Party, resulting from or arising out of any work performed by or on behalf of Licensee (including, without limitation, by any Licensee Party) pursuant to this Agreement. Licensee will, at its sole expense, promptly take any action as may be necessary to discharge any such lien or encumbrance.

All work performed by any Licensee Party, pursuant to or within the scope of this Agreement, shall be undertaken and completed in a safe, good and workmanlike manner (including, without limitation, in compliance with the Standards) and shall not interfere with the use of any equipment of any TXU Electric Delivery Party or any Joint User. Licensee shall ensure that any Licensee Party, performing any such work, is properly trained with respect to, and otherwise familiar with, all applicable safety procedures and requirements (including, without limitation, those pertaining to the risks associated with making contact with electrical conductors, and prohibitions against coming into closer proximity to the electrical conductors of TXU Electric Delivery than is permitted by the Standards).

This Agreement, if not terminated earlier in accordance with the provisions of Section 11, shall continue in effect for a term of one (1) year and thereafter until terminated as provided herein. This Agreement may be terminated in its entirety or with respect to any one or more of the Poles, or with respect to one or more designated areas in which TXU Electric Delivery provides utility service, at the end of the initial one year term, or at any time thereafter, by either Party giving to the other Party at least sixty (60) days' written notice. Upon termination of this Agreement for any reason, all obligations of the Parties pursuant to this Agreement shall terminate, except for those which, by their sense and context, are intended to survive such termination, including, without limitation, obligations pertaining to indemnification.

In each calendar year during the term of this Agreement, Licensee shall make an advance rental payment to TXU Electric Delivery. During the first calendar quarter of each year, TXU Electric Delivery shall submit to Licensee an invoice designating the advance rental payment due for that calendar year; further, TXU Electric Delivery shall make a reasonable effort to submit that invoice to Licensee during the month of January of each year. That invoice shall be paid in accordance with the provisions of Sections 10.8 and 10.9.

SECTION 8. DISCHARGE OF LIENS; PERFORMANCE OF WORK

8.1 Discharge of Liens or other Encumbrances

8.2 Licensee's Performance of Work

SECTION 9. TERM

SECTION 10. RENTAL AND OTHER PAYMENTS

10.1 Advance Rental Payment

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DISTRIBUTION POLE LICENSE AGREEMENT

The advance rental payment shall be equal to the rental payment specified in Section 10.3 times the sum of the individual Poles on which Equipment is attached, on January 1 of the calendar year for which the advance rental payment is being paid, as determined from the perpetual inventories maintained by the Parties pursuant to Section 10.6

10.2 Computation of the Advance Rental Payment

The rental rate for attachments of Equipment to each Pole shall be in the amount specified in Attachment D.

10.3 Rental Rate

The rental rate will be adjusted each calendar year by the amount of any increase in the Consumer Price Index (published by the Bureau of Labor Statistics of the U.S. Department of Labor), for the twelve month period ending September 30 of the year immediately preceding the year with respect to which the rate adjustment is being made.

10.4 Adjustments to Rental Rate

The advance rental payment may be adjusted, at TXU Electric Delivery's discretion, for all additional Poles on which Equipment is attached during any calendar year. If invoiced by TXU Electric Delivery, Licensee shall make payments to TXU Electric Delivery reflective of additional Poles on which Equipment is attached at any time during such calendar year.

10.5 Adjustment to the Advance Rental Payment

TXU Electric Delivery shall maintain a perpetual compilation of the Permit Applications and notices submitted to it by Licensee pursuant to this Agreement. Licensee and TXU Electric Delivery shall maintain perpetual inventories of the Equipment attachments on Poles and the Poles on which Equipment is attached. Such inventories shall be based on the physical inspections specified in this Section 10.6, together with the Permit Applications and notices pertaining to attachments of Equipment required by this Agreement. The Parties will conduct, or will cause to have conducted, a physical inspection of the Equipment attached to Poles every five (5) years, at a time designated by TXU Electric Delivery. Such inspection will be conducted either: (a) by joint physical inspection, utilizing both Licensee and TXU Electric Delivery employees; or (b) when TXU Electric Delivery and Licensee employees are not available to perform the inspection, by a contractor selected by TXU Electric Delivery, in its reasonable judgment. In the event that the inspection is performed by a contractor, TXU Electric Delivery will, from time to time during the course of that inspection, review the contractor's work to assess whether the inspection is being performed accurately. TXU Electric Delivery shall use reasonable efforts to have the physical inspection conducted in cooperation with Joint Users (including, as appropriate, having the inspection performed with respect to all attachments on Poles, rather than with respect to just the Licensee's attachments), and the costs of any joint physical inspection, undertaken in cooperation with Joint Users, shall be borne pro rata by the Licensee and Joint Users. Nevertheless, Licensee will otherwise be charged for and shall pay all costs for, or incurred in connection with, the inspection, regardless of the method utilized. Such costs will include, but are not limited to, costs of materials employees, and contractors, transportation costs, and any miscellaneous charges necessary for conducting the inspection.

10.6 Compilation of Permit Applications and Notices; Perpetual Inventories; Physical Inspection

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DISTRIBUTION POLE LICENSE AGREEMENT

Licensee acknowledges that TXU Electric Delivery may, in its discretion, contract with or otherwise arrange for one or more TXU Electric Delivery Representatives to act for or on behalf of TXU Electric Delivery, or in furtherance of TXU Electric Delivery's rights, pursuant to or in connection with this Agreement. Licensee agrees that TXU Electric Delivery, or a TXU Electric Delivery Representative, may invoice Licensee for all costs and expenses incurred by TXU Electric Delivery, or by TXU Electric Delivery Representatives, in furtherance of such actions.

Subject to Section 4.1.2 pertaining to Preparation Costs, Licensee shall pay each invoice submitted to it by TXU Electric Delivery or, as appropriate, by a TXU Electric Delivery Representative, within thirty (30) days of its receipt of that invoice and will remit payment to the address indicated on each invoice, as TXU Electric Delivery or TXU Electric Delivery Representatives may designate from time to time. Any portion of an invoice not paid when due shall bear interest at a rate of one and one-half percent (1.5%) per month or the maximum rate allowed by law, whichever is less, unless such amount is disputed and is paid into escrow pursuant to Section 10.9.

Unless otherwise agreed to by the Parties, whenever Licensee in good faith disputes a payment, it shall deposit the amount in dispute in an interest bearing escrow account acceptable to TXU Electric Delivery within the time period provided by Section 10.8. Any amount so deposited shall remain in such escrow account until the dispute is resolved. Upon resolution of the dispute, the amount so deposited, plus interest earned on that amount, shall be paid to the Party determined to be entitled to the amount in the escrow account.

If Licensee:

- (a) fails to pay fully or deposit in escrow all monies due TXU Electric Delivery or TXU Electric Delivery Representatives on the date that the payment is due, pursuant to the provisions of Section 10, and such failure shall continue, in whole or in part, for a period of more than thirty (30) days; or

10.7 Licensee's Payment of Costs and Expenses Incurred by TXU Electric Delivery or TXU Electric Delivery Representatives

10.8 Payment of Invoices

10.9 Disputed Invoices or Adjustments

SECTION 11. DEFAULT AND TERMINATION

11.1 Default by Licensee

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DISTRIBUTION POLE LICENSE AGREEMENT

(b) fails to comply with any term, condition or covenant of this Agreement, other than any provision providing for the payment of monies due TXU Electric Delivery or TXU Electric Delivery Representatives, and such failure remains uncured for a period of thirty (30) days following Licensee's receipt of written notice of the kind, character and nature of the failure by Licensee (or if such non-compliance cannot reasonably be cured within thirty (30) days of such notice, Licensee has not commenced to cure and satisfy the failure within thirty (30) days and shall not thereafter proceed to cure such failure with reasonable diligence and good faith); then, in any such event, Licensee shall pay all monies owed to TXU Electric Delivery or TXU Electric Delivery Representatives under this Agreement in accordance with the provisions of Section 10, and TXU Electric Delivery may pursue any one or more of the following remedies, and TXU Electric Delivery Representatives may pursue the remedies contained in subsection (iii) below, without any notice or demand whatsoever to Licensee:

(i) cancel and terminate this Agreement in its entirety, or with respect to one or more designated areas in which TXU Electric Delivery provides utility service, or with respect to any one or more of the Poles; or

(ii) revoke Licensee's permission to use any Poles involved in such default or non-compliance; or

(iii) institute suit or other adjudicatory proceedings.

Licensee shall pay all of the costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by TXU Electric Delivery or, as appropriate, TXU Electric Delivery Representatives, by reason of the foregoing events of default, and in seeking any remedy for, or relief from, such events of default. TXU Electric Delivery's, or TXU Electric Delivery Representatives', pursuit of any of the respective remedies available to them pursuant to this Section 11.1, shall not preclude TXU Electric Delivery or TXU Electric Delivery Representatives from pursuing any other remedies provided for in this Agreement or otherwise provided by law, nor shall TXU Electric Delivery's, or TXU Electric Delivery Representatives', pursuit of any remedy provided in this Agreement constitute a forfeiture or waiver of any payment of monies due to TXU Electric Delivery or TXU Electric Delivery Representatives under this Agreement, or of any damages accruing to TXU Electric Delivery or TXU Electric Delivery Representatives by reason of Licensee's failure to comply with any of the terms, conditions or covenants of this Agreement.

In the event any lawfully required franchise, license, permit, waiver, consent or easement held by Licensee, and required for or in furtherance of Licensee's use of any Equipment attached to Poles, is revoked or denied to Licensee for any reason, in whole or in part, Licensee's rights under this Agreement shall immediately terminate to such extent, and Licensee shall, within thirty (30) days, remove such Equipment from Poles as may be required to comply with such revocation or denial of authority.

11.2 Termination
Upon
Licensee's Loss
of its Franchise

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DISTRIBUTION POLE LICENSE AGREEMENT

**SECTION 12.
INDEMNIFICATION AND
CONSEQUENTIAL
DAMAGES**

**12.1 Obligation to
Indemnify**

- (a) To the fullest extent allowed by Texas law, Licensee agrees to defend, protect, indemnify and hold harmless each TXU Electric Delivery Party from and against all Claims asserted by any person or entity, including, without limitation, any Licensee Party, in any way arising out of, related to, caused by or incident to this Agreement, including, but not limited to: (i) Claims arising out of, related to, caused by or incident to Licensee's breach of this Agreement or any representation, warranty, covenant or obligation of Licensee set forth herein; (ii) Claims arising out of, related to, caused by or incident to the attachment, maintenance, replacement, relocation, repair, modification, removal, use or operation of, or in any other way arising out of, related to, caused by or incident to, any Equipment; (iii) Claims arising out of, relating to, caused by or incident to the Permitted Use; or (iv) Claims arising out of, related to, caused by or incident to any interruption, disruption, interference or termination of the Permitted Use. **IT IS THE EXPRESS INTENT OF THE PARTIES THAT, FOR THE PURPOSES OF THIS SECTION 12.1(a), CLAIMS SHALL INCLUDE, BUT NOT BE LIMITED TO, CLAIMS ARISING OUT OF OR RESULTING FROM THE TXU ELECTRIC DELIVERY PARTIES' SOLE OR CONCURRENT (1) NEGLIGENCE, (2) STRICT LIABILITY, OR (3) OTHER FAULT OF ANY NATURE; PROVIDED, HOWEVER, THAT, IN THE EVENT THAT A FINDING AS TO THE COMPARATIVE FAULT OR RESPONSIBILITY OF THE TXU ELECTRIC DELIVERY PARTIES AND THE LICENSEE PARTIES IS MADE OR ENTERED BY A COURT, LICENSEE SHALL ONLY BE OBLIGATED TO INDEMNIFY THE TXU ELECTRIC DELIVERY PARTIES AS TO THAT PERCENTAGE OR PORTION OF FAULT OR RESPONSIBILITY ATTRIBUTABLE TO THE LICENSEE PARTIES.**
- (b) The obligations provided for in this Section 12.1(b) apply to any of Licensee's contracts with contractors, whether now or hereafter in effect, under the terms of which any such contractors attach, maintain, replace, relocate, or modify any Equipment on a Pole (the "Attachment Contracts"). Licensee shall use its best efforts to ensure that each of the Attachment Contracts includes provisions whereby the subject contractor acknowledges and agrees that TXU Electric Delivery (whether identified by name or description) shall have the full benefit of any indemnity obligation, insurance coverage (with TXU Electric Delivery being designated as an insured or additional insured Party under the terms of the applicable policies), and limitations of liability, applicable to or protecting Licensee under the terms of that contractor's Attachment Contract.
- (c) To the extent necessary to permit the TXU Electric Delivery Parties to enforce the indemnity obligations provided for in Section 12.1(a), Licensee agrees that, with respect to any Claims, it shall and does, to the fullest extent legally permissible, hereby

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DISTRIBUTION POLE LICENSE AGREEMENT

waive, and shall require each of its insurers to waive, as to the TXU Electric Delivery Parties, any and all defenses, limitations of liability, or other protections Licensee may have or claim pursuant to the laws of the State of Texas, including, without limitation, those provided for in the Texas Tort Claims Act (Chapter 101 of the Texas Civil Practice and Remedies Code), and the Texas Workers' Compensation Act (Chapter 401 of the Texas Labor Code).

- (d) The Parties acknowledge and agree that, within their lawful and reasonable contemplation, all payments which may be made by Licensee, pursuant to its indemnity obligations or other potential liabilities under this Agreement, can and will reasonably be paid and satisfied from some fund in the immediate control of Licensee, readily available for the purpose of satisfying and paying such indemnity obligations and other potential liabilities. Nevertheless, in the event any such indemnity obligation or potential liability accrues and becomes ascertainable in amount and, further, if the amount of such indemnity obligation or liability exceeds the funds then available to Licensee to satisfy such indemnity obligation or liability, Licensee agrees that, in each year during which such indemnity obligation or liability ascertainable in amount exists, arising from or relating to a Claim, it will, promptly and as soon as permissible under applicable law, levy a tax, with full allowances being made for tax delinquencies and costs of tax collection, which will be sufficient to raise and produce the money required (including, without limitation, any applicable sinking fund) to ensure that all indemnity obligations or liabilities ascertainable in amount, arising from or relating to a Claim, are satisfied and discharged.
- (e) If, for whatever reason, any provision of this Agreement is held by a court to be in conflict with or contradictory to Licensee's duty to indemnify the TXU Electric Delivery Parties, as provided for in this Agreement, such conflicting or contradictory provision shall be subjugated to, and shall not impair, affect, or invalidate, Licensee's duty to indemnify the TXU Electric Delivery Parties, and such duty shall remain in full force and effect.
- (f) With regard to Licensee's obligations of indemnification and other potential liabilities provided for in this Agreement, the Parties acknowledge and agree that Licensee has entered into this Agreement in furtherance of public purposes, and that no payment made or obligation incurred by Licensee hereunder shall constitute or be construed as an application or lending of Licensee's credit, or an application of public funds for private use.

Under no circumstance whatsoever shall any TXU Electric Delivery Party be liable to Licensee in contract, in tort (INCLUDING SOLE OR CONCURRENT, ACTUAL OR IMPUTED NEGLIGENCE, OR STRICT LIABILITY), under any warranty, or otherwise, for any special, indirect, incidental, or consequential loss or damage of any nature, including, without limitation, for the cost of capital, loss of profits or revenues or the loss of use thereof, attorneys' fees (except as otherwise expressly provided for in this Agreement) or the cost of purchased or replacement services, or claims of Licensee's users, licensees, concessionaires, or any other person, firm or entity in such regard,

12.2 The Licensee's Waiver of Consequential Damages

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DISTRIBUTION POLE LICENSE AGREEMENT

and to the extent allowed by law, Licensee agrees to indemnify and hold each TXU Electric Delivery Party harmless from and against such losses or damages.

No TXU Electric Delivery Party shall have any liability to any Licensee Party, for any expense, damage or loss caused, in whole or in part, by the action of any TXU Electric Delivery Party that damages or injures any Equipment, except to the extent directly attributable to the gross negligence or willful misconduct of a TXU Electric Delivery Party.

Within a reasonable period after receiving or becoming aware of the assertion of any Claim within the scope of Section 12.1, TXU Electric Delivery shall notify Licensee of the assertion of such Claim. TXU Electric Delivery's failure to provide such notice shall not, however, alter or, in any manner, impair Licensee's obligations of indemnity, as provided for in Section 12.1, except to the limited extent that such failure directly and adversely affects Licensee's efforts or ability to fulfill such obligations of indemnity.

Licensee shall, a) at its sole expense and during the term of this Agreement, purchase and maintain insurance in accordance with the requirements of Attachment E (Licensee's Insurance Requirements); or b) if Licensee does not perform the installation, maintenance, repair, or removal of Equipment located on the Poles (or other TXU Electric Delivery facilities), and utilizes a contractor(s) for the installation, maintenance, repair, or removal of Equipment located on the Poles (or other TXU Electric Delivery facilities), Licensee shall at its sole expense, purchase and maintain, during the term of this Agreement, insurance policies with substantial and sound insurers, having coverage of the types and in the amounts specified in the Certificate of Insurance (or some other proof of insurance), if any, submitted by Licensee prior to the execution of this Agreement and attached hereto as Attachment F (Licensee's Proof of Insurance Coverage). Licensee represents and warrants to TXU Electric Delivery that all contractors of Licensee responsible for the installation, maintenance, repair, or removal of Equipment located on the Poles (or other TXU Electric Delivery facilities) will comply with items 1 through 8 of Licensee's Insurance Requirements.

Licensee will notify TXU Electric Delivery as soon as practical of any accidents or occurrences resulting in injuries to any person, including death, or any property damage (including, without limitation, damage to any Equipment or Pole), arising out of or relating to this Agreement.

Nothing in this Section 13, nor the provision of any insurance required by this Section 13, shall affect, limit or otherwise reduce the indemnity obligations provided for in Section 12.

12.3 No Liability for Damage to Equipment or Termination, Disruption or Interruption of Service

12.4 Notice Of Claim To Licensee

SECTION 13. INSURANCE

13.1 Coverage Requirements

13.2 Notification of Accident, Injury, or Damage

13.3 Enhancement of Indemnification

SECTION 14. NON-EXCLUSIVITY OF THIS AGREEMENT

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DISTRIBUTION POLE LICENSE AGREEMENT

The license granted to Licensee hereunder with respect to any Pole shall be non-exclusive, in that TXU Electric Delivery reserves the right to use any or all of such Pole for any lawful purpose or business, or to lease or otherwise permit any other person or entity the right to lease or use any or all of such Pole for any lawful purpose.

Licensee has and retains whatever rights it may have to install and construct its Equipment, separate and apart from this Agreement; provided, however, that in no event shall Licensee make any use of Poles, or any other facilities or equipment of TXU Electric Delivery, except in accordance with, and subject to, the terms and conditions of this Agreement; and provided further, however, that Licensee shall not locate poles, guys, or other facilities where they will (a) interfere with access to Poles or the operation of TXU Electric Delivery's electric system; or (b) result in or cause a condition of non-compliance with any provision of the Standards.

In addition to the limitations provided for in, and without limiting Licensee's responsibilities under, Section 2.2, Licensee shall not, without the prior written consent of TXU Electric Delivery, transfer, assign, delegate or sublet any of its rights or obligations under this Agreement.

Except to the extent expressly consented to by TXU Electric Delivery (such consent not to be unreasonably withheld), no permitted transfer, assignment, delegation or subletting by Licensee shall release or relieve Licensee, or Licensee's successor-in-interest, of any of its obligations under this Agreement, and Licensee, or Licensee's successor-in-interest, shall remain fully obligated and liable to TXU Electric Delivery under this Agreement, notwithstanding any such permitted transfer, assignment, delegation or subletting.

TXU Electric Delivery may transfer, assign or delegate any of its rights or obligations under this Agreement at any time, without the consent of or prior notice to Licensee. TXU Electric Delivery shall notify Licensee of any such transfer, assignment or delegation within thirty (30) days thereof.

This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns, where assignment is permitted by this Agreement.

Licensee shall pay, in the normal course of its business and before they become delinquent, all taxes, assessments, fees and other governmental charges of any kind whatsoever properly levied or assessed against it, or against the Equipment or otherwise pertaining to the Permitted Use, including, without limitation, all franchise, license, permit, and other fees due to any cities or other governmental bodies in connection with Licensee engaging in the Permitted Use.

14.1 TXU Electric Delivery

14.2 Licensee

SECTION 15. ASSIGNMENTS

15.1 Assignment by Licensee

15.2 Non-Release

15.3 Assignment by TXU Electric Delivery

15.4 Successors and Assigns

SECTION 16. LICENSEE'S PAYMENT OF TAXES, ASSESSMENTS, FEES AND OTHER GOVERNMENTAL CHARGES

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DISTRIBUTION POLE LICENSE AGREEMENT

THIS AGREEMENT IS GOVERNED BY AND WILL BE CONSTRUED IN ACCORDANCE WITH LAWS OF THE STATE OF TEXAS WITHOUT GIVING EFFECT TO ANY CHOICE OR CONFLICT OF LAW PROVISION OR RULE (WHETHER OF THE STATE OF TEXAS OR ANY OTHER JURISDICTION) THAT WOULD CAUSE THE APPLICATION OF THE LAWS OF ANY JURISDICTION OTHER THAN THE STATE OF TEXAS. THE PARTIES MUTUALLY CONSENT TO THE EXCLUSIVE JURISDICTION OF THE FEDERAL AND STATE COURTS IN DALLAS COUNTY, TEXAS AND AGREE THAT ANY ACTION, SUIT OR PROCEEDING CONCERNING, RELATED TO OR ARISING OUT OF THIS AGREEMENT AND THE NEGOTIATION OF THIS AGREEMENT WILL BE BROUGHT ONLY IN A FEDERAL OR STATE COURT IN DALLAS COUNTY, TEXAS AND THE PARTIES AGREE THAT THEY WILL NOT RAISE ANY DEFENSE OR OBJECTION OR FILE ANY MOTION BASED ON LACK OF PERSONAL JURISDICTION, IMPROPER VENUE, INCONVENIENCE OF THE FORUM OR THE LIKE IN ANY CASE FILED IN A FEDERAL OR STATE COURT IN DALLAS COUNTY, TEXAS. THE PARTIES MUTUALLY AGREE THAT THIS AGREEMENT IS A "MAJOR TRANSACTION" WITHIN THE MEANING OF THE TEXAS CIVIL PRACTICE AND REMEDIES CODE § 15.020 AND AS SUCH AGREE THAT ANY ACTION OR SUIT ARISING FROM THIS AGREEMENT WILL BE BROUGHT IN DALLAS COUNTY, TEXAS, AND VENUE WILL BE IN DALLAS COUNTY, DALLAS, TEXAS.

This Agreement and all Attachments attached hereto shall constitute the entire, complete and final agreement of the Parties with respect to the subject matter hereof, and all prior negotiations, undertakings, understandings, representations, statements and agreements between the Parties with respect to the subject matter hereof are merged into this Agreement.

Any notice, other than Permit Applications, required to be given or made in connection with this Agreement shall be in writing and shall be deemed properly or sufficiently given or made if: (a) delivered in person with receipt acknowledged in writing by the person specified below; (b) sent by registered or certified mail, return receipt requested, to the person and address specified below; (c) sent by confirmed telephonic document transfer to the person and fax number specified below; (d) sent electronically to the recipient's designated e-mail address; provided that the recipient acknowledges receipt of that notice; or (e) sent or delivered by such other method as will ensure evidence of its receipt by the person specified below:

- (a) If to Licensee:
 City of Plano
 PO Box 860358
 1117 E. 15th St.
 Plano, TX 75074

SECTION 17. CHOICE OF LAW

SECTION 18. COMPLETE AGREEMENT

SECTION 19. NOTICES

- 19.1 Method of Notice

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DISTRIBUTION POLE LICENSE AGREEMENT

Attn: Michael Branch
Telephone Number: 972-941-7507
Fax Number: 972-941-7195
Email: mikeb@plano.gov

(b) If to TXU Electric Delivery:

Capgemini Energy LP
1601 Bryan Street, Suite 19-010B
Dallas, Texas 75201

Attn: Ron Coan
Telephone Number: 214-812-2211
Fax Number: 214-812-7450
Email: rcoan@capgeminienergy.com

Notices given or made pursuant to or in connection with this Agreement shall be effective as of the time of delivery to or receipt by the Party to whom such notice is addressed; provided, however, that no notice shall be effective unless it is given or made in compliance with this Section 19.1.

The person, address, fax number, or Email address of any Party, to which notice shall be given pursuant to Section 19.1, may be changed at any time, upon written notice given pursuant to Section 19.1 to the other Party.

Licensee shall, at its own cost, operate, attach, replace, relocate, repair, modify and remove its Equipment on or from Poles in compliance with the Standards, and all other applicable constitutions, statutes, ordinances, rules, regulations, codes, orders, decisions, ordinances and decrees of all governmental bodies with jurisdiction over the Licensee or subject matter of this Agreement. Where a difference in any of the foregoing specifications may exist, the more stringent shall apply.

If any portion of this Agreement becomes or is determined by a governmental body with jurisdiction to be void, unenforceable, invalid or illegal, Licensee and TXU Electric Delivery shall modify, to the extent they are able to do so, such portion in a manner which preserves the intent and effect both of such portion and the remainder of this Agreement, to the maximum extent which is effective, enforceable, valid and legal. A void, unenforceable, invalid or illegal portion of this Agreement shall not affect the effectiveness, enforceability, validity or legality of the remainder of this Agreement.

Licensee may replace any or all of its Authorized Representatives, at any time or from time to time, by delivering to TXU Electric Delivery a written notice specifying: (a) the name of the new Authorized Representative; (b) if not an employee of Licensee, the employer and relationship to Licensee; (c) title; (d) business address; (e) business

19.2 Change in Person's Address and Fax Number

SECTION 20. COMPLIANCE WITH LAWS

20.1 Licensee's Compliance

20.2 Severability

SECTION 21. REPLACEMENT OF AUTHORIZED REPRESENTATIVES

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DISTRIBUTION POLE LICENSE AGREEMENT

telephone number; (f) fax number; (g) Email address; (h) the name of the Authorized Representative being replaced; and (i) the date when the change becomes effective. Unless otherwise specified in the notice, the new Authorized Representative shall have the same authority as the Authorized Representative being replaced. Upon good cause shown by TXU Electric Delivery: (i) Licensee shall increase or decrease the number of Authorized Representatives or replace any or all of them; and (ii) TXU Electric Delivery may reject any replacement for an Authorized Representative

Only written amendments of this Agreement duly authorized and signed by the Parties shall be effective, and no writing shall constitute an amendment of this Agreement unless such writing is expressly identified as an amendment, with specific reference to the provisions of this Agreement to be amended. No amendment shall be effective prior to the date such amendment is signed by the Parties, unless such amendment expressly so provides. Notwithstanding the requirements of this Section 22.1, Licensee may replace any or all of its Authorized Representatives by delivering written notice to TXU Electric Delivery in accordance with Section 21, without any requirement that such notice be identified as, or be deemed to be, an amendment to this Agreement.

No rights or duties under this Agreement shall be waived except as expressly provided in this Agreement, or unless the Party having the right expressly waives such rights or duties in a written instrument identified as a waiver. Failure to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

Except as specifically provided herein (and in particular, but without limitation, for or with respect to TXU Electric Delivery Representatives), this Agreement is entered into for the sole benefit of TXU Electric Delivery and Licensee and, where permitted, their respective successors and assigns. Nothing in this Agreement or in any approved Permit Application shall be construed as giving any benefits, rights, remedies or claims to any other person, firm, corporation or other entity, including, without limitation, Licensee's or TXU Electric Delivery's customers, concessionaires and licensees.

Nothing in this Agreement shall be deemed or construed by the Parties, or by any third party, as creating the relationship of principal and agent, partners or joint venturers between the Parties, it being understood and agreed that no such provision, or any acts of the Parties, shall be deemed to create any relationship between the Parties other than the relationship of licensor and licensee.

**SECTION 22.
AMENDMENTS AND
WAIVERS**

22.1 Amendments

22.2 Waiver

**SECTION 23. AGREEMENT
FOR THE SOLE BENEFIT
OF LICENSEE AND TXU
ELECTRIC DELIVERY**

**SECTION 24.
RELATIONSHIPS OF THE
PARTIES**

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DISTRIBUTION POLE LICENSE AGREEMENT

Except for and as provided in any applicable franchise granted by Licensee to TXU Electric Delivery or its predecessor-in-interest, any existing agreements between the Parties or their predecessors, regarding the attachment of Equipment to Poles, are by mutual consent of the Parties hereby abrogated and superseded by this Agreement.

Notwithstanding anything to the contrary in this Agreement, the Parties from time to time may prepare and implement such supplemental operating routines or working practices as they mutually agree in writing to be necessary or desirable to effectively administer the provisions of this Agreement.

Section and subsection headings are inserted in this Agreement for convenience of reference only and shall in no way modify or restrict any of the terms and provisions of this Agreement.

This Agreement may be simultaneously executed in several counterparts. All such counterparts, when executed and delivered, each as an original, shall constitute but one and the same instrument.

No provision of this Agreement shall be construed against or interpreted to the disadvantage of either Party by any court or other governmental or judicial authority, by reason of such Party having or being deemed to have prepared, structured or dictated such provision.

As used in this Agreement, the term "Force Majeure" means acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, wars, blockades, insurrections, riots, epidemics, earthquakes, fires, restraints or prohibitions by any court, board, department, commission or agency of the United States or of any State, any arrests and restraints, civil disturbances, explosions, adverse weather conditions (including, without limitation, rain, snow, or ice), and inability despite reasonable diligence to obtain materials essential to the obligations to be performed under the Agreement.

Should either Party be rendered unable, either wholly or in part, by an event of Force Majeure, the occurrence of which is beyond the affected Party's reasonable control, to fulfill its obligations under the Agreement, the obligation(s) affected by such event of Force Majeure shall be suspended only during the continuance of such inability. The Party so affected shall give notice of the existence, extent and nature of such event of Force Majeure, in writing, to the other Party within forty-eight (48) hours after the occurrence. The Party so affected shall remedy such inability with all reasonable dispatch and shall use due diligence in this regard.

SECTION 25. EXISTING CONTRACTS SUPERSEDED

25.1 Existing Contracts

25.2 Operating Routines and Working Practices

SECTION 26. HEADINGS

SECTION 27. EXECUTION IN COUNTERPARTS

SECTION 28. INTERPRETATION

SECTION 29. FORCE MAJEURE

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DISTRIBUTION POLE LICENSE AGREEMENT

The following are attached to and hereby made a part of this order:
Attachment A, Permit Application
Attachment B, Authorized Representatives
Attachment C, TXU Electric Delivery Standards
Attachment D, Rental Rate Schedule
Attachment E, Licensee's Insurance Requirements
Attachment F, Licensee's Proof of Insurance Coverage

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date and year first above written.

LICENSEE

TXU ELECTRIC DELIVERY COMPANY

By: Capgemini Energy LP, Its Limited Agent

Signature: _____

Signature: _____

Name: _____

Name: Ron Coan

Title: _____

Title: Supply Chain Representative

Date: _____

Date: _____

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ATTACHMENT A
PERMIT APPLICATION/NOTIFICATION

Licensee: _____
Address: _____
City & State: _____

Permit Application # _____
Notification # _____
Town or Area _____

This Permit Application or notification is submitted pursuant to the terms of that Distribution Pole License Agreement by and between Licensee and TXU Electric Delivery, dated January 18, 2007, and is governed by the provisions of that Agreement. The definitions in Section 1 of that Agreement are hereby incorporated by reference in this Permit Application/Notification.

A. PERMIT APPLICATION

PART I (Licensee to check appropriate boxes, fill in blanks, date and sign)

Attachment of Equipment on Poles

Licensee desires to make _____ attachments on _____ Pole(s) of which _____ have no existing Equipment on them. The attached drawing(s) and specifications identify each Pole on which Equipment is to be attached and describe the types and characteristics of the Equipment or other facilities to be attached to the Pole(s).

Replacement or Modification of Equipment on Poles

Licensee desires to replace or modify existing Equipment on _____ Pole(s). The attached drawing(s) and specifications identify each Pole on which the Equipment is to be replaced or modified, and describe the types and characteristics of the Equipment involved in the replacement or modification.

Relocation of Equipment to Poles

Licensee desires to relocate existing Equipment on _____ Pole(s) to _____ separate Pole(s). The attached drawing(s) and specifications identify each Pole on which the Equipment is to be relocated.

Removal of Equipment from Poles

Licensee has removed Equipment from _____ Pole(s). The attached drawing(s) identifies each Pole from which Equipment was removed and the type of Equipment removed.

Dated: _____ Authorized Representative _____

PART II (TXU Electric Delivery to check appropriate boxes, fill in blanks, date and sign)

Licensee's application to attach, replace, relocate or modify Equipment is:

Approved Denied

Conditionally approved subject to the modifications and conditions set forth on the attachment hereto.

Dated: _____ TXU Electric Delivery Representative _____

PART III (Licensee to sign, date and return original / retain one copy for Licensee records)

Licensee hereby accepts the modifications and conditions set forth in Part II hereof and any pertinent attachment hereto (including responsibility for any estimated costs specified therein).

Dated: _____ Authorized Representative _____

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PERPETUAL INVENTORY OF POLES USED BY LICENSEE
 (For TXU Electric Delivery's use only)

<u>Type of Service</u>	<u>Previous Balance</u>	<u>Number of Attachments</u>		<u>New Balance</u>
		<u>Added</u>	<u>Removed</u>	
Cable	_____	_____	_____	_____
Telecommunications	_____	_____	_____	_____
All Other	_____	_____	_____	_____

B. NOTIFICATION

PART IV OVERLASHING

Licensee gives notice of Overlashing, on or with respect to certain Equipment attached to _____ Poles. The attached drawing(s) and specifications identify each Pole containing Equipment which Licensee has Overlashed, and also describe the types and characteristics of the fiber optic cable or other equipment Overlashed. This Overlashing was completed on _____ [specify date].

PART V SERVICE DROPS

Licensee gives notice that it has attached one or more Service Drops on _____ Pole(s). The attached drawing(s) and specifications identify each Pole on which one or more of those Service Drops was attached, and also describe the types and characteristics of those Service Drops. These Service Drops attachments were completed on _____ [specify date].

Licensee gives notice that it has replaced, modified, relocated, or removed one or more existing Service Drops on _____ Pole(s). The attached drawing(s) and specifications identify each Pole with respect to which one or more of those Service Drops was replaced, modified, relocated, or removed, and also describes the types and characteristics of the Service Drops involved in that replacement, modification, relocation, or removal. The replacement, modification, relocation, or removal of those Service Drops was completed on _____.

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**ATTACHMENT B
AUTHORIZED REPRESENTATIVES**

The following individuals shall have the authority to sign Permit Applications on behalf of Licensee, as required by Sections 4 and 6 of the Agreement:

<u>Name</u>	<u>Employer</u>	<u>Title</u>	<u>Business Address</u>	<u>Business Telephone Number</u>	<u>Fax Number</u>	<u>Email Address</u>
Mark Isrealson <i>Mike Branch</i>	City of Plano	Contracts Manager <i>Special Project Mgr.</i>	City of Plano PO Box 860358 Plano, TX 75086	972-941-5440	972-941-7195	mikeb@plano.gov

The following individuals shall have the authority to contact TXU ELECTRIC DELIVERY on behalf of Licensee in an emergency, as permitted by Section 7.1 of the Agreement:

<u>Name</u>	<u>Employer</u>	<u>Title</u>	<u>Business Address</u>	<u>Business Telephone Number</u>	<u>Fax Number</u>	<u>Email Address</u>
Chester Helt	City of Plano	Emergency Contact	City of Plano PO Box 860358 Plano, TX 75086	972-941-7626	972-941-7195	chelt@plano.gov

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**ATTACHMENT C
TXU ELECTRIC DELIVERY STANDARDS**

The Standards are available for reference and other use by Licensee at the following website:

<http://www.txuelectricdelivery.com/community/construct/jointuse/default.asp>

USER ID: txued PASSWORD: txuedjum (refer to "Construction and Development"/"Joint Use Management" portion of website)

Without limiting the scope or applicability of the Standards, Licensee shall ensure that it complies with the following particular requirements, with respect to its Facilities:

1. Anchors/Guys

- (a) Licensee shall have its own anchor and properly tensioned guy, for each Pole to which it attaches Equipment, to the extent specifically required by the Standards.
- (b) Licensee shall not guy on the anchor of TXU Electric Delivery or any Joint User, on any Pole.
- (c) Except as otherwise expressly agreed to by TXU Electric Delivery, Licensee shall not attach or position its anchor, on any Pole, within five feet of any TXU Electric Delivery anchor.
- (d) Licensee shall avoid, and seek to promptly correct, any situation in which Licensee's guy, installed on any Pole, is broken or lacks tension.

2. Guy Markers

Licensee shall ensure that its guys on Poles, exposed to pedestrian traffic, are marked with an appropriate guy marker.

3. Bonding

- (a) Licensee shall ensure that its communications cable strand and down guy, installed on any Pole for which a down guy is required, are bonded and also connected to the TXU Electric Delivery Pole ground.
- (b) Licensee shall ensure that its pole-mounted Equipment (including power supply equipment) is bonded to the Pole ground.
- (c) Licensee shall ensure that its communications cable is bonded to the TXU Electric Delivery pole ground at every Pole. For attachments made prior to 11/01, four bonds (grounds) are required to be in place for each continuous mile of communications cable.
- (d) Licensee shall ensure that a bond is in place between its communications ground and any power supply ground, on the same Pole.

4. Clearances

- (a) Except as otherwise expressly agreed to by TXU Electric Delivery, Licensee shall ensure that its Equipment, attached to any Pole, has a clearance from the lowest TXU Electric Delivery power conductor of at least: (i) forty inches (40") at the Pole; and (ii) thirty inches (30") at mid-span between any two Poles (or twelve inches (12") in the case of a street light drip loop).

[Note that NESC exceptions allowing for communications equipment clearances of thirty inches (30") at the pole, and twelve inches (12") at mid-span, do not apply to any attachments of Licensee's Equipment to any Poles]

- (b) Licensee shall ensure that its Equipment meets the NESC ground clearance requirement under largest final sag.

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**ATTACHMENT D
RENTAL RATE SCHEDULE**

During calendar year 2007, the rental rate for each Pole to which one or more attachments of Equipment is made shall be:

\$23.03

The rental rate specified herein is subject to, and shall be determined in accordance with, Section 10.4 of the Agreement.

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ATTACHMENT E LICENSEE'S INSURANCE REQUIREMENTS

LICENSEE will, at its own expense, maintain in force throughout the period of this document or agreement, or as otherwise specified, and until released by COMPANY the following minimum insurance coverages, with insurers acceptable to COMPANY.

- 1) Workers' Compensation and Employers' Liability Insurance, providing statutory benefits in accordance with the laws and regulations of the State of Texas or state of jurisdiction as applicable. The minimum limits for the employers' liability insurance will be five hundred thousand dollars (\$500,000) bodily injury each accident, five hundred thousand dollars (\$500,000) each employee bodily injury by disease, five hundred thousand dollars (\$500,000) policy limit bodily injury by disease.
- 2) Commercial General Liability Insurance, including bodily injury and property damage, personal and advertising injury, contractual liability, and including products and completed operations coverage [continuing for two (2) years after Final Acceptance, or completion of the Work, whichever is later], with minimum limits of one million dollars (\$1,000,000) per occurrence for bodily injury, including death and property damage.
- 3) Automobile Liability Insurance for coverage of owned, non-owned and hired autos, trailers or semi-trailers with a minimum combined single limit of one million dollars (\$1,000,000) per accident for bodily injury, including death, and property damage.
- 4) Excess Liability Insurance over and above the employers' liability, commercial general liability and automobile liability insurance coverage, with a minimum limit of two million dollars (\$2,000,000) per occurrence. Coverage must replace exhausted aggregate limits under the coverages referenced in #1 (employers' liability), and #2 above. Coverage must continue for two (2) years after Final Acceptance, or completion of the Work, whichever is later.
- 5) The required limits of insurance can be satisfied by any combination of primary and excess coverage.
- 6) The commercial general liability insurance, automobile liability insurance and excess liability insurance policies will contain provisions that specify that the policies are primary and will apply without consideration for other policies separately carried and will state each insured is provided coverage as though a separate policy had been issued to each, except with respects to limits of insurance, and that only one deductible will apply per occurrence regardless of the number of insureds involved in the occurrence. LICENSEE will be responsible for any deductibles or retentions.
- 7) The commercial general liability insurance, automobile liability insurance and excess liability insurance policies, if written on a claims-made basis, will be maintained in full force and effect for two (2) years after Final Acceptance or completion of the Work, whichever is later.
- 8) All policies must be issued by carriers having an *A.M. Best's* rating of "A-" or better, and an *A.M. Best's* financial size category of "VIII", or better and/or *Standard & Poor Insurance Solvency Review* of "A-", or better. If requested in writing by COMPANY, LICENSEE will make available to COMPANY a certified copy of any or all insurance policies or endorsements required of LICENSEE.

The requirements contained herein as to the types and limits of all insurance to be maintained by LICENSEE are not intended to and will not, in any manner, limit or qualify the liabilities and obligations assumed by LICENSEE under this document or agreement.

Prior to commencement of Work, LICENSEE will provide to COMPANY certificates of insurance evidencing the coverage required herein. COMPANY's review of certificates or policies will not be construed as accepting any deficiencies in LICENSEE's insurance or relieve LICENSEE of any obligations set forth herein. In addition, LICENSEE will require each of its subcontractors to provide adequate insurance. Any deficiencies in the insurance to be provided by subcontractors will be the responsibility of LICENSEE.

Certificates of insurance must show TXU Corp. and its direct and indirect subsidiaries as the certificate holder, and as an additional insured (including completed operations) as respects all of the required coverages except workers' compensation. Workers' compensation shall include TXU Corp. and its direct and indirect subsidiaries as an alternate employer. All of the required coverages must provide a waiver of subrogation in favor of the certificate holder. Certificates of insurance should also state that the certificate holder will receive thirty (30) days advance written notice prior to non-renewal or cancellation.

LICENSEE agrees to report to the manager of the claims department of the COMPANY in writing as soon as practical all instances of damage to the Work and all accidents or occurrences which may result in injuries to any person, including death, and any property damage, arising out of the performance of the Work.

If the insurance obligations required in this document or agreement exceed the maximum limits permitted by law or do not otherwise conform with any applicable law, then this agreement will be deemed amended so as to only require LICENSEE to provide insurance to the maximum extent allowed by law.

LICENSEE's insurance obligations are to include coverage supporting its obligations to defend, indemnify and hold harmless COMPANY Group for CLAIMS arising out of COMPANY's sole or concurrent negligence, with minimum limits described above or the maximum amount permitted by law for these indemnification provisions.

city of plano



ATTACHMENT F

January 18, 2007

Pat Evans
Mayor

Scott Johnson
Mayor Pro Tem

Sally Magnuson
Deputy Mayor Pro Tem

Ron Coan
TXU
1601 Bryan, E.P. 19-010B
Dallas, TX 75201

Shep Stahel
Place 1

RE: Self-Insurance

Loretta Ellerbe
Place 3

This letter is to advise you that the City of Plano, under the laws of Texas, is a self-insured entity. This includes general liability as well as a partially self-funded Workers' Compensation program that offers benefits in accordance with State mandated benefits.

Harry LaRosiliere
Place 5

Jean Callison
Place 7

Lee Dunlap
Place 8

Please accept this letter as verification of coverage. The City of Plano will be responsible for any loss that we become legally liable for up to \$1 million under general liability. All claims for damages are handled through the Risk Management Division.

The following deductibles apply to property losses: \$100,000 per occurrence for flood, \$100,000 per earth movement per occurrence, \$5,000 property damage, \$100,000 all other losses.

Thomas H. Muehlenbeck
City Manager

Joey Page
Risk Manager
City of Plano
1520 K Avenue
Plano, TX 75074

P.O. Box 860358
Plano, Texas 75086-0358
972-941-7000
www.plano.gov

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**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		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:	4/9/07		Reviewed by Legal <i>PM</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Purchasing		Initials	Date	
Department Head	Mike Ryan		Executive Director		
Dept Signature:	<i>[Signature]</i>		City Manager	<i>[Signature]</i>	3/28/07
Agenda Coordinator (include phone #): January M. Cook, Ext. 7376					

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

CAPTION

To approve renewal of Contract No. 2005-182-C for Risk Management Training/Tracking Service with TargetSafety.com in the estimated annual amount of \$150,000.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR:	06/07, 07/08, 08/09	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0	0
Encumbered/Expended Amount	0	0	0	0	0
This Item	0	0	0	0	0
BALANCE	0	0	0	0	0

FUND(S): PROPERTY & LIABILITY LOSS FUND

COMMENTS: This item approves price quotes. Expenditures will be made in Self Insurance within the approved budget appropriations. The estimated annual amount is \$150,000.

STRATEGIC PLAN GOAL: Risk Management Training/Tracking relates to the City's Goal of "Service Excellence".

SUMMARY OF ITEM

Council awarded Contract No. 2005-182-C for Risk Management Training/Tracking Service to TargetSafety.com. Inc. in the amount of \$52,500 for a one (1) year contract on 3/27/06. The original proposal and resulting contract contains two (2) optional renewals. Staff requests approval of renewal options.

Additionally, Staff requests approval of increased expenditure. The estimated annual amount for the renewal periods of this contract is \$150,000. The increase in expenditure will accommodate 2,000 City of Plano users for on-line safety training. The unit price of \$75.00 per employee included in the original contract will apply.

List of Supporting Documents: Memo	Other Departments, Boards, Commissions or Agencies
---------------------------------------	--

P-1

MEMORANDUM

Date: March 16, 2007

From: Joey Page
Risk Manager



To: Mike Ryan
Chief Purchasing Official



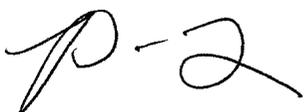
RE: 2005-182-C RFP FOR RISK MANAGEMENT TRAINING/TRACKING SERVICE

On 3/26/06 Council approved the above mentioned proposal in the amount of \$52,500 for a one (1) year contract. The original proposal and resulting contract contained two (2) optional renewals. The Risk Management department wishes to exercise the right to renew the contract under the same terms and conditions.

The original contract included a unit price of \$75.00 per employee for on-line training. The first year annual amount of \$52,500 accommodated 700 employees. Risk Management would like to accommodate approximately 2,000 employees. Based on the \$75.00 per employee fee, the estimated annual amount for this contract will increase to \$150,000.

Please take necessary action to renew the contract in the estimated annual amount of \$150,000.

Thank You





**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		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:	4/9/07		Reviewed by Legal <i>WB</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Library Administration		Initials	Date	
Department Head	Joyce Baumbach	Executive Director	<i>JTB</i>	3-30-07	
Dept Signature:	<i>Joyce Baumbach</i>	City Manager	<i>MAD</i>	4/2/07	
Agenda Coordinator (include phone #):		Mary Ann Dunnivant (Ext. 4208)			

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

CAPTION

Approving Plano Public Library System to purchase the Polaris® Integrated Library System (ILS) through a Catalog Information Systems Vendor (CISV) contract from Polaris Library Systems, in an amount not to exceed \$405,000; authorizing the City Manager or his designee to take such action and execute such documents as necessary to effectuate the purchase approved herein; and providing an effective date. VID# 1161667474000

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2006-07	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	423,149	0	423,149
Encumbered/Expended Amount	0	0	0	0
This Item	0	-405,000	0	-405,000
BALANCE	0	18,149	0	18,149

FUND(S): **THELMA RICE SPROLES LIBRARY FUND**

COMMENTS: Funding for this item will come from the Thelma Rice Sproles Library Fund through contributions from the Thelma Rice Sproles Bequest, Collin County Community College District, and the City of Allen (Allen Public Library). This item, in the amount not to exceed \$405,000, will leave a current year balance of \$18,149 for other library hardware and software maintenance costs and fees.

STRATEGIC PLAN GOAL: The purchase of library software and hardware maintenance relates to the City's Goal of "Premier City in Which to Live."

SUMMARY OF ITEM

Approval of this request in an amount not to exceed \$405,000 is made for the purchase of the Polaris® Integrated Library System (ILS) for Plano Public Library System from Polaris Library Systems (CISV supplier of said services). The City of Plano is authorized to purchase from the State Contract list pursuant to Section 271 Subchapter D of the Texas Local Government Code and by doing so satisfies any State Law requiring local governments to seek competitive bids for items. VID# 1161667474000

List of Supporting Documents:

- Affidavit of No Prohibited Interest from Polaris Library Systems dated March 16, 2007.
- Vendor Connection Agreement dated March 15, 2007.

Other Departments, Boards, Commissions or Agencies

Q-1

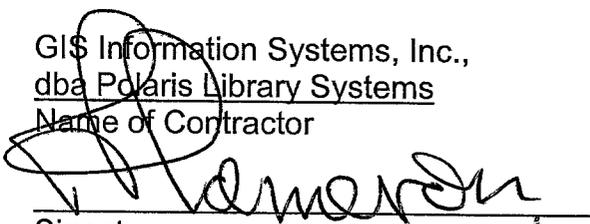
AFFIDAVIT OF NO PROHIBITED INTEREST

I, the undersigned declare and affirm that no person or officer of GIS Information Systems, Inc., doing business as Polaris Library Systems (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.

GIS Information Systems, Inc.,
dba Polaris Library Systems
Name of Contractor

By:


Signature

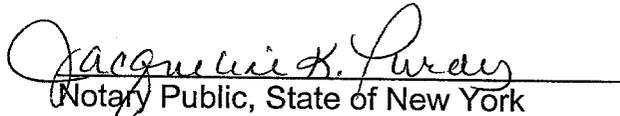
ALASTAIR CAMERON
Print Name

Manager, Proposals and Contracts
Title

March 15, 2007
Date

STATE OF NEW YORK §
 §
COUNTY OF Onondaga §

SUBSCRIBED AND SWORN TO before me this 16th day of March, 2007.


Notary Public, State of New York

JACQUELINE K. PURDY
NOTARY PUBLIC-STATE OF NEW YORK
No. 01PU6033548

Qualified in Oswego County
My Commission Expires November 22, 2009

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VENDOR CONNECTION AGREEMENT

DATED 03/23/05

This Connection Agreement (the "Agreement") is entered into by and between The City of Plano (the "City"), a municipal corporation and GIS Information Systems, Inc., doing business as Polaris Library Systems, a qualified Subchapter S subsidiary of the Croydon Company, Inc., on the fifteenth day of March, 2007. City and Vendor may be referred to herein individually as a "Party" or collectively as the "Parties".

WHEREAS, the City

WHEREAS, the Vendor

NOW THEREFORE, the Parties hereto agree as follows:

Technical Requirements. Vendor understands and agrees that:

The Vendor acknowledges by signing this document that they have read and accept all applicable terms of the City's Security Policy. The City only allows remote access to their network by an authorized virtual private network ("VPN") connection. The City does not allow any Microsoft virtual private network ("VPN") solution for remote access; devices originating a VPN connection must be separated from the public Internet by a hardware/software firewall and must also use a commercially available anti-virus package; local area network ("LAN") devices originating a VPN connection must be addressed from address space allocated in RFC 1918; that Vendor shall be responsible for and shall bear any and all expense for modifications it must make to its configuration or equipment in order to comply with these requirements; and Vendor assumes any and all risk associated with connecting to the City and its network, and the City shall not be responsible for any security breaches on Vendor's network resulting from or related to Vendor's use of the City approved VPN client.

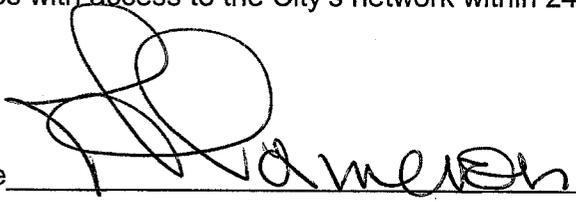
Limitations on Use. Vendor understands and agrees that the City may, in its sole discretion, and without advanced notice to Vendor;

1. Assign VPN bandwidth to vendors on an individual basis;
2. Limit the number of concurrent connections that may be made by any Vendor at any one time.
3. Disconnect any vendor responsible for the origination of network traffic that the City deems to be unnecessary, harmful, or disruptive
4. Enforce security policy that requires unique login credentials be supplied for each VPN connection with the understanding that these logon credentials are subject to change every 45 days; and
5. Immediately de-activate VPN accounts upon notification by Vendor of a change in employment status of any employee granted access to the City's network.

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Liability. Vendor expressly agrees that it shall be liable for any and all damages, including but not limited to actual, consequential, or incidental damages, for disruptions caused by their negligence or intentional misconduct to the City's network, 911 system, or other network services resulting from or related to Vendor's connection to the City's networks. Vendor also expressly agrees to notify the City of staffing changes involving employees with access to the City's network within 24 hours.

Signature _____



Name (Printed) ALASTAIR CAMERON

Title Manager Proposals and Contracts

Company GIS Information Systems, Inc., dba Polaris Library Systems

Date: March 15, 2007

Q-4

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING PLANO PUBLIC LIBRARY SYSTEM TO PURCHASE THE POLARIS[®] INTEGRATED LIBRARY SYSTEM (ILS) THROUGH A CATALOG INFORMATION SYSTEMS VENDOR (CISV) CONTRACT FROM POLARIS LIBRARY SYSTEMS, IN AN AMOUNT NOT TO EXCEED \$405,000; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO TAKE SUCH ACTION AND EXECUTE SUCH DOCUMENTS AS NECESSARY TO EFFECTUATE THE PURCHASE APPROVED HEREIN; AND PROVIDING AN EFFECTIVE DATE. VID# 1161667474000

WHEREAS, the City of Plano, Texas desires to enter into a contract for the Polaris[®] ILS between the City of Plano – Plano Public Library System and Polaris Library Systems, a Catalog Information Systems Vendor (CISV) in an amount not to exceed \$405,000 (See Exhibit "A"); and

WHEREAS, Polaris Library Systems has provided a signed "Affidavit of No Prohibited Interest (see Exhibit "B") in compliance with the City of Plano Code of Ordinances Ch.2, art. IV, section 2-103, and; Article 11, Section 11.02, City Charter of Plano; and

WHEREAS, Polaris Library Systems has provided a signed "Vendor Connection Agreement by and between the City of Plano (See Exhibit "C"); and

WHEREAS, the Plano City Council is of the opinion that the Polaris[®] ILS can be provided by Polaris Library Systems, a CISV, thereby making the purchase of said materials exempt from competitive bid under Section 271 Subchapter D of the Texas Local Government Code; and

WHEREAS, upon full review and consideration of the proposed contract, purchase, and all matters attendant and related thereto, the Plano City Council is of the opinion that this purchase should be approved, and that the City Manager or his designee should be authorized to take such action and execute such documents as necessary to effectuate the purchase.

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

Section I. The Plano City Council hereby finds and determines that the Polaris[®] ILS provided by Polaris Library Systems, a CISV, be purchased by the City.

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As provided in Section 271 Subchapter D of the Texas Local Government Code, the purchase of said materials is exempt from competitive bid.

Section II. The City Manager or his designee is hereby authorized to take such action and execute such documents as necessary to effectuate the purchase of the Polaris[®] ILS not to exceed the amount of \$405,000 from Polaris Library Systems, a CISV.

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

DULY PASSED AND APPROVED this the _____ day of _____, 2007.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane Wetherbee, CITY ATTORNEY

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POLARIS[®]

Integrated Library System

CONTRACT

MARCH 28, 2007

City of Plano
Plano, TX

Polaris Library Systems
PO BOX 4903 • SYRACUSE, NY 13221-4903
1-800-272-3414 • FAX 1-315-457-5883 • <http://www.polarislibrary.com>

3/28/07

City of Plano Contract Page 1 of 29

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POLARIS
LIBRARY SYSTEMS

THIS AGREEMENT, is made between GIS Information Systems., Inc. doing business as Polaris Library Systems (a qualified Subchapter S subsidiary of The Croydon Company, Inc.,) a corporation organized under the laws of the State of New York, with its principal place of business at 103 Commerce Boulevard, Liverpool, New York (herein - after referred to as "Polaris"), and the City of Plano, 1520 Avenue K, Plano, TX 75074, (hereinafter referred to as "LIBRARY").

WITNESSETH:

WHEREAS, Polaris has developed a computerized system (hereinafter referred to as "POLARIS ILS"®) consisting of software and related services, and the LIBRARY intends to purchase and/or license such software and related services at its location(s);

NOW, THEREFORE the parties mutually agree as follows:

1. Definitions

- 1.1. "Software" is defined as POLARIS ILS computer programs, including, but not limited to, (a) the integrated library system software in the system server(s), and (b) the client software resident in the workstation(s). The Software is listed in Schedule C and includes all corrections, modifications and updates thereof.
- 1.2. "Software Materials" is defined as any machine readable or printed material, including but not limited to documentation stored on CD, On-Line Help files and hard-copy guides, which are designated by Polaris as available under license to libraries who have licensed the program to which those materials relate.
- 1.3. "Services" is defined as all services provided by Polaris, including but not limited to Data Migration, Installation and Training, as identified in the Schedules attached herein.
- 1.4. "Operational Date" is defined as the day on which Polaris and the LIBRARY mutually declare in writing operation of the Software as purchased under this Agreement to be available to the LIBRARY.
- 1.5. "System" is defined as the total complement of Software and Services as sold to the LIBRARY by Polaris under this Agreement and which is installed at the LIBRARY location(s) noted herein. For the purposes of this Agreement, components supplied by any party other than Polaris shall not be considered as part of the "System".
- 1.6. "Third-Party", when used in conjunction with hardware and/or software, is defined as any device, component or program not supplied by Polaris under this or future Agreements, Addendums and Purchase Orders.
- 1.7. Where specific reference is made to any of the three institutions who are the recipients of the goods and services listed herein, the following abbreviations will be adopted: "PPL" is defined as Plano Public Library; "APL" is defined as Allen Public Library; and "CCCCD" is defined as Collin County Community College District.

2. Furnishing of Deliverables

Based on the statistics in Schedule A, which the LIBRARY agrees are reasonably correct as of the date of this Agreement, and subject to any special conditions appended in Schedule G, Additional Considerations, Polaris will provide deliverables detailed in the following Schedules at the fees indicated in said Schedules:

Schedule B:	Database Services
Schedule C:	POLARIS ILS Software Licenses
Schedule D:	Services
Schedule E:	Software Maintenance and System Support
Schedule F:	Payment Schedule
Schedule G:	Additional Considerations
Schedule H:	Data Migration - Data Requirements

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3/28/07

POLARIS
LIBRARY SYSTEMS

3. Installation Schedule

3.1. Following the signing of this Agreement, the LIBRARY and Polaris will develop a mutually agreeable Implementation Plan which shall include, but not be limited to, identification of all required tasks, a timeline of all required tasks, an indication of which party is responsible for completion of each task, and expected duration of each task. Upon completion of installation and implementation, both parties shall mutually agree to an Operational Date pursuant to Article 1.4. herein.

3.2. If, following the execution of this Agreement and the signing of the Implementation Plan, the installation of the Software and/or server hardware is postponed until after the proposed Operational Date provided in the then current Implementation Plan due to extensions requested by the LIBRARY or the failure of the LIBRARY to perform its responsibilities under the terms of the Implementation Plan, then Polaris, at its option, shall be entitled to invoice the LIBRARY for any balance due on delivery and/or installation, pursuant to Schedule F, Payment Schedule.

4. Term and Termination

4.1. This Agreement is effective upon final signature and for an initial term ending one year from the Operational Date. It shall then be renewed automatically for one-year periods for a maximum of four (4) renewals unless the LIBRARY notifies Polaris of its intention not to renew at least ninety (90) days prior to the expiration of the original or any extended term.

4.2. If either party is considered to be in material breach of any of the terms and conditions of this Agreement, the aggrieved party shall give written notice thereof, including a reasonably detailed statement of the nature of such alleged breach, to the other party. The party considered to be in breach of this Agreement will have thirty (30) days after notice is received to cure such breach, or, if the breach cannot reasonably be cured within thirty (30) days, the party shall provide a written estimate of the time needed to cure such breach, shall commence to cure such breach within ten (10) days of notice from the aggrieved party and shall diligently continue to prosecute such cure to completion. If the party considered to be in breach fails to cure, commence to cure in timely manner, or diligently prosecute such cure to completion, the aggrieved party, at its option, shall be entitled to terminate this Agreement or suspend its performance under the Agreement for as long as the breach remains uncorrected, and avail itself of any and all remedies available under this Agreement, at law or in equity.

4.3. In the event either party becomes insolvent or voluntarily or involuntarily bankrupt or a receiver, assignee or other liquidating officer is appointed for all or substantially all of the business of either party, or if either party makes an assignment for the benefit of creditors, then the other party, at its option may immediately terminate this Agreement by notice to the offending party to that effect. In no event shall this Agreement be assigned or assignable by operation of law or by voluntary or involuntary bankruptcy proceedings or otherwise, and any such assignment or attempted assignment shall be void and in no event shall this Agreement or any rights or privileges hereunder be an asset of either party under any bankruptcy, insolvency or reorganization proceedings.

4.4. Subject to the conditions of Article 4.2, if this Agreement is suspended or terminated by the LIBRARY, whether for cause or convenience, then, effective upon the date of suspension or termination, the LIBRARY shall be relieved of further payment obligations, and shall be liable for payment only for those goods and Services satisfactorily received prior to the date of suspension or termination. If the Agreement is terminated, any pre-paid maintenance fees shall be refunded to the LIBRARY to the date of termination on a pro-rated basis. If the Agreement is mutually reinstated, then the LIBRARY shall reassume its payment obligations.

5. Return or Destruction of Licensed Software

If this Agreement is terminated, whether for cause or convenience, and the right to continued use of the Software and Software Materials under the conditions set forth herein is withdrawn, then all Software and Software Materials must be returned to Polaris, or if so requested in writing by Polaris, destroyed. Within one (1) month after the date of cessation or termination of any license granted hereunder, the LIBRARY will furnish to Polaris if requested, a certification that through the LIBRARY's best efforts and to the best of the LIBRARY's knowledge, the original and all copies of the Software and Software Materials received from

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Polaris or made in connection with such license have been returned or destroyed. This requirement will apply to all copies in any form, including translations, whether partial or complete, and whether or not modified or merged into other Software Materials as authorized herein.

6. Payment

- 6.1. Fees enumerated in Schedules B through E are summarized in Schedule F herein.
- 6.2. Payment for all deliverables shall be made in accordance with the terms set forth in Schedule F herein.
- 6.3. Payment in full on all invoices is due according to the terms of this contract or within 30 days of the invoice date, whichever date is later. Within twenty (20) days of receipt of the invoice, the LIBRARY may serve Polaris with written notice disputing any charge. If the dispute is not resolved within twenty-five (25) days of receipt of said written notice, then either party may file for arbitration.
- 6.4. In the event that payment is not made in full according to the specified terms, a service charge will be added to the undisputed balance after deducting all payments and credits. For any payment considered past due and undisputed by the LIBRARY, the LIBRARY agrees to pay interest at 1% per month (effective annual rate of 12%) on the unpaid balance or the highest rate permitted by law, whichever is less.
- 6.5. If failure to pay according to the terms of this Agreement causes this account to be assigned for collection, or causes legal action to be taken, the LIBRARY agrees to pay all costs of collection incurred by Polaris, including court costs and reasonable attorney fees, if the LIBRARY is found to be at fault.
- 6.6. In the event the Operational Date is other than the first day of the month, maintenance and subscription service fees will be pro-rated accordingly.
 - Subscription service fees are subject to change annually, such change commencing one (1) year from the Operational Date and effective upon one hundred and twenty (120) days written notice to the LIBRARY.
 - Maintenance fees are subject to change annually, such change commencing two (2) years from the Operational Date and effective upon one hundred and twenty (120) days written notice to the LIBRARY.

If the charge for any service provided under this Agreement is increased by Polaris, the LIBRARY may, with ninety (90) days prior written notice, terminate this agreement upon the effective date of such increase. Otherwise the new charges will become effective upon the date specified in the notice.

7. Licenses

- 7.1 Polaris and the LIBRARY agree that the following terms and conditions will apply to any LIBRARY order for Polaris licensed Software programs and Software Materials that is accepted by Polaris. Polaris will (1) furnish such licensed Software and Software Materials to the LIBRARY; (2) grant to the LIBRARY a non-transferable, non-exclusive, and non-sublicenseable license to use the Software and Software Materials; (3) provide Software Service and maintenance, as described herein.
- 7.2. Each license granted under this Agreement authorizes use of the licensed Software and Software Materials by the LIBRARY specified herein. The LIBRARY may not rent or lease the Software to any other entity with the exception of Allen Public Library (APL) and Collin County Community College District (CCCCD), or use the Software as part of a commercial time-sharing, subscription bureau or service bureau operation.
- 7.3. All licensed Software, including any subsequent updates purchased and any part thereof, may only be used on the system server(s) or hardware configuration purchased from, or authorized by, Polaris, and in such quantities as may be determined under Schedule C herein. POLARIS ILS server Software may be run on one Production server and on one or more Training servers. The Client Software is for the use of the LIBRARY with no implied rights to distribute beyond reasonable use for LIBRARY functions. Following Polaris' written authorization, all licensed Software may be copied, in whole or in part, only for use on the system server(s) or specified hardware configuration.
- 7.4. No title to or ownership of the Software or Software Materials is transferred to the LIBRARY, and they

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remain the proprietary property of Polaris.

- 7.5. The LIBRARY shall not allow the Software, the Software Materials or any portion thereof to be reverse compiled, disassembled, or in any way altered. The LIBRARY shall not modify any licensed Software in machine-readable form nor merge such Software with other Software programs.
- 7.6. The LIBRARY must notify Polaris of the LIBRARY's intention to change the designation of the location at which licensed Software is to be used. The change of designation will be effective upon the date set forth in the notice confirming the change in designated location furnished to the LIBRARY by Polaris.
- 7.7. Polaris may terminate all proprietary licenses granted hereunder and require return of the Software and Software Materials upon written notice to the LIBRARY if the LIBRARY fails to comply with these terms and conditions.

8. The LIBRARY's Responsibilities

- 8.1. The LIBRARY acknowledges the network and workstation requirements set forth under Section 2, Schedule G herein, and will assume responsibility for purchasing, installing, configuring and maintaining all servers and server software as specified under Schedule G herein, and all other hardware components necessary, including but not limited to:

- Domain Controller
- network components,
- PC Workstations,
- Scanners,
- Printers,
- Uninterruptible Power Supplies,
- cables,

except where such components are sold by Polaris as a part of this Agreement. The LIBRARY will also assume responsibility for determining, in consultation with Polaris, the viability of existing hardware components in conjunction with the System.

- 8.2. The LIBRARY will provide a staff member as system administrator. If appropriate, based on the size and complexity of the system, a second staff member should be designated as PC/network administrator. Experience with Windows 2000/2003 and SQL is an advantage but not a requirement. The following are areas in which the staff member (s) will be expected to be knowledgeable following implementation and training:

- Installation, booting and basic troubleshooting of Windows 2000/2003
- Fault tolerance and backup/recovery
- Security, user/group management
- Server management, licensing, registry management, remote access
- Network configuration/management in a TCP/IP environment (WINS,DNS,DHCP)
- Server-based tools for Win9x and NTWS
- Network Client Administration

The LIBRARY shall designate no more than these two (2) key personnel for special training in the use of the System. Should either assignment change, the LIBRARY shall promptly inform Polaris. Training will be scheduled as mutually agreed by both parties. The key personnel shall be Polaris' sole point(s) of contact with the LIBRARY following execution of this Agreement.

- 8.3. The LIBRARY will accept responsibility for all server operations, including, but not limited to, regularly scheduled backups, server configuration updates, system software upgrades subject to Polaris' agreement, installation and maintenance of current service packs and security patches, and Software updates pursuant to Article 8.5. Failure by the LIBRARY to administer server operations may result in written notice from Polaris to limit, or withhold, its maintenance Services if, following a thirty (30) day cure period, the LIBRARY, in Polaris' reasonable opinion, is unable to provide a satisfactory performance level for server operations. Written notice shall identify all alleged deficiencies in server operations. Polaris shall resume its maintenance service when, in Polaris' reasonable opinion, server operations are resumed to a satisfactory performance level. Polaris' approval will not unreasonably be withheld.

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- 8.4. The LIBRARY will provide Polaris with reliable and immediate remote access to the POLARIS ILS System. This access must be sufficient, in Polaris' sole opinion, to satisfy the implementation and on-going performance requirements and warranties set forth under this Agreement. At its sole discretion, the LIBRARY may provide Polaris with access to Third-Party hardware components in the event one or more of those components adversely affect the performance of the POLARIS ILS System. Access should be provided via the Internet through Port 3389 on the LIBRARY's firewall. Failure by the LIBRARY to provide minimal access via the Internet may result in unresolved performance issues and may void Polaris' obligations with respect to on-going performance requirements and warranties. The LIBRARY's failure in this regard should not be considered just cause for delaying the setting of an Operational Date, as specified in article 1.4 herein.
- 8.5. The LIBRARY will accept responsibility for the installation, performance and maintenance of all Third-Party hardware/software components on the POLARIS ILS System that are not supplied by Polaris under this Agreement.
- 8.6. The LIBRARY will accept responsibility for providing access to all data files it wishes to migrate to POLARIS ILS. Pursuant to Schedule H herein, these files will be provided to Polaris in MARC format and in ASCII text file format with fixed field lengths or field delimitation. Data will be provided to Polaris through ftp (file transfer protocol) or through a mutually agreed upon tape and tape backup format. The LIBRARY is responsible for arrangements that may need to be made with the vendor of the system from which data is extracted for the data extraction and any documentation that defines the content of the fields in the exported files. The LIBRARY assumes responsibility for any fees that may be incurred from services provided by the vendor for the data export and transfer to Polaris if such services are necessary. The LIBRARY assumes the responsibility of conducting communication between Polaris and other vendors, as necessary, to assure that all conditions for proper file export and transfer are met.
- 8.7. The LIBRARY will accept responsibility for the data concerning the LIBRARY's system profile and system parameters that it has provided to Polaris based on guidelines for the profile and parameters set by Polaris. Polaris agrees to provide prompt written notice of any material discrepancy of which it becomes aware between data provided by the LIBRARY and data required for effective functioning of the Software.
9. **Site Preparation**
It is understood and agreed that the aforesaid fees do not include any site preparation or installation costs except as described in Schedule D, Services. The LIBRARY shall, at its own expense, prepare the site to house the hardware in accordance with the installation specifications presented in Polaris' Proposal or supplied to the LIBRARY immediately following contract signing. Pursuant to those specifications, the LIBRARY shall provide suitable electric service for operation of the hardware and a reliable connection to the network via the Internet. The LIBRARY is also solely responsible for preparing an environment free of any and all impediments, including, but not limited to, asbestos, hazardous materials, and/or hazardous conditions, that may interfere with Polaris' ability to perform a successful and timely installation of the System components. Site preparation shall be completed by the LIBRARY within forty-five (45) days of contract signing.
10. **Privacy of Data**
Polaris agrees not to use patron details such as names, addresses, etc., for any purpose other than providing requested service to the LIBRARY and agrees not to transmit LIBRARY data to any third party, except as requested by the LIBRARY.
11. **Protection and Security**
- 11.1. The LIBRARY will take appropriate action, by instruction, Agreement or otherwise, with any persons permitted access to licensed Software so as to enable the LIBRARY to satisfy its obligations under Article 7 herein.
- 11.2. All licensed Software Materials contain Polaris proprietary information, use of which is limited by the licenses granted in this Agreement. The LIBRARY will not disclose or otherwise make available, except as required by law, any licensed Software Materials in any form to any third party except to the LIBRARY's

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employees, or to agents directly concerned with licensed use of the program. Subject to the limitations of this article, the LIBRARY may make additional copies of the Software Materials.

12. Warranty

- 12.1. Polaris warrants that Polaris has the right to license the Software listed in Schedule C, POLARIS ILS Software Licenses hereunder. Polaris further warrants that the Software will perform substantially in accordance with the Software Materials in effect when shipped to the LIBRARY. Polaris agrees to make reasonable efforts to correct all reproducible material errors in the Software and discrepancies between the Software Materials and the actual Software performance, contingent upon the LIBRARY advising Polaris of such errors within one (1) year from delivery. Polaris disclaims any responsibility for the use or function of the Software beyond the parameters set forth in the Software Materials. Pursuant to, but not limited by, Paragraph 12.2 herein, Polaris does not warrant that the operation of the licensed program will be uninterrupted or error-free or that all program defects will be corrected. In addition, due to the continual development of new techniques for intruding upon and attacking networks, Polaris does not warrant that the Software or any equipment, system or network on which the Software is used will be free of vulnerability to intrusion or attack.

THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND/OR ANY OTHER TYPE WHETHER EXPRESSED OR IMPLIED, WRITTEN OR ORAL.

- 12.2. Pursuant to Article 8.5 herein, Polaris disclaims any responsibility for correcting any adverse effects on either the performance or operation of the POLARIS ILS System, or on the individual components of said System, as a result of the LIBRARY's use of (a) Third-Party hardware or software, and/or (b) databases and networks external to the POLARIS ILS System, in conjunction with the POLARIS ILS System except where such Third-Party hardware or software has been approved by Polaris in writing prior to its installation, or has been provided by a Polaris business partner. Polaris may provide consultation Services or diagnostic support relating to the LIBRARY's use of such Third-Party hardware and software, external databases and networks, and shall reserve the right to charge, at the rate of \$200 per hour with a minimum \$400 charge. Assistance by Polaris staff in the re-building of server due to virus or "hacker" intrusion will be billed at \$500 per server.

13. Software Maintenance and System Support

- 13.1. Telephone support and general release updates for the Software will be provided as part of the annual Software Maintenance fee. Service coverage and limitations are set forth under Schedule G herein.
- 13.2. Software updates will be made available periodically. Polaris shall have full discretion as to the timing and content of Software updates during the term of this Agreement. Failure to release Software updates during any specific term does not constitute default on the part of Polaris because of the continuation of the right to use telephone support and other support-related Services. Given the complexity of the library automation environment, including such factors as evolving standards, developmental tools, and market demands, Polaris reserves the right to modify its development plan for future releases for the best interests of its current customers, its organization (from a support perspective) and future marketability.
- 13.3. Polaris and the LIBRARY will accept mutual responsibility for implementing Software updates. All major Software updates must be installed within one (1) year of their release to insure proper program performance and continued support. In conjunction with Article 8.3 herein, failure by the LIBRARY to install Software updates within the agreed time frame may result in the termination of program service and maintenance, or in the increase of program service and maintenance fees where appropriate.
- 13.4. Each type of program service and maintenance specified will be available unless discontinued by Polaris upon one hundred and eighty (180) days written notice.
- 13.5. Polaris reserves the right to charge at \$200 per hour with a minimum \$400 charge for any additional effort that results from providing Services for a licensed program altered by the LIBRARY.

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14. Patent and Copyright

- 14.1. Polaris will defend the LIBRARY against any claim that licensed Software and/or Software Materials furnished and used within the scope of the license granted herein infringe a U.S. patent or copyright and Polaris will pay resulting costs, damages and attorney fees finally awarded, provided that: (a) the LIBRARY promptly notifies Polaris in writing of the claim, and (b) the LIBRARY cooperates with Polaris in the preparation of the defense and all related settlement negotiations.
- 14.2. If such claim has occurred, or in Polaris' opinion is likely to occur, the LIBRARY agrees to permit Polaris at its option at no additional expense to the LIBRARY either to procure for the LIBRARY the right to continue using the licensed Software and/or Software Materials, or to replace or modify the same so that they become non-infringing. If neither of the foregoing alternatives is reasonably available, the LIBRARY agrees on one (1) month's written notice from Polaris to return or destroy all copies of the licensed Software and/or Software Materials received from Polaris and all copies thereof, and to receive a refund for any monies paid for said licensed Software and/or Software Materials, exclusive of any periodic maintenance fees.
- 14.3. Polaris shall have no obligation to defend the LIBRARY or to pay costs, damages, or attorney's fees for any claim based upon the LIBRARY's use of licensed Software that has been altered by the LIBRARY without Polaris' express permission and in direct breach of Article 7.5. herein.
- 14.4. The foregoing states the entire obligation of Polaris with respect to infringement of patents or copyrights.

15. Limitation of Remedies

- 15.1. For any claim concerning performance or non-performance by Polaris pursuant to or in anyway related to the subject matter of this Agreement and any supplement hereto, the LIBRARY shall be entitled to recover actual damages to the limits set forth in this section. No action, regardless of form, arising out of this Agreement, may be brought by either party more than two (2) years after the cause of action has arisen.
- 15.2. Polaris' maximum aggregate liability, whether for breach of contract, breach of warranty or in tort, including negligence, will be limited to a maximum of all monies paid for the Software, exclusive of any maintenance fees.
- 15.3. This limitation of liability will not apply to Articles 14 and 25 herein, or to claims for personal injury to the extent caused in whole or in part by Polaris' negligence.
- 15.4. IN NO EVENT WILL Polaris BE LIABLE FOR ANY DAMAGES ARISING FROM THE USE, OPERATION, OR MODIFICATION OF THE SYSTEM BY THE LIBRARY, OR FOR ANY LOST PROFITS OR OTHER CONSEQUENTIAL, SPECIAL, OR INDIRECT DAMAGES, EVEN IF Polaris HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN, OF THE POSSIBILITY OF SUCH DAMAGES.

16. Waiver of rights

The waiver or failure of either party to exercise in any respect any right provided for herein shall not be deemed a waiver of any further right hereunder.

17. Severability

If any provision of this Agreement is invalid, illegal or unenforceable under any applicable statute or rule of law, it is to that extent to be deemed omitted, and the remaining provisions shall not be affected in any way.

18. Headings

The headings of the various Paragraphs and Subparagraphs herein are for convenience only and shall not control or affect the meaning or construction of any provisions of this Agreement.

19. Governing Law

This Agreement shall be subject to all applicable laws of the Federal Government of the United States of

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America and to the laws of the State of Texas. The applicable law for any legal disputes arising out of this Agreement shall be the law of the State of Texas. The prevailing party under in any action brought under this Agreement shall be entitled to reasonable attorney fees and costs as awarded by the court including any action at the appellate level.

20. **Saving Clause**
Typographical errors are subject to correction.
21. **Assignments**
Both parties agree that no sublicensing, or assignment of their rights or interest, nor delegation of their duties under this Agreement shall be made or become effective without the prior written consent of the other party. Any attempted sublicensing, assignment or delegation without prior written consent shall be wholly void and ineffective for all purposes.
22. **Taxes not included**
The charges shown on this Agreement do not reflect applicable state and local taxes that may be added to the amounts shown at the time of invoicing.
23. **Whole Agreement**
This Agreement, including the Vendor Connection Agreement incorporated by reference herein, constitutes the entire Agreement between the parties and supersedes all proposals, presentations, representations, and communications, whether oral or in writing, between the parties on this subject. Neither party shall be bound by any warranty, statement, or representation not contained herein. The signatories acknowledge reading, and agree to comply with, all terms and conditions.
24. **Force Majeure**
Any delay or nonperformance of any provision of this Agreement caused by conditions beyond the reasonable control of the performing party shall not constitute a breach of this Agreement, provided that the delayed party has taken reasonable measures to notify the other of the delay in writing. The delayed party's time for performance shall be deemed to be extended for a period mutually agreeable to both parties. Conditions beyond a party's reasonable control include, but are not limited to, natural disasters, acts of government after the date of the Agreement, power failure, fire, flood, acts of God, labor disputes, riots, acts of war and epidemics. Failure of subcontractors and inability to obtain materials shall not be considered a condition beyond a party's reasonable control. This provision does not relieve the LIBRARY of its obligation to make payments then owing.
25. **Indemnification**
Polaris agrees to indemnify, hold harmless and defend the LIBRARY and its agents, officials and employees from any liability, claim or injury, related to or caused by fault or negligence of Polaris employees or subcontractors.
26. **Amendments**
Amendments and modifications to all, or any part, of the Agreement and to the appendices and referenced attachments, may be made, and shall be binding, only if in writing and signed by duly authorized representatives of both parties.
27. **Funding**
LIBRARY represents that funding has been appropriated sufficient to purchase the deliverables set forth in the Schedules attached to this Agreement.

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IN WITNESS WHEREOF the parties have duly executed and delivered this Agreement, which shall inure to the benefit of and be binding upon the successors of the respective parties, as of the last date indicated below.

ACCEPTED FOR CITY OF PLANO

ACCEPTED FOR POLARIS LIBRARY SYSTEMS.

By: _____

By: _____

Title: _____

Title: President, Polaris Library Systems.

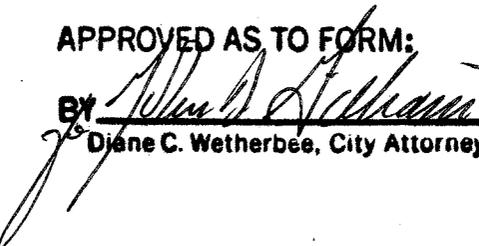
Date: _____

Date: _____

APPROVED AS TO FORM FOR POLARIS
LIBRARY SYSTEMS

APPROVED AS TO FORM:

By: _____

BY 
Diane C. Wetherbee, City Attorney

Title: Manager, Contracts and Proposals

Date: _____

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Schedule A
Library Statistics

1.	Estimated Number of Patrons - PPL & APL				224,881
2.	Estimated Number of Items - PPL & APL				840,000
3.	Estimated Number of Titles - PPL & APL				364,623
4.	Estimated Number of Authority Records - PPL & APL				N/A
5.	Items Issued Annually - PPL & APL				3,400,000
6.	Estimated Number of Patrons - CCCC				49,546
7.	Estimated Number of Items - CCCC				200,000
8.	Estimated Number of Titles - CCCC				146,592
9.	Estimated Number of Authority Records - CCCC				N/A
10.	Items Issued Annually - CCCC				100,000
11.	Number of Concurrent Workstations/Devices/In-bound Internet (total of categories below)				308
			PPL	APL	CCCC
11.1	Staff Client Licenses:	x	149	31	53
11.2	Dedicated PAC workstations:	x	10	23	17 (Unlimited licenses)
11.3	Internet access to PAC	x	Unlimited license - est. at 25 concurrent users		

12. Name and address for central server location:

City of Plano
1520 Avenue K
Plano, TX 75074

13. Other Locations:

PPL locations:

Gladys Harrington Library
W.O. Haggard Jr. Library
Christopher A. Parr Library
L.E.R. Schimelpfenig Library
Maribelle M. Davis Library
Municipal Reference Library
Library Administration

Allen Public Library
301 Century Parkway
Allen, TX 75013

Collin County Community College Locations:

McKinney
Plano x 2
Frisco

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**Schedule B
Database Services**

Data Migration - two (2) discrete databases

Pricing Schedule based upon statistics provided within the request for quotation.

All Libraries:

Total Cost

Dynix Horizon Data Extraction all records	\$7,000
Dynix Horizon Data Extraction of CCCC CD Holdings	\$5,000
Sub-Total: Data Extraction	\$12,000

Data Migration - Plano and Allen Public Libraries:

Bibliographic and Authority Record Migration /Load - 364,623 records	\$4,800
Item Record Migration/Load - 840,000 records	\$9,600
Patron Record Migration/Load - 224,881 records	\$4,800
Circulation Transaction Migration/Load (includes reserves and patron account information)	\$16,800
Serials Record Migration/Load	\$9,000
Sub-Total: Data Migration for Plano and Allen Public Libraries	\$45,000

Data Migration - CCCC CD:

Bibliographic and Authority Record Migration /Load - 146,592 records	\$1,500
Item Record Migration/Load - 200,000 records	\$3,000
Patron Record Migration/Load - 49,546 records	\$1,000
Circulation Transaction Migration/Load (includes reserves and patron account information)	\$3,500
Serial Record Migration/Load	\$5,000
Sub-Total: Data Migration for CCCC CD	\$14,000

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Schedule B
Database Services - continued

Authority Control Processing for PPL & APL:**Total Cost**

Project Management and Data Off-Load/Re-Load Fee:	\$2,500
Machine processing of LC name, subject, series, and uniform title headings, various MARC record update routines, ASCII file of non-matched headings, standard authority record generation est. 364,623 records @.05 each	\$18,231
<u>Authority Control Training:</u>	
Intro to Authority Control - Webinar	\$500
Authority Control in Polaris - Webinar	\$500
Sub-Total: Authority Control Processing for Plano & Allen	\$21,731

Authority Control Processing for CCCC:

Project Management and Data Off-Load/Re-Load Fee:	\$2,500
Machine processing of LC name, subject, series, and uniform title headings, various MARC record update routines, ASCII file of non-matched headings, standard authority record generation estimated 146,592 records @.05 each	\$7,330
<u>Authority Control Training:</u>	
Intro to Authority Control - Webinar	\$500
Authority Control in Polaris - Webinar	\$500
Sub-Total: Authority Control Processing for CCCC	\$10,830

Total - Database Services	\$103,561
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Schedule C
POLARIS ILS Software Licenses

Pursuant to Paragraph 12.1 herein and subject to the terms and conditions of this Agreement, Polaris will grant non-transferable and non-exclusive licenses for the following Software for use by the LIBRARY.

	<u>Total Cost</u>
1. <u>POLARIS ILS server Software</u> x 1 for PPL and APL	\$50,000
<u>POLARIS ILS server Software</u> x 1 CCCC	\$40,000
<i>Includes: POLARIS ILS Database, Z39.50 Server, SMTP for email notification, Remote Patron Authentication, System Administration, System Reports.</i>	
2. <u>Client Software</u>	
<i>Includes: Find Tool, Acquisitions, Serials, Cataloging, Circulation, Z39.50 Client, PowerPAC.</i>	
Total Staff Licenses: - 233	
PPL - 149	\$111,750
APL - 31	\$23,250
CCCCD - 53	\$39,750
Unlimited PowerPAC/Internet access licenses	N/C
3. <u>Children's interface to PAC</u> (Site License - PPL & APL)	N/C
4. <u>Spanish language interface to PAC</u> (Site License - PPL & APL)	N/C
5. <u>Course Reserves</u> (CCCCD)	\$5,000
6. <u>Simply Reports - 2 user license</u> (PPL)	\$5,000
7. <u>Phone Notification Outbound/Inbound 4 lines</u> (PPL) Inc. 4 Polaris Staff Access Licenses @500 each	\$12,000
8. <u>Interface to Self-Check</u> (Site License - PPL & APL) 10 Staff Access Licenses PPL 2 Staff Access License APL	\$6,000
9. <u>Interface to Self-Check</u> (Site License - CCCC) 1 Staff Access Licenses CCCC	\$2,000
10. <u>SimplyReports</u> (2 user license) (CCCC)	\$5,000
11. <u>Collection Agency Interface to Unique Management Services</u> (PPL & APL)	\$7,500
12. <u>URL Checker</u> (PPL & APL)	\$1,500
13. <u>URL Checker</u> (CCCC)	\$1,500
14. <u>POLARIS ILS Software Materials</u> - Complete set of Polaris ILS documentation on CD + one set of User Guides	N/C

Total - POLARIS ILS Software Licenses	\$310,250
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POLARIS
LIBRARY SYSTEMSSchedule D
Services**1. Implementation Services*****Overview***

Polaris shall provide implementation services involving project consultation and training. These services shall include, but are not limited to:

- Assigning an Implementation Manager whose role will be to work in conjunction with the LIBRARY during the implementation phase of the contract.
- Providing trainers to instruct the LIBRARY on the operation of the POLARIS ILS application/system administration consistent with the provisions set forth below.

Purpose of the Implementation Site Visit

Polaris' Implementation Manager will schedule two (2) discrete site visits - a 4-day visit for PPL & APL, and a 2-day visit for CCCC - to discuss:

- Policy file creation
- Data migration issues
- Project planning
- Implementation Process
- Staff Client System Administration

The Implementation Site Visit requires the participation of the LIBRARY's System Administrator as well as representatives from each of the administrative units involved or affected by the implementation of POLARIS ILS.

Training Philosophy and Fees

Train-the-Trainer Approach: Polaris's approach to training is to thoroughly train a core group (numbers indicated below) at the customer site. This core group will receive in-depth training on the various subsystems. This core group will, in turn, train the remainder of the LIBRARY staff.

System Administration training is offered as a three-day session at Polaris Library Systems' headquarters in Syracuse, NY.

Prerequisites: Prior training on Windows 98, Windows XP Professional and/or Windows NT/2000 is required for all trainees. Up to ten (10) trainees allowed at each training session. Training materials will be provided for each session. Additional training days can be contracted for at a cost of \$1,650 per trainer per day including expenses. Training should take place in a room away from public areas and have the capacity to hold the number of trainees (up to 10) and the Polaris trainer. It is strongly recommended that each trainee have the use of a LIBRARY workstation with the POLARIS ILS Staff client software installed.

Implementation Manager site visit and on-site training will be charged in whole days at \$1,650 a day for each Polaris staff member, all expenses included.

POLARIS
LIBRARY SYSTEMS

Schedule D
Services - continued

Project Consultation for PPL & APL:

4 Days On-Site Project Implementation Visit (including expenses) \$6,600

- Policy File Creation, Data Migration, Project Planning
- Implementation Process, Staff Client System Administration

Project Consultation for CCCC:

2 Days On-Site Project Implementation Visit (including expenses) \$3,300

- Policy File Creation, Data Migration, Project Planning
- Implementation Process, Staff Client System Administration

POLARIS ILS Application Training/Consultation for PPL & APL:

7 Days on-site training covering the following subsystems (including expenses) \$11,550
(To occur after system installation and initial database load)

Up to ten (10) trainees allowed per session.

- PAC
- Patron Services
- Cataloging
- Acquisitions
- Serials
- Workflow

POLARIS ILS Application Training/Consultation for CCCC:

7 Days on-site training covering the following subsystems (including expenses) \$11,550
(To occur after system installation and initial database load)

Up to ten (10) trainees allowed per session.

- PAC
- Patron Services
- Cataloging
- Acquisitions
- Serials
- Workflow

POLARIS ILS System Administration:

3 Days Syracuse-based training covering the following: \$3,300

- POLARIS ILS System Administration Interface (Prerequisite: Windows 2000 Operations)
- POLARIS ILS Database Structure and Reports
- Database Maintenance, User Management, Client Installation
- Basic SQL and Report Authoring

Cost quoted applies to 2 LIBRARY staff member at \$550 per day

All LIBRARY staff travel expenses are the responsibility of the LIBRARY.

Sub-Total: Implementation Services**\$36,300**

(includes all Polaris personnel expenses)

Optional Service

- additional days follow-up training/consultation: to address workflow efficiencies, new functionality, outstanding questions @1,650 per day inc. expenses.

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**Schedule D
Services - continued**

2. Installation.

2.1 The installation fee for server hardware and Software covers the integration, configuration, and installation of all server Software, the staging of all server hardware, and the on-site integration of the server hardware. Said services will be performed on-site over a three (3) day period by Polaris technician(s) at the rates set forth below. Any additional days that are required on-site as a result of the failure of non-Polaris equipment will be charged at \$1,650 a day including expenses. The LIBRARY will be responsible for the physical installation of the servers.

Server and server Software - Installation and On-site Integration:

- Production server	\$1,500
- Test/Training Server	\$750
- PAC Server	\$750
- Terminal Servers x 2	\$1,500
- Phone Notification Server	\$750
- Reports/SQL Server	\$500
- SIP Server	\$500

Three (3) day on-site integration of servers (includes travel expenses)	\$5,450
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Sub-Total: Installation POLARIS ILS servers & server Software \$11,700

Optional Installation Service

Optional Pre-Production Integration Service: POLARIS ILS Training server hardware

On-site integration of Training server hardware is an optional service offered by Polaris. Only the actual travel expenses incurred would be charged.

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POLARIS
LIBRARY SYSTEMS

Schedule D
Services - continued

3. Subscription Service.

Polaris is a reseller for Syndetic Solutions, which offers enriched content for display in the PAC, including tables of contents, first chapters, full color cover images, reviews, etc. Pricing for Syndetic Solutions is an annual subscription, based on annual circulation statistics. Price increases may occur on an annual basis, at the time of subscription renewal. The reported combined annual circulation is for PPL and APL is 3,400,000. Based on this figure, the first-year annual subscription would be set as follows (the libraries may de-select elements as required to the minimum annual rate of \$550):

Component	Annual Cost
Table of Contents	\$1,496
Fiction Profile	\$1,292
Find Similar Titles	\$1,292
Series Information	\$1,632
Awards	\$1,632
Summaries	\$1,088
Cover Images	\$1,972
First Chapters/Excerpts	Not Selected
Author Notes	Not Selected
Criticas Review	Not Selected
PW Review	Not Selected
LJ Review	\$1,632
SLJ Review	\$1,632
Choice Review	Not Selected
Booklist Review	\$1,632
Horn Book Review	Not Selected
Kirkus Review	Not Selected
Total Annual Subscription Fee	\$15,300

Note: Annual Subscription Fee will become due on the Operational Date of the system.

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POLARIS
LIBRARY SYSTEMS

Schedule D
Services - continued

4. Subscription Service - continued.

Polaris is a reseller for Syndetic Solutions, which offers enriched content for display in the PAC, including tables of contents, first chapters, full color cover images, reviews, etc. Pricing for Syndetic Solutions is an annual subscription, based on annual circulation statistics. Price increases may occur on an annual basis, at the time of subscription renewal. The reported annual circulation for CCCCD is 100,000. Based on this figure, the first-year annual subscription would be set at the minimum annual rate as follows:

Component	Annual Cost
Table of Contents	Selected at minimum rate
Fiction Profile	Not Selected
Find Similar Titles	Not Selected
Series Information	Not Selected
Awards	Selected at minimum rate
Summaries	Selected at minimum rate
Cover Images	Selected at minimum rate
First Chapters/Excerpts	Not Selected
Author Notes	Not Selected
Criticas Review	Not Selected
PW Review	Not Selected
LJ Review	Selected at minimum rate
SLJ Review	Not Selected
Choice Review	Selected at minimum rate
Booklist Review	Selected at minimum rate
Horn Book Review	Not Selected
Kirkus Review	Not Selected
Total Annual Subscription Fee	\$550

Note: Annual Subscription Fee will become due on the Operational Date of the system.

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POLARIS
LIBRARY SYSTEMS

Schedule D
Services - continued

Polaris ZMARC - Cataloging Record Subscriptions

Plano and Allen

Authority Only	Annual Fee
Licenses x 2 @650.00 per license	\$1,300
Automatic authority heading update service - performed weekly	N/C

CCCCD

Authority Only	Annual Fee
Licenses x 1 @650.00 per license	\$650
Automatic authority heading update service - performed weekly	N/C

Annual subscription fee commences on initiation of the service.

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Schedule E
Software Maintenance and System Support

1. Telephone diagnostic service: is available during the following hours: 8:30am – 8:00pm, Eastern Standard Time, Monday through Friday, excluding standard Polaris holidays. From 8:30-5:00pm Eastern Standard Time customers will be able to call Customer Support and reach their Site Manager or Technical Support Specialist. From 5:00pm-8:00pm Eastern Standard Time customers will reach the Site Manager or Technical Support Specialist working at Polaris headquarters that night. At 8:00pm the phones will be transferred to the answering service. Emergency referrals from Polaris' Operations Center to on-call personnel will be available 24 hours per day, 7 days per week. Emergency assistance is limited to work in correcting problems which impact critical functionality of the System. Software service calls that cannot be solved immediately will be referred to specialists within the Operations Center. Services performed by Polaris beyond the scope of those services listed in 2.1, 2.2, and 2.3. below, or beyond the limitations listed in 3.1., 3.2. and 3.3. below, will be billable at the rate of \$200 an hour with a minimum \$400 charge.
2. Software maintenance covers:
 - 2.1. trouble-shooting of any POLARIS ILS Software related problem;
 - 2.2. provision of updates to the latest version of the POLARIS ILS Software;
 - 2.3. support for SQL Reports interface with POLARIS ILS Software;
3. Service limitations:
 - 3.1. no on-site Software support service is included under this Agreement. Any on-site service requested by the LIBRARY will be provided at Polaris' per-call rates and terms then in effect.
 - 3.2. service will not be provided as a result of:
fault or negligence on the part of the LIBRARY; failure of Third-Party hardware/software; operator error that deviates from standard operating procedures as described in the Software Materials; data loss and/or corruption as a result of any hardware failure
 - 3.3. Software support service does not include:
server operating systems; client operating systems; Third-Party PC software; network and/or communications software; web server/browser software (except where supplied by Polaris); PC trouble-shooting; virus protection, detection or removal; or repair of damage incurred through the infection of a virus;

4.	<u>Software Maintenance Fees:</u>	<u>Annual</u>
4.1	POLARIS ILS server Software - PPL & APL	\$9,000
4.2	POLARIS ILS server Software - CCCCC	\$7,200
4.3	POLARIS ILS client Software - Staff & PAC	
	- PPL	\$21,015
	- APL	\$6,255
	- CCCCC	\$8,685
4.4	Children's interface to PAC - PPL & APL	\$630
4.5	Spanish language interface to PAC - PPL & APL	\$500
4.6	Course Reserves - CCCCC	\$1,200
4.7	Simply Reports 2 users - PPL	\$1,125
4.8	Phone Notification Outbound/Inbound 4 lines - PPL	\$2,160
4.9	Interface to Self-Check - PPL & APL	\$1,080
4.10	Interface to Self-Check - CCCCC	\$360
4.11	SimplyReports 2 users - CCCCC	\$1,125
4.11	Collection Agency Interface to Unique Management Services	\$1,350
4.12	URL Checker - PPL & APL	\$270
4.13	URL Checker - CCCCC	\$270

Total: Annual Software Maintenance and System Support Fee.	\$62,225
Commencing one (1) year from the Operational Date	

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POLARIS
LIBRARY SYSTEMS

Schedule F
Payment Schedule

<u>System Costs</u>	<u>Purchase Price</u>
Database Services (Schedule B)	\$103,561
POLARIS ILS Software Licenses (Schedule C)	\$310,250
Services (Schedule D)	\$48,000
Sub-Total: System Cost	\$461,811
Less Discount	(\$74,721)
Total: System Cost	\$387,090

1. Payment on Delivery

1.1 Services (Schedule D) \$48,000

2. Payment for Database Services

2.1 Total Cost (Schedule B) \$103,561

Payment for this cost to be made as follows:

upon completion of test loads	\$35,500
upon completion of final loads	\$35,500
upon completion of authority load (PPL & APL)	\$21,731
upon completion of authority load (CCCCD)	\$10,830

3. Payment for Software

3.1 Sub-Total Costs (Schedule C)	\$310,250
Less Discount	(\$74,721)
Total Costs	\$235,529

Payment for these costs to be made as follows:-

10% upon signing the Agreement	\$23,552.90
75% upon completion of Software delivery	\$176,646.75
15% upon Operational Date	\$35,329.35

4. Annual Payments to Commence on the Operational Date

4.1. Subscription Service for Enhanced Data Content for PAC - PPL & APL (Schedule D)	\$15,300
4.2. Subscription Service for Enhanced Data Content for PAC - CCCCCD (Schedule D)	\$550
4.3. Polaris ZMARC Cataloging Record Subscription - PPL & APL (Schedule D)	\$1,300
4.4. Polaris ZMARC Cataloging Record Subscription - CCCCCD (Schedule D)	\$650

5. Annual Payments to Commence One (1) Year from the Operational Date

5.1. Software Maintenance and System Support (Schedule E) \$62,225

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POLARIS
LIBRARY SYSTEMS**Schedule G**
Additional Considerations

1. Returned Goods Authorization.
 - 1.1 Goods mistakenly configured or shipped by Polaris will be picked up at Polaris' expense and a full credit will be applied to the customer's account. In order to assure the timely handling of your return, a Returned Materials Authorization number must accompany all returns.
 - 1.2 Goods mistakenly ordered by the LIBRARY may be returned within 30 days of sale. If the return is in its original packaging and fit for resale as new, the LIBRARY's account will be credited for the selling price less a 20% restocking fee and less any shipping and handling charges. The LIBRARY must obtain a Returned Materials Authorization number and ship the return at their own expense, including insurance for the replacement value of the return. If the return is lost in shipment, the LIBRARY remains liable to Polaris for the full purchase price as invoiced and must collect from the carrier or insurer. If the return is shipped to Polaris without a Returned Goods Authorization, an additional tracing fee may be deducted from the value of the return. If the return is in a condition that prevents its resale as new, the LIBRARY will receive credit only for the value as determined by Polaris for use as maintenance spares or for sale as used equipment. Software licenses, barcode labels and all custom goods are not returnable.
2. Network and Workstation Requirements

The POLARIS ILS system is based on TCP/IP protocols over an Ethernet network, and uses industry standard techniques and technology for networking. POLARIS ILS network topologies and protocols include powerful Ethernet 10BaseT and 100BaseT local area networks, high-speed fiber links, and wide-area digital communications, running a variety of protocols, including TCP/IP. Polaris supports Ethernet LANs using TCP/IP. All existing network hardware components must be TCP/IP compatible and manageable. POLARIS ILS is a PC-based system requiring Staff workstations running under Windows XP Pro. Existing dumb terminals cannot be re-deployed. MACs with Ethernet cards and Internet Explorer capability may also be used as PAC workstations. The required wiring is Category 5 (802.3 Ethernet compliant), capable of handling bandwidth from 10Mbps to 100Mbps. Analog equipment is not compatible with the network. As an additional service, the LIBRARY may contract with Polaris for detailed network plans, including design criteria, hardware, and pricing at the then current rates.
3. Ownership of Data

Polaris acknowledges the LIBRARY's ownership of the various databases installed upon the System. Upon termination of this Agreement by either party, or upon conclusion of the Agreement term, Polaris agrees to assist the LIBRARY in extracting all LIBRARY-owned data from the System. Such assistance shall include personnel time and Polaris' best efforts, provision of documentation regarding the format and contents of the extracted data, verification that extracted data is complete and in a form suitable for use by the LIBRARY, and other assistance necessary for the extraction of data. Such assistance shall be provided by Polaris at no charge to the LIBRARY if termination of this Agreement by the LIBRARY comes as a direct result of a breach, by Polaris, of any of the terms and conditions set forth herein; in all other circumstances concerning termination, Polaris shall be entitled to charge the LIBRARY at its then current rates for data extraction services, including any actual expenses for travel to LIBRARY. The data shall include all contents of all files created, maintained, and owned by the LIBRARY, including all bibliographic data, holdings data, patron data, in-process transaction data associated with circulation control, cataloging, acquisitions, serials control, and any other activity or subsystem in use by the LIBRARY. Wherever standards such as MARC exist for the format of that data, Polaris will furnish such data in the standard format. Appropriate documentation shall be provided. These Services will not be delayed or withheld by Polaris in the event of any legal proceeding initiated by either party.

POLARIS
LIBRARY SYSTEMS

Schedule G
Additional Considerations - continued

4. The LIBRARY will provide the following hardware and software as specified below to support the Polaris environment.

- The LIBRARY has a StorageTek L700 Tape Library for backup purposes and uses the Commvault Backup software for system backups.
- The library databases will be backed up daily using this enterprise backup environment.
- The LIBRARY also has a storage area network and the database servers will use fiber attached storage devices dedicated on the SAN for their operation.
- The SAN is StorageTek FLX 380 and the LIBRARY also has a McData 6140 Director.
- The data centers have UPS protected power, with generator backup.
- The LIBRARY uses Raritan for remote management of the servers.

For this project, the City will be using HP servers and the following servers will be blade servers.

Production Server
Test Server
Terminal Services Server - 2
Domain Controllers - 2
SQL Reporting Server
SIP Server

All of these servers will be housed in a blade enclosure and will individually have the following specification.

Production Server - SQL Database Server

HP Proliant BL480c
2 Quad Core Intel Xeon 2.66GHz CPUs (4MB Cache)
16GB memory (4-2x2GB)
Blade mounted
Redundant power supply
No monitor, no keyboard, no mouse
3 - 146GB, 10,000RPM SAS 2.5 hard drives, hot swap drives
Dual Port Blade Center Qlogic HBA's (fiber connectors) with failover
Raid 5 Drive 1 F10 Setting
SA P400 F10 256MB Cache

Storage Area Network Drive configuration for the Production Server

Logs - Raid 1 - 3 - 146GB, 15,000 rpm fiber channel drives
Data - Raid 5 - 4 - 146GB, 15,000 rpm fiber channel drives

Software

The LIBRARY has an Enterprise Agreement with Microsoft and will load as specified the following software on the above server.

- 1 - Microsoft Windows 2003 Server R2 Enterprise License
- 2 - Microsoft SQL 2005 Server per-processor license
- 233 - Microsoft Windows 2003 Client Access License

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Schedule G
Additional Considerations - continuedTest/Training Server

HP Proliant BL480c
2 Quad Core Intel Xeon 2.66GHz CPUs (4MB Cache)
16GB memory (4-2x2GB)
Blade mounted
Redundant power supply
No monitor, no keyboard, no mouse
3 - 146GB, 10,000RPM SAS 2.5 hard drives, hot swap drives
Dual Port Blade Center Qlogic HBA's (fiber connectors) with failover
Raid 5 Drive 1 F10 Setting
SA P400 F10 256MB Cache

Storage Area Network Drive configuration for the Production Server

Database/Logs - Raid 1 - 2 - 146GB, 7.2 rpm SATA drives

Software

1 - Microsoft Windows 2003 Server R2 License
1 - Microsoft SQL 2005 Server per-processor license
10 - Microsoft Windows 2003 Client Access License

Terminal Servers - 2 servers per specification below.

HP Proliant BL480c
2 Quad Core Intel Xeon 2.66GHz CPUs (4MB Cache)
12GB memory (3-2x2GB)
Blade mounted
Redundant power supply
No monitor, no keyboard, no mouse
3 - 146GB, 10,000RPM SAS 2.5 hard drives, hot swap drives
Dual Port Blade Center Qlogic HBA's (fiber connectors) with failover
Raid 5 Drive 1 F10 Setting
SA P400 F10 256MB Cache

Software

1 - Microsoft Windows 2003 Server R2 Enterprise License
Staff - Microsoft Windows 2003 Client Access License

Domain Controllers - 2 servers per specification below

HP Proliant BL460c
2 Dual Core Intel Xeon 3.0GHz CPUs (4MB Cache)
4GB memory (3-2x2GB)
Blade mounted
Redundant power supply
No monitor, no keyboard, no mouse
1 - 146GB, 10,000RPM SAS 2.5 hard drives, hot swap drives
Raid 5 Drive 1 F10 Setting
SA P400 F10 64MB Cache

POLARIS

Schedule G
Additional Considerations - continuedSoftware

1 - Microsoft Windows 2003 Server R2 Enterprise License

SQL Reporting Server

HP Proliant BL460c

2 Dual Core Intel Xeon 3.0GHz CPUs (4MB Cache)

4GB memory (3-2x2GB)

Blade mounted

Redundant power supply

No monitor, no keyboard, no mouse

2 - 146GB, 10,000RPM SAS 2.5 hard drives, hot swap drives

Raid 5 Drive 1 F10 Setting

SA P400 F10 64MB Cache

Software

1 - Microsoft Windows 2003 Server R2 Enterprise License

SIP Server

HP Proliant BL460c

2 Dual Core Intel Xeon 3.0GHz CPUs (4MB Cache)

4GB memory (3-2x2GB)

Blade mounted

Redundant power supply

No monitor, no keyboard, no mouse

2 - 146GB, 10,000RPM SAS 2.5 hard drives, hot swap drives

Raid 5 Drive 1 F10 Setting

SA P400 F10 64MB Cache

Software

1 - Microsoft Windows 2003 Server R2 Enterprise License

The following two servers will be non-blade rack-mounted servers:

Phone Notification Server - rack-mounted (non-blade)

HP Proliant DL360

2 Dual Core Intel Xeon 3.0GHz CPUs (4MB Cache)

2GB memory (3-2x2GB)

Redundant power supply

No monitor, no keyboard, no mouse

2 - 146GB, 10,000RPM SAS 2.5 hard drives, hot swap drives

1-DVD-ROM Drive

Ethernet NIC

Raid 1 Drive 1 F10 Setting

SA P400 F10 64MB FIO Cache

Dialogic Board (4 port)

Software

1 - Microsoft Windows 2003 Server R2 Enterprise License

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POLARIS
LIBRARY SYSTEMS**Schedule G**
Additional Considerations - continuedPAC Server

HP Proliant DL360
2 Quad Core Intel Xeon 2.66GHz CPUs (4MB Cache)
4GB memory (3-2x2GB)
Redundant power supply
No monitor, no keyboard, no mouse
2 - 146GB, 10,000RPM SAS 2.5 hard drives, hot swap drives
1-DVD-ROM Drive
Ethernet NIC
Raid 1 Drive 1 F10 Setting
SA P400 F10 64MB FIO Cache

Software

1 - Microsoft Windows 2003 Server R2 Enterprise License

POLARIS
LIBRARY SYSTEMS**Schedule H**
Data Migration - Data Requirements**Preparatory Phase**Test Records

- Test record sets reflecting the actual data formats to be converted must be provided to Polaris at least one month before the beginning of the migration period.

Profiling

- Data mappings will be reviewed and approved by the library-assigned staff prior to completion of the conversion of the first data set. A final review of the data mappings will occur after the initial data load. Once the LIBRARY and Polaris agree to any final changes to the mappings, they will be approved in writing by the LIBRARY. Final alterations to the first data set and all data mappings for the final process will reflect these signed instructions.

Data Files to be MigratedBibliographic Records

The bibliographic records must adhere to the following standards:

- MARC communications format.
- The data is to be provided via ftp (file transfer protocol), or tape (4mm or 8mm). The file copy format must be approved by Polaris prior to beginning the data migration.
- Each bibliographic record must contain a unique record identity and a unique link to the item record file (if different than the record identity).

Authority Records

The authority records must adhere to the following standards:

- MARC communications format.
- The data is to be provided via ftp (file transfer protocol), or tape (4mm or 8mm). The file copy format must be approved by Polaris prior to beginning the data migration.

Item Records

The item records must adhere to the following standards:

- Holdings must be stored in 852 or 9XX tags within the bibliographic record with one tag per unique item. Data field definitions must be provided by the LIBRARY to assist us in identifying the data in the various subfields.

-OR-

- Holdings must be provided in an ASCII text file with one record per line and a unique delimiter to separate fields (the delimiter must be a character (or characters) that is not used within the text of the data); file structure and data field definitions must be provided by LIBRARY or third-party vendor to assist us in identifying the data in the various columns.
- If the holdings are sent in a separate ASCII text file, the records must contain unique linking IDs that relate to their respective bibliographic records.
- Data is not to be compressed.
- Unique barcode numbers must be used for each item.

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POLARIS
LIBRARY SYSTEMS**Schedule H**
Data Migration - Data Requirements - continuedPatron Records

The patron records must adhere to the following standards:

- Data must be provided in an ASCII text file with one record per line and a unique delimiter to separate fields (the delimiter must be a character (or characters) that is not used within the text of the data); file structure and data field definitions must be provided by LIBRARY or third-party vendor to assist us in identifying the data in the various columns.
- Data is not to be compressed.
- Unique barcode numbers must be used for each patron record.

Circulation Transactions (including reserves and patron account information)

The circulation transaction records must adhere to the following standards:

- Polaris typically migrates current item and patron status, fines and fees, and bibliographic and/or item level holds as a part of this process.
- Data must be provided in an ASCII text file with one record per line and a unique delimiter to separate fields (the delimiter must be a character (or characters) that is not used within the text of the data); file structure and data field definitions must be provided by LIBRARY or third-party vendor to assist us in identifying the data in the various columns.
- Data is not to be compressed.

Unique links to bibliographic, patron, and/or item records (preferably using barcode numbers as the linking elements between the files).

Final Processing

A final load will occur at an agreed upon period after the first data cut is loaded and approved. Following are the requirements for final processing:

- The LIBRARY is responsible for pulling out a full copy of the data it wishes to have converted during the final period. Polaris will process the bibliographic, item, authority, patron and transactions records if they can be identified, extracted, and provided to us for loading/removing.
- Final processing will use the same profile as for the primary conversion. Any modifications to the profile after the first load should be carefully and completely discussed with Polaris prior to the final data pull.
- All of the data files must be provided in the format requirements as stated in the individual file type sections above.

Reports

Reports of counts and exceptions to data mappings will be provided. Customized reports may incur additional charges depending on the requirements.

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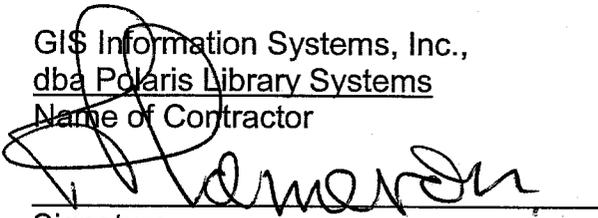
AFFIDAVIT OF NO PROHIBITED INTEREST

I, the undersigned declare and affirm that no person or officer of GIS Information Systems, Inc., doing business as Polaris Library Systems (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.

GIS Information Systems, Inc.,
dba Polaris Library Systems
Name of Contractor

By:


Signature

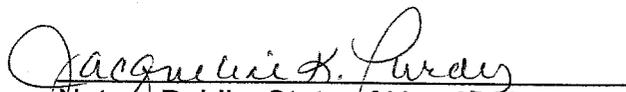
ALASTAIR CAMERON
Print Name

Manager, Proposals and Contracts
Title

March 15, 2007
Date

STATE OF NEW YORK §
 §
COUNTY OF Onondaga §

SUBSCRIBED AND SWORN TO before me this 16th day of March, 2007.


Notary Public, State of New York

JACQUELINE K. PURDY
NOTARY PUBLIC-STATE OF NEW YORK
No. 01PU6033548
Qualified in Oswego County

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VENDOR CONNECTION AGREEMENT**DATED 03/23/05**

This Connection Agreement (the "Agreement") is entered into by and between The City of Plano (the "City"), a municipal corporation and GIS Information Systems, Inc., doing business as Polaris Library Systems, a qualified Subchapter S subsidiary of the Croydon Company, Inc., on the fifteenth day of March, 2007. City and Vendor may be referred to herein individually as a "Party" or collectively as the "Parties".

WHEREAS, the City

WHEREAS, the Vendor

NOW THEREFORE, the Parties hereto agree as follows:

Technical Requirements. Vendor understands and agrees that:

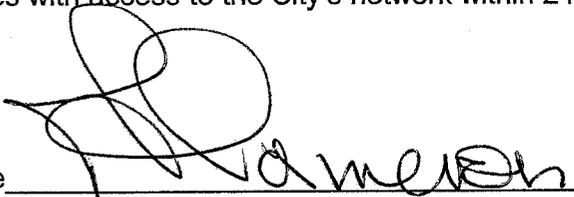
The Vendor acknowledges by signing this document that they have read and accept all applicable terms of the City's Security Policy. The City only allows remote access to their network by an authorized virtual private network ("VPN") connection. The City does not allow any Microsoft virtual private network ("VPN") solution for remote access; devices originating a VPN connection must be separated from the public Internet by a hardware/software firewall and must also use a commercially available anti-virus package; local area network ("LAN") devices originating a VPN connection must be addressed from address space allocated in RFC 1918; that Vendor shall be responsible for and shall bear any and all expense for modifications it must make to its configuration or equipment in order to comply with these requirements; and Vendor assumes any and all risk associated with connecting to the City and its network, and the City shall not be responsible for any security breaches on Vendor's network resulting from or related to Vendor's use of the City approved VPN client.

Limitations on Use. Vendor understands and agrees that the City may, in its sole discretion, and without advanced notice to Vendor;

1. Assign VPN bandwidth to vendors on an individual basis;
2. Limit the number of concurrent connections that may be made by any Vendor at any one time.
3. Disconnect any vendor responsible for the origination of network traffic that the City deems to be unnecessary, harmful, or disruptive
4. Enforce security policy that requires unique login credentials be supplied for each VPN connection with the understanding that these logon credentials are subject to change every 45 days; and
5. Immediately de-activate VPN accounts upon notification by Vendor of a change in employment status of any employee granted access to the City's network.

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Liability. Vendor expressly agrees that it shall be liable for any and all damages, including but not limited to actual, consequential, or incidental damages, for disruptions caused by their negligence or intentional misconduct to the City's network, 911 system, or other network services resulting from or related to Vendor's connection to the City's networks. Vendor also expressly agrees to notify the City of staffing changes involving employees with access to the City's network within 24 hours.

Signature  _____

Name (Printed) ALASTAIR CAMERON

Title Manager Proposals and Contracts

Company GIS Information Systems, Inc., dba Polaris Library Systems

Date: March 15, 2007

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**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		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: 4/9/07		Reviewed by Legal <i>PM</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Planning		Initials	Date
Department Head	P. Jarrell	Executive Director	<i>[Signature]</i>	3/28/07
Dept Signature:	<i>P. Jarrell</i>	City Manager	<i>[Signature]</i>	3/28/07
Agenda Coordinator (include phone #): Lynn Trotter x-7156				

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

CAPTION

A RESOLUTION OF THE CITY OF PLANO, TEXAS APPROVING THE TERMS AND CONDITIONS OF MODIFIED AGREEMENTS BETWEEN THE CITY OF PLANO, TEXAS, AND VARIOUS HERITAGE PRESERVATION ORGANIZATIONS WHICH RENDER SERVICES THAT ARE BENEFICIAL TO THE PUBLIC AND SERVE A VALID PUBLIC PURPOSE IN THE TOTAL AMOUNT OF \$601,301; AUTHORIZING THE CITY MANAGER, OR IN HIS ABSENCE AN EXECUTIVE DIRECTOR, TO EXECUTE SUCH AGREEMENTS WITH THESE ORGANIZATIONS FOR THE PROVISION OF SUPPORT OF HERITAGE PRESERVATION; AND PROVIDING AN EFFECTIVE DATE.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2006-2007	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0		0	0
Encumbered/Expended Amount	0		0	0
This Item	0		0	0
BALANCE	0		0	0

FUND(S): **GENERAL FUND, GENERAL OBLIGATION DEBT FUND**

COMMENTS: This item will result in additional (\$47,212) Heritage Grant funding that was originally omitted due to a clerical error, to be distributed to The Plano Conservancy and the Plano Heritage Association d/b/a Plano Farmstead Museum.

STRATEGIC PLANO GOAL: This item relates to the City's goal of "Premiere City for Families."

SUMMARY OF ITEM

In October 2006, City Council approved \$544,089 to be distributed to The Plano Conservancy and the Plano Heritage Association as part of the annual 2006-2007 Heritage Commission Grants Program. In February 2007, a clerical error was identified and it was noted that an additional \$47,212 was mistakenly omitted from the calculation of available funds for distribution as part of the Heritage Grant Program.

This Resolution is approving the terms and conditions of modified Heritage Commission Grant funding agreements for fiscal year 2006-2007.

With the identification of this omission, the two agencies funded this fiscal year were asked to provide a comparison of their original funding request and their recommended priorities for the utilization of additional

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CITY OF PLANO COUNCIL AGENDA ITEM

funds. The Heritage Commission met Tuesday, February 27, 2007, to review these requests and recommended that the additional funding be distributed as follows: \$19,717 to The Plano Conservancy and \$27,495 to the Plano Heritage Association d/b/a Plano Farmstead Museum. This will bring total funding to the two agencies this year as follows: \$195,425 to the Plano Conservancy and \$405,876 to the Plano Heritage Association.

List of Supporting Documents:

RESOLUTION

MODIFIED AGREEMENTS

Other Departments, Boards, Commissions or Agencies
Heritage Commission

Z:CC/Modified Grant Agreements (ALB/eh)

MEMORANDUM

DATE: March 20, 2007

TO: Tom Muehlenbeck, City Manager
Frank Turner, Executive Director

FROM: Amy Bear, Heritage Preservation Officer

Please find attached a Resolution approving the terms and conditions of **modified** Heritage Commission Grant funding agreements for fiscal year 2006-2007. This modification is necessary to reflect \$47,212, which in February 2007, was identified as mistakenly omitted from the original calculation of available funds.

With the identification of this omission, the two agencies funded this fiscal year were asked to provide a comparison of their original funding request and their recommended priorities for the utilization of additional funds. The Heritage Commission met Tuesday, February 27, 2007, to review these requests and recommended that the additional funding be distributed as follows: \$19,717 to The Plano Conservancy and \$27,495 to the Plano Heritage Association d/b/a Plano Farmstead Museum. This will bring total funding to the two agencies this year as follows: \$195,425 to the Plano Conservancy and \$405,876 to the Plano Heritage Association.

If you have further questions, please let me know. I may be reached at extension 5343.

xc: Phyllis Jarrell, Director of Planning
Jeff Zimmerman, Long-range Planning Manager
Anita Bell, Budget
Paige Mims, Legal

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RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF PLANO, TEXAS APPROVING THE TERMS AND CONDITIONS OF MODIFIED AGREEMENTS BETWEEN THE CITY OF PLANO, TEXAS, AND VARIOUS HERITAGE PRESERVATION ORGANIZATIONS WHICH RENDER SERVICES THAT ARE BENEFICIAL TO THE PUBLIC AND SERVE A VALID PUBLIC PURPOSE IN THE TOTAL AMOUNT OF \$601,301; AUTHORIZING THE CITY MANAGER, OR IN HIS ABSENCE AN EXECUTIVE DIRECTOR, TO EXECUTE SUCH AGREEMENTS WITH THESE ORGANIZATIONS FOR THE PROVISION OF SUPPORT OF HERITAGE PRESERVATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has assigned to the Heritage Commission the responsibility of considering funding requests from outside heritage preservation organizations; and

WHEREAS, this Commission entertained funding requests, conducted extensive review, and made recommendations for funding to City Council based on established criteria; and

WHEREAS, the City Council received such recommendations during budget deliberations, conducted a public hearing on the proposed budget and approved and adopted the 2006-2007 budget; and

WHEREAS, pursuant to Ordinance No. 2006-9-11 the City Council has appropriated funds for such purposes and find that the services provided by these organizations are beneficial to the public and serve a valid public purpose; and

WHEREAS, the City Council desires to enter into agreements with the various heritage preservation organizations, a sample agreement is attached hereto by reference as Exhibit "A", which establishes the terms and conditions for funding; and

WHEREAS, a First Modification of the Original Funding Agreements dated November 21, 2006, is necessary to reflect a correction in the total amount budgeted and dispersed.

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

Section 1. The terms and conditions of the Modified Agreements with the below named organizations in the 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:

Heritage Preservation Grants:

Plano Heritage Association	\$405,876
Plano Conservancy for Historic Preservation	<u>\$195,425</u>
TOTAL	\$601,301

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.

Section III. This Resolution shall become effective from and after its passage.

DULY PASSED AND APPROVED THIS THE _____ DAY OF _____, 2007.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM;

Diane C. Wetherbee, CITY ATTORNEY

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THE STATE OF TEXAS	§	<u>First Modification of Funding Agreement</u>
	§	By and Between City of Plano and
	§	Plano Heritage Association d/b/a
	§	Plano Farmstead Museum
COUNTY OF COLLIN	§	

THIS FIRST MODIFICATION OF the Funding Agreement Between City of Plano and Plano Heritage Association d/b/a Plano Farmstead Museum (hereinafter "First Modification") is made and entered into on this the ____ day of _____, 2007, by and between **PLANO HERITAGE ASSOCIATION D/B/A PLANO FARMSTEAD MUSEUM** (hereinafter "Contractor"), Plano, Texas, and the **CITY OF PLANO, TEXAS**, a home rule municipal corporation (hereinafter "CITY"), acting by and through its City Manager or his designee.

WITNESSETH:

WHEREAS, Plano Heritage Association d/b/a Plano Farmstead Museum received funding from the City pursuant to Ordinance No. 2006-9-11, in the amount of \$368,381.00 for the purpose set forth in the Funding Agreement ("Agreement"); and

WHEREAS, City and Contractor desire to further amend such Agreement to correct a clerical error in the appropriated funds.

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

I.

Beginning on the effective date of this Modification and continuing through the remaining term of the Agreement, the total funds the City will make available to Contractor shall be \$405,876.00 for fiscal year 2006/2007.

IN WITNESS WHEREOF, the parties enter into this First Modification on the date first written above.

PLANO HERITAGE ASSOCIATION
D/B/A HERITAGE FARMSTEAD
MUSEUM

By: _____
Name:
Title:
Address:

CITY OF PLANO, TEXAS

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

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

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ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2007 by _____ of **PLANO HERITAGE ASSOCIATION D/B/A PLANO FARMSTEAD MUSEUM**, a non-profit 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 _____, 2007 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

<p>THE STATE OF TEXAS</p> <p>COUNTY OF COLLIN</p>	<p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p>	<p><u>First Modification of Funding Agreement</u></p> <p>By and Between City of Plano and</p> <p>The Plano Conservancy for Historic</p> <p>Preservation, Inc.</p>
---	--	---

THIS FIRST MODIFICATION OF the Funding Agreement Between City of Plano and The Plano Conservancy for Historic Preservation, Inc. (hereinafter "First Modification") is made and entered into on this the _____ day of _____, 2007, by and between **THE PLANO CONSERVANCY FOR HISTORIC PRESERVATION, INC.** (hereinafter "Contractor"), Plano, Texas, and the **CITY OF PLANO, TEXAS**, a home rule municipal corporation (hereinafter "CITY"), acting by and through its City Manager or his designee.

WITNESSETH:

WHEREAS, The Plano Conservancy for Historic Preservation, Inc. received funding from the City pursuant to Ordinance No. 2006-9-11, in the amount of \$175,708.00 for the purpose set forth in the Funding Agreement ("Agreement"); and

WHEREAS, City and Contractor desire to further amend such Agreement to correct a clerical error in the appropriated funds.

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

I.

Beginning on the effective date of this Modification and continuing through the remaining term of the Agreement, the total funds the City will make available to Contractor shall be \$195,425.00 for fiscal year 2006/2007.

IN WITNESS WHEREOF, the parties enter into this First Modification on the date first written above.

THE PLANO CONSERVANCY FOR HISTORIC PRESERVATION, INC.

By: _____
Name:
Title:
Address:

CITY OF PLANO, TEXAS

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

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

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ACKNOWLEDGMENTS

STATE OF TEXAS

§

COUNTY OF COLLIN

This instrument was acknowledged before me on the _____ day of _____, 2007 by _____ of **THE PLANO CONSERVANCY FOR HISTORIC PRESERVATION, INC.**, a non-profit 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 _____, 2007 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**

CITY SECRETARY'S USE ONLY		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: 4/9/07		Reviewed by Legal <i>W</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Technology Services		Initials <i>AS</i>	Date 6.28.07
Department Head	David Stephens	Executive Director		
Dept Signature:	<i>David Stephens</i>	City Manager	<i>[Signature]</i> 6/28/07	
Agenda Coordinator (include phone #): Lisa Prunty Ext. 7342				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input checked="" 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				
CAPTION				
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS APPROVING AN INTERLOCAL AGREEMENT BY AND BETWEEN THE CITY OF PLANO AND COLLIN COUNTY FOR THE COLLIN COUNTY EMERGENCY COMMUNICATIONS COMMITTEE (CCECC) FOR THE PURCHASE, DESIGN, INSTALLATION, OPERATIONS AND MAINTENANCE OF A FIBER OPTIC WIDE AREA NETWORK AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ALL NECESSARY DOCUMENTS.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S): TECHNOLOGY SERVICES FUND				
COMMENTS: THIS ITEM APPROVES AN INTERLOCAL AGREEMENT FOR A FIBER OPTIC NETWORK FOR THE COLLIN COUNTY EMERGENCY COMMUNICATIONS COMMITTEE. FUTURE ANNUAL MAINTENANCE COSTS FOR THE CCECC PROJECT ARE ESTIMATED AT \$6,500 PER YEAR AND WILL BE INCLUDED AS A PART OF THE ANNUAL BUDGET APPROVAL PROCESS. STRATEGIC PLAN GOAL: Joint Fiber Optic Wide Network connecting County and City with high speed communication in emergencies is related to the City's Goal of "Service Excellence".				
SUMMARY OF ITEM				
Interlocal Agreement by and between the City of Plano and Collin County is mutually beneficial to both parties. Each entity can provide strands of fiber to create the Collin County Emergency Communication Committee (CCECC) Fiber Optic Wide Area Network to provide high speed communications for use in emergencies and day-to-day business. Benefits include but not limited to connecting the County Home Land Security and the Cities Emergency Operation Centers, sharing of agreed upon data and applications and Proprietary network.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Agreement				

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RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING AN INTERLOCAL AGREEMENT BY AND BETWEEN THE CITY OF PLANO AND COLLIN COUNTY FOR A FIBER OPTIC WIDE AREA NETWORK; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Plano has been presented with an Interlocal Agreement by and between the City of Plano and Collin County for the Collin County Emergency Communications Committee (CCECC) Fiber Optic Wide Area Network, a substantial copy of which is attached hereto as Exhibit "A" and,

WHEREAS, the City Council finds that the Interlocal Agreement for the Collin County Emergency Communications Committee (CCECC) Fiber Optic Wide Area Network provides high speed communications for use in emergencies and day-to-day business.

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

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

Section I. The City Council of the City of Plano, Texas, hereby finds and determines that the Interlocal Agreement be finalized and executed, and, therefore, exempt from competitive bid or proposal as provided for in Section 252.022(a)(7) of the Texas Local Government Code.

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

Section III. The City Manager or, in his absence, an Executive Director, is hereby authorized to execute the Agreement and all other documents in connection therewith on behalf of the City of Plano.

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

DULY PASSED AND APPROVED this the _____ day of _____, 2007.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

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INTERLOCAL AGREEMENT

This Interlocal Agreement (the "Agreement") is made and entered into this ____ day of March, 2007, between Collin County Texas entity, a political subdivision of the State of Texas (hereinafter "County") and the City of Plano, Texas, a political subdivision of the State of Texas (hereinafter "City").

WHEREAS, both the County and City have the authority to enter into this Agreement pursuant to Chapter 791, Texas Government Code; and

WHEREAS, the County and City have invested in the purchase, design, installation, operations and maintenance of a Fiber Optic Wide Area Network to meet its needs; and

WHEREAS, the County and City are members of the Collin County Emergency Communication Committee (hereinafter "CCECC"); and

WHEREAS, it is mutually beneficial to both parties to execute this Agreement whereby each entity can provide strands of fiber to create the Collin County Emergency Communication Committee (CCECC) Fiber Optic Wide Area Network to provide high-speed communications for the use of emergencies and day-to-day business saving the Collin County taxpayers money; and

WHEREAS, the County and City will receive a benefit by being able to connect to the CCECC Fiber Optic Wide Area Network to include, but not limited to, the following:

1. Connecting the County Home Land Security and Cities Emergency Operation Centers.
2. Connecting the County Home Land Security and Cities Embassy switch.
3. Sharing of agreed upon data for day-to day use.

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4. Proprietary network (no dependence on public network).

NOW THEREFORE, in consideration of the mutual representations, terms and covenants hereafter set forth, the parties hereby agree as follows:

Section 1. Purpose

1.1 This Agreement authorizes the County and City to connect strands of fiber to establish the CCECC's Fiber Optic Wide Area Network for the purpose of providing communication services including, but not limited to:

- (a) Connecting the County Home Land Security and Cities Emergency Operation Centers.
- (b) Connecting the County Home Land Security and Cities Embassy switch.
- (c) Sharing of agreed upon data for day-to day use.
- (d) Sharing of agreed upon software applications.
- (e) Proprietary network (no dependence on public network).

Section 2. Representative/Monitoring Position

The County representative/contract monitor during the term of this Agreement shall be Caren Skipworth, IT Director with Collin County, whose telephone number is 972-548-4501, or any other person duly appointed by the County.

The City representative/contract monitor during the term of this Agreement shall be David Stephens, Director Technology Services with City of Plano, whose telephone number is 972-941-7660, or any other person duly appointed by the City.

Section 3. Effective Date/Term

This Agreement shall take effect upon execution and continue through September 30, 2011. Agreement may be renewed for up to two (2) additional five (5) year terms unless otherwise terminated as provided herein.



Section 4. Services Rendered

The County and City agree to allow connection of the following facilities to the CCECC's Fiber Optic Wide Area Network through a physical connection on the fiber known as the Point of Presence; provided, however, the County and City abide by the responsibilities as set in Section 5.

4.1 Point of Presence in Plano will be 1901 Ave K Plano, TX 75074.

4.2 The County and City agree to provide connectivity to future facilities if mutually agreeable to both parties.

4.3 The Points of Presence will deliver bandwidth between facilities at a level agreed upon by the parties. The bandwidth may be provided for the County and City in separate virtual private networks (VPN), implemented specifically for and by each party ensuring privacy and security.

Section 5. Responsibilities and Duties

5.1 County's Responsibilities:

The County will provide equipment and facilities as defined below:

- (a) County will fund the initial implementation cost and the first year of maintenance for the City.
- (b) The County will provide the use of two (2) pair (four (4) strands) of fiber.
- (c) If possible, the County will notify the other parties at least two (2) weeks prior to any scheduled maintenance on the CCECC Fiber Optic Wide Area Network and/or communications equipment that

will render any part of the CCECC Fiber Optic Wide Area Network out of service.

- (d) County will notify other party as soon as practicable of any unscheduled downtime that will render any part of the fiber out of service.
- (e) County will contract directly with CCECC's contracted vendor for any additional fiber needed to connect facilities to CCECC's Fiber Optic Wide Area Network.
- (f) County will notify each party immediately if any part of the CCECC's Fiber Optic Wide Area Network is disrupted for any reason.

5.2 City's Responsibilities:

- (a) City is responsible for any costs after implementation and continuing maintenance costs after year one (1).
- (b) The City will provide the use of two (2) pair (four (4) strands) of fiber.
- (b) If possible, the City will notify each party at least two (2) weeks prior to any scheduled maintenance on the CCECC Fiber Optic Wide Area Network and/or communications equipment that will render any part of the CCECC Fiber Optic Wide Area Network out of service.



- (d) City will notify the other party as soon as practicable of any unscheduled downtime that will render any part of the fiber out of service.
- (e) City will contract directly with CCECC's contracted vendor for any additional fiber needed to connect facilities to CCECC's Fiber Optic Wide Area Network.
- (f) County and City will notify each party immediately if any part of the CCECC's Fiber Optic Wide Area Network is disrupted for any reason.

5.3 The County and City shall have no requirement to install, operate, or maintain any equipment on any other party's facilities.

5.4 The County and City only will connect, expand or otherwise modify the CCECC's Fiber Optic Wide Area Network components which are owned by them.

5.5 The County and City will provide access to the CCECC's Fiber Optic Wide Area Network on a good faith effort basis. The County and City goals will be to provide one hundred percent (100%) availability; provided, however, it is not a breach of this Agreement and damages are not available to the County or City if less than one hundred percent (100%) access is provided.

5.6 County and City make no warranties, express or implied, (including any warranty for merchantability or fitness for a particular purpose), respecting any duties or obligations under this Agreement and both parties waive any warranty by the other party, express or implied.

Section 6. Breach/Opportunity to Cure

The parties hereto expressly covenant and agree that in the event either party is in default of its obligations herein, the party not in default shall provide to the party in default at least thirty (30) days written notice to cure said default before exercising any of its rights as provided for in this Agreement.

Section 7. Termination

This Agreement may be terminated by either party to this Agreement upon six (6) months prior written notice to the other party.

Section 8. Notice

All notices required to be given under this Agreement shall be deemed sufficient to each party when delivered by United States Mail to the following:

Collin County:

Collin County
Purchasing Department
200 S. McDonald Street, Suite 230
McKinney, TX 75069

with Copy to:

Collin County
Information Technology
210 S. McDonald, Suite 510
McKinney, TX 75069

City of Plano

City of Plano
Technology Services
PO Box 860358
Plano, TX 75086-0358

Section 9. Liability



The parties to this Agreement and their respective officers and employees shall not be deemed to assume any liability for the acts, omissions and negligence of the other party.

Section 10. Amendments

This Agreement may be amended from time to time by written amendment by both parties.

Section 11. Remedies

This Agreement shall be construed by and governed by the laws of the State of Texas. Venue for any legal action necessary to enforce the Agreement will be in Collin County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power or remedy hereunder shall preclude any other or further exercise thereof.

Section 12. Captions

The captions and section designations herein set forth are for convenience only and shall have no substantive meaning.

Section 13. Severability

In the event that any section, paragraph, sentence, clause or provision hereof is held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

Section 14. No Third Party Beneficiaries

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For purposes of this Agreement, including its intended operation and effect, the parties specifically agree and contract that: (1) the Agreement only affects matters/disputes between the parties to this Agreement, and is in no way intended by the parties to benefit or otherwise affect any third person or entity notwithstanding the fact that such third person or entity may be in contractual relationship with County or City, or both; and (2) the terms of this Agreement are not intended to release, either by contract or by operation of law, any third person or entity from obligations owed by them to either County or City.

Section 15. Funding

Each party paying for the performance of governmental functions or services pursuant to this Agreement must make those payments from current revenues available to the paying party.

Section 16. Entirety of Agreement

This Agreement represents the entire understanding between the County and City and supersedes all other negotiations, representations or agreement, either written or oral, relating to this Agreement.

Handwritten signature or initials, possibly "S-11", in black ink.

Collin County, Texas

By: _____
Keith Self, County Judge

City of Plano, Texas

By: _____
Thomas H. Muehlenbeck
City Manager
1520 Avenue K
P.O. Box 860358
Plano, TX 75086-0358

ACKNOWLEDGEMENT

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2007 by Keith Self, County Judge, on behalf of Collin County, Texas.

Notary Public in and for the State of Texas

ACKNOWLEDGEMENT

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2006 by Thomas H. Muehlenbeck, on behalf of City of Plano, Texas.

Notary Public in and for the State of Texas

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**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		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:	4/9/07		Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Engineering		Initials	Date	
Department Head	Alan L. Upchurch		Executive Director		
Dept Signature:	<i>Alan L. Upchurch</i>		City Manager	<i>BSJ</i>	<i>4-20-07</i>
Agenda Coordinator (include phone #):	Irene Pegues (7198)				

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

CAPTION

Approving the terms and conditions of a real estate contract by and between the City of Plano, Texas, and Jerry Oliverie and Elizabeth Oliverie for the purchase of 1332.552 square foot of land for right of way and 251 square foot of temporary construction easement located at 900 East Parker Road, situated in the George W. Barnett Survey, Abstract No. 45, being part of Lot 4, Block 1, of Parker Square Addition, an addition in the City of Plano, Collin County, Texas; authorizing its execution by the City Manager or his designee; and providing an effective date.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2006-07	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	129,786	3,603,214	0	3,733,000
Encumbered/Expended Amount	-129,786	-105,568	0	-235,354
This Item	0	-30,000	0	-30,000
BALANCE	0	3,467,646	0	3,467,646

FUND(s): STREET IMPROVEMENT CIP

COMMENTS: Funds are included in the 2006-07 Street Improvement CIP. This item, in the amount of \$30,000, will leave a current year balance of \$3,462,646 for the Parker – K Avenue to Raton project.

STRATEGIC PLAN GOAL: Real estate contracts for land purchases and construction easements relate to the City's Goal of Safe, Efficient Travel.

SUMMARY OF ITEM

This contract is for right of way and temporary construction easement needed to construct a right-turn lane for east bound Parker Road and K Avenue as a part of the Parker Road Reconstruction project. The purchase price is \$30,000. The City will also relocate an existing pipe fence and pole sign to clear the right of way purchase.

List of Supporting Documents: Location Map	Other Departments, Boards, Commissions or Agencies N/A
---	---

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF A REAL ESTATE CONTRACT BY AND BETWEEN THE CITY OF PLANO, TEXAS, AND JERRY OLIVERIE AND ELIZABETH OLIVERIE FOR THE PURCHASE OF 1332.552 SQUARE FOOT OF LAND FOR RIGHT OF WAY AND 251 SQUARE FOOT OF TEMPORARY CONSTRUCTION EASEMENT LOCATED AT 900 EAST PARKER ROAD, SITUATED IN THE GEORGE W. BARNETT SURVEY, ABSTRACT NO. 45, BEING PART OF LOT 4, BLOCK 1, OF PARKER SQUARE ADDITION, AN ADDITION IN THE CITY OF PLANO, COLLIN COUNTY, TEXAS; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR HIS DESIGNEE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has been presented a proposed Real Estate Contract by and between City of Plano, Texas, and Jerry and Elizabeth Oliverie, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Contract"); and

WHEREAS, upon full review and consideration of the Contract, 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 his designee shall be authorized to execute it on behalf of the City of Plano.

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

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

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

Section III. This Resolution shall become effective from and after its passage.

DULY PASSED AND APPROVED the _____ day of _____, 2007.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:



Diane C. Wetherbee, CITY ATTORNEY

REAL ESTATE CONTRACT

THIS CONTRACT is entered into as of the effective date as hereinafter defined by and between **JERRY OLIVERIE and wife ELIZABETH OLIVERIE** (collectively the "Seller"), and **CITY OF PLANO, TEXAS**, a home rule municipal corporation (the "Purchaser").

WHEREAS, under threat of condemnation, the Purchaser desires to purchase and the Seller desires to sell the following tracts or parcels of real property as follows:

(a) A 1,332.552 square foot tract of land in fee simple for right-of-way purposes as more particularly described in Exhibit "A" attached hereto and made a part hereof by reference and being herein referred to as the "Right-of-Way Property"; and

(b) A 251 square foot easement parcel for temporary construction purposes as more particularly described in Exhibit "B" attached hereto and made a part hereof by reference and being herein referred to as the "Temporary Construction Easement Property,"

both parcels collectively referred to as the "Property."

WHEREAS, Seller and Purchaser have entered into this Contract to provide for the terms and conditions of the sale and purchase of the Property.

NOW, THEREFORE, in consideration of the premises and for the further consideration of the terms, provisions, and conditions hereinafter set forth, Seller and Purchaser have agreed as follows:

1. **Agreement to Convey**

For the consideration and upon and subject to the terms, provisions, and conditions hereinafter set forth, Seller has agreed and does hereby agree to sell, grant and convey to the Purchaser the Property and Purchaser has agreed and does hereby agree to purchase the Property from the Seller. The Right-of-Way Property shall be conveyed to Purchaser together with all and singular the rights and appurtenances pertaining to such Property including, but not limited to, any right, title and interest of Seller in and to easements, adjacent streets, alleys and rights-of-way and together with all improvements, fixtures and buildings located, constructed, or placed thereon. All references in this Contract to the term "Right-of-Way Property" shall include all right, title and interest of Seller to easements, streets, alleys, rights-of-way, improvements, fixtures, and buildings as set forth above.

2. Purchase Price

The purchase price ("Purchase Price") to be paid for the Property shall be **THIRTY THOUSAND AND NO/100 DOLLARS (\$30,000.00)**. The Purchase Price shall be paid at closing (as hereinafter defined).

3. Title Commitment

Purchaser, at its sole cost and expense, shall obtain a current commitment or commitments for title insurance (the "Title Commitment") covering the Property and issued by a title company (the "Title Company") selected by Purchaser. The items listed on Schedule B shall be deemed "Permitted Exceptions."

4. Representations and Warranties of Seller

(a) At Closing, Seller shall have good and indefeasible fee simple title to the Property, free and clear of all mortgages and liens or judgments or such mortgages, liens and/or judgments will be released from the Property with proceeds of Closing.

(b) To Seller's actual knowledge, without duty of investigation, there are no parties in possession of any portion of the Property as lessees, tenants at sufferance or trespassers, and no prescriptive rights will have been acquired in, or have commenced to run against the Property or any portion thereof.

(c) Seller is duly authorized and empowered to enter into this Contract and to consummate the transactions contemplated hereunder, and any person executing this Contract on behalf of Seller is duly authorized and empowered to do so.

5. Acknowledgments, Covenants and Agreements of Seller

Seller acknowledges, covenants and agrees with Purchaser as follows:

(a) Purchaser and its agents and representatives shall have full access to the Property at all times prior to the Closing.

(b) No new or additional improvements will be constructed, located or placed on the Property.

(c) To the best of Seller's knowledge and belief, the Property does not include any personal property.

(d) During the pendency of this Contract, Seller shall not (without the prior written consent of Purchaser) create, impose or agree to any mortgages, liens, encumbrances, leases, tenancies, licenses, security interests, covenants, conditions,

restrictions, rights-of-way, easements, judgments or other matters affecting title to the Property, except those existing on the date of execution of the Contract.

(e) This closing and consummation of the terms of this Contract shall constitute a full and final settlement for all compensation due Seller for the Property.

(f) The covenants in this Section 5 shall survive Closing.

6. The Closing

The closing of this Contract pertaining to the Property shall be consummated at a closing (the "Closing") to be held at the office of the Title Company on or before thirty (30) days after the effective date of this Contract, or at such other time, date and place that the parties may agree upon.

At the Closing, Seller agrees to deliver to Purchaser:

(a) A Special Warranty Deed substantially the same as the form attached hereto as Exhibit "C" duly executed by Seller and properly acknowledged, granting, conveying and warranting unto the Purchaser good and indefeasible title in Right-of-Way Property to Purchaser, subject to no liens, charges, encumbrances, exceptions or reservations of any kind or character other than Permitted Exceptions; and

(b) A Temporary Construction Easement substantially the same as the form attached hereto as Exhibit "D" duly executed by Seller and properly acknowledged granting and conveying an easement interest in the Temporary Construction Easement Property to Purchaser; and

(c) All releases or other documents or instruments (all in recordable form) reasonably required to eliminate any Schedule C items contained in the Title Commitment; and

(d) Such other documents and instruments as may be necessary to evidence the authority of Seller to convey title to the Property.

At the closing, Purchaser agrees to deliver to Seller:

(e) The Purchase Price in cash as required by paragraph 2 above;

(f) A letter agreement to the Seller that the Purchaser will have the contractor for its project relocate the pipe fence to the new right-of-way line upon completion of the right turn lane in front of Purchaser's property; that the driveway will always be open, but may be reduced to one way during some construction activities, and that the Purchaser will have the existing sign and related electrical lines relocated to clear the new property line. All of these items listed in this subparagraph (f) will be at the Purchaser's cost.

7. Closing Costs and Proration

Costs of title insurance for the Property, escrow fees of the Title Company, costs of recording any documents in connection with the Closing of the Property shall be paid by Purchaser. All other expenses incurred by Seller and Purchaser with respect to the Closing, including, but not limited to, attorneys' fees incurred in connection with this Contract, shall be borne and paid exclusively by the party incurring same. Ad valorem taxes for the year of closing shall be prorated as of the Closing in accordance with Section 26.11 of the Texas Tax Code. All delinquent ad valorem taxes, if any, shall be paid by Seller.

8. Default

(a) Seller's Default. In the event Seller should fail to consummate this Contract for any reason except Purchaser's default, Purchaser may, at its option, either enforce specific performance of this Contract or terminate this Contract as its sole and exclusive remedy hereunder. If Seller is unable to deliver title as required by this Contract, Purchaser shall have the right to take the Property with whatever title Seller can deliver. Nothing herein shall be construed to limit the Purchaser's right and power of eminent domain.

(b) Purchaser's Default. In the event Purchaser shall fail to consummate this Contract for any reason except Seller's default, Seller may, at its option and as its sole and exclusive remedy, either enforce specific performance of this Contract or terminate this Contract by giving written notice thereof to Purchaser. Seller's remedy set forth in this Paragraph 8(b) is exclusive.

9. Right to Possession

Purchaser shall be entitled to possession at Closing.

10. Nonwaiver

No waiver by either party of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the party against which enforcement is sought. No delay or omission in the exercise of any right or remedy accruing to either party upon any breach of this Contract by the other party shall impair such right or remedy or be construed as a waiver of any such breach theretofore or thereafter occurring. The waiver by either party of any breach of any term, covenant or condition herein stated shall not be deemed to be a waiver of any other or subsequent breach of the same or any other term, covenant or condition herein contained.

11. Miscellaneous Provisions

(a) This Contract (including the exhibits attached hereto) embodies the complete and entire agreement between the parties hereto relative to the Property and

supersedes all prior negotiations, agreements and understanding relating thereto and may not be varied except by written agreement of such parties.

(b) This Contract shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors, heirs and assigns.

(c) This Contract shall be construed under and in accordance with the laws of the State of Texas and is fully performable in Collin County, Texas.

(d) In case any one or more of the provisions contained in this Contract shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Contract shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

(e) Any notice to be given or to be served upon any party hereto in connection with this Contract must be in writing and may be given by Certified or Registered Mail and shall be deemed to have been given and received when a Certified or Registered letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States Mail, and if given otherwise than by Certified or Registered Mail, it shall be deemed to have been given when delivered to and received by the party (or such party's agents or representatives) to whom it is addressed. Such notice shall be given to the parties hereto at the address set forth under their respective signatures below. Any party hereto may, at any time by giving two (2) days' written notice to the other parties hereto, designate any other address in substitution of the foregoing address to which such notice shall be given.

(f) This Contract may be executed simultaneously in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

(g) The headings used throughout this Contract have been used for administrative convenience only and do not constitute matter to be considered in interpreting this Contract.

(h) Purchaser represents and warrants unto Seller that Purchaser has full power and authority to enter into and consummate this Contract.

(i) The effective date of this Contract shall be the last date of signature of any party set forth below.

(j) Seller and Purchaser each represent to the other that there have been no brokers or real estate commissions incurred as a result of this transaction.

IN WITNESS WHEREOF, the parties have executed this Contract as of the dates shown below their respective signatures.

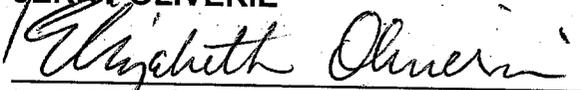
Date: 3/23/07

Date: 3/23/07

SELLER:



JERRY OLIVERIE



ELIZABETH OLIVERIE

17911 Cedar Creek Canyon Drive
Dallas, Texas 75252

PURCHASER:

CITY OF PLANO, TEXAS, a Home
Rule Municipal Corporation

Date: _____

By: _____

THOMAS H. MUEHLENBECK
City Manager
1520 Avenue K
P .O. Box 860358
Plano, TX 75086-0358

APPROVED AS TO FORM:

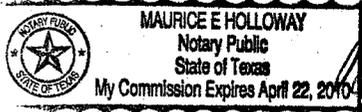
Diane C. Wetherbee, City Attorney

79

ACKNOWLEDGMENTS

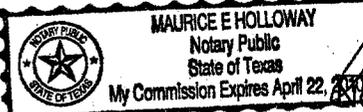
STATE OF TEXAS
COUNTY OF Collin §

This instrument was acknowledged before me on the 13th day of March, 2007, by **JERRY OLIVERIE**.

 Maurice E Holloway
Notary Public, State of Texas

STATE OF TEXAS
COUNTY OF Collin §

This instrument was acknowledged before me on the 23rd day of March, 2007, by **ELIZABETH OLIVERIE**.

 Maurice E Holloway
Notary Public, State of Texas

STATE OF TEXAS
COUNTY OF **COLLIN** §

This instrument was acknowledged before me on the _____ day of _____, 2007, 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

EXHIBIT "A"
The Right of Way Property

BEING a tract of land situated in the State of Texas, County of Collin, City of Plano, out of the George W. Barnett Survey, Abstract Number 45, being part of Lot 4, Block 1 of the Subdivision entitled "Parker Square," of record in Volume C, Page 537, and part of that tract of land conveyed to Jerry Oliverie by Deed of record in Volume 2548, Page 52, all references being to the records of the Recorder's Office, Collin County, Texas, and more particularly bounded and described as follows:

BEGINNING at a 1/2" iron rod set at the northwesterly corner of Lot 1, Block A, of the subdivision entitled "Glasgow Addition," of record in Volume B, Page 173, in the southerly right of way line of Parker Road;

THENCE South 00°14'20" West, with the westerly line of said Glasgow Addition, a distance of 8.56 feet to an iron rod set;

THENCE North 88°49'59" West, crossing said Lot 4, a distance of 85.36 feet to an iron rod set;

THENCE North 83°48'07" West, crossing said Lot 4, a distance of 105.13 feet to an iron rod set in an easterly line of the subdivision entitled "N.T.P. Addition," of record in Volume C, Page 101;

THENCE North 00°21'16" East, with said easterly line, a distance of 1.33 feet to an iron rod found in said southerly right of way line of Parker road;

THENCE South 88°13'58" East, with said southerly right of way line, a distance of 189.97 feet to the POINT OF BEGINNING, containing 0.031 acre (1,332.552 square feet) of land, more or less.

EXHIBIT "B"
The Temporary Construction Easement Property

BEING a tract of land situated in the State of Texas, County of Collin, City of Plano, out of the George W. Barnett Survey, Abstract Number 45, being part of Lot 4, Block 1, of the Subdivision entitled "Parker Square," of record in Volume C, Page 537, and part of that tract of land conveyed to Jerry Oliverie by Deed of Record in Volume 2548, Page 52, all references being to the records of the Recorder's Office, Collin County, Texas, and more particularly bounded and described as follows:

COMMENCING at the northwesterly corner of Lot 1, Block A, of the subdivision entitled "Glasgow Addition," of record in Volume B Page 173, in the southerly right of way line of Parker Road;

THENCE South 00°14'20" West, with the westerly line of said Glasgow Addition, a distance of 8.56 feet to the POINT OF BEGINNING for this description;

THENCE South 00°14'20" West, with said westerly line, a distance of 5.00 feet to a point;

THENCE crossing said Lot 4 the following courses and distances:

North 88°50'03" West, a distance of 50.32 feet to a point;

North 01°10'08" East, a distance of 5.00 feet to a point; and

South 88°49'59" East, a distance of 50.24 feet to the POINT OF BEGINNING, containing 0.006 acre (251 square feet) of land, more or less.

EXHIBIT "C"
The Special Warranty Deed

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

SPECIAL WARRANTY DEED

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

KNOW ALL MEN BY THESE PRESENTS:

THAT, JERRY OLIVERIE and wife ELIZABETH OLIVERIE, 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 **CITY OF PLANO, TEXAS**, a home rule municipal corporation, hereinafter called "Grantee," the receipt and sufficiency of which is hereby acknowledged, and for which no lien is retained, express or implied, does by these presents **SELL, GRANT, and CONVEY** unto the Grantee all of that certain tract or parcel of land situated in the City of Plano, Collin County, Texas, as more particularly described in Exhibit "A" attached hereto and made a part hereof for all purposes, together with all improvements situated thereon and with all and singular the rights and appurtenances thereto and any and all right, title and interest of Grantor in and to any adjacent streets, alleys or rights-of-way (hereinafter collectively called the "Property").

The Property is conveyed by Grantor and accepted by Grantee subject to those items described in Exhibit "B" attached hereto and made a part hereof by reference for all purposes (the "Permitted Exceptions").

It is acknowledged and agreed that Grantee is acquiring the Property for the purpose of permitting Grantee or its agents or assigns to construct, maintain, repair, and operate thereon street, highway, right-of-way, drainage improvements, utilities, and other related improvements. This provision shall not be construed as any restraint on the right of Grantee to convey fee simple title to the Property. The consideration paid to Grantor by Grantee for the Property shall be considered full compensation for the property interests conveyed to Grantee, including, without limitation, the right or claim to severance damages or any damages to, or diminution in value of, other lands belonging to Grantor that may be claimed or asserted by virtue of such acquisition of the Property by Grantee. Notwithstanding the area and shape of the Property, this Special Warranty Deed shall be construed as conveying all rights and appurtenances incident to any ordinary conveyance of land.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in any wise belonging unto said Grantee, its successors and assigns, forever. Grantor does hereby bind Grantor and Grantor's administrators, successors and assigns, to warrant and forever defend, all and singular the Property unto the Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through, or under Grantor, but not otherwise.

The mailing address of the Grantee is:

City of Plano
P.O. Box 860358
Plano, TX 75086-0358
Attention: City Secretary

EXECUTED this _____ day of _____, 2_____.

JERRY OLIVERIE

ELIZABETH OLIVERIE

17911 Cedar Creek Canyon Drive
Dallas, Texas 75252

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 2007, by **JERRY OLIVERIE**.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 2007, by **ELIZABETH OLIVERIE**.

Notary Public, State of Texas

After Recording Please Return To:
City Attorney's Office
City of Plano, Texas
P.O. Box 860358
Plano, TX 75086-0358

EXHIBIT "A"
The Property

BEING a tract of land situated in the State of Texas, County of Collin, City of Plano, out of the George W. Barnett Survey, Abstract Number 45, being part of Lot 4, Block 1 of the Subdivision entitled "Parker Square," of record in Volume C, Page 537, and part of that tract of land conveyed to Jerry Oliverie by Deed of record in Volume 2548, Page 52, all references being to the records of the Recorder's Office, Collin County, Texas, and more particularly bounded and described as follows:

BEGINNING at a 1/2" iron rod set at the northwesterly corner of Lot 1, Block A, of the subdivision entitled "Glasgow Addition," of record in Volume B, Page 173, in the southerly right of way line of Parker Road;

THENCE South 00°14'20" West, with the westerly line of said Glasgow Addition, a distance of 8.56 feet to an iron rod set;

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THENCE North 00°21'16" East, with said easterly line, a distance of 1.33 feet to an iron rod found in said southerly right of way line of Parker road;

THENCE South 88°13'58" East, with said southerly right of way line, a distance of 189.97 feet to the POINT OF BEGINNING, containing 0.031 acre (1,332.552 square feet) of land, more or less.

EXHIBIT "B"
Permitted Exceptions

1. 20' utility easement as shown on the plat recorded in Volume C, Page 537, Map Records of Collin County, Texas.
2. Easement granted by Plano Properties to Texas Power & Light Company, dated 11/07/1968, filed 02/28/1969, recorded in Volume 728, Page 78, Real Property Records of Collin County, Texas.
3. Easement granted by Country Properties, Inc. to Texas Power & Light Company and General Telephone Company of the Southwest, dated 10/21/1978, filed 03/19/1979, recorded in Volume 1162, Page 888, Real Property Records of Collin County, Texas.

EXHIBIT "D"
The Temporary Construction Easement
TEMPORARY CONSTRUCTION EASEMENT

STATE OF TEXAS
COUNTY OF COLLIN

§
§
§

KNOW ALL MEN BY THESE PRESENTS:

THAT, **JERRY OLIVERIE** and wife **ELIZABETH OLIVERIE**, 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 **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, hereinafter called "Grantee," the receipt and sufficiency of which is hereby acknowledged, does **SELL, GRANT and CONVEY** to Grantee, its successors and assigns, a temporary construction easement for the purpose of constructing street and highway facilities in, on, across and through certain real property in the City of Plano, Collin County, Texas, more particularly described in Exhibit "A", which is attached hereto and made a part hereof by reference as if fully set forth herein (called the "Easement Property").

Grantee will at all times, after doing any work in connection with the construction, operation or repair of the Easement Property, restore the surface of the Easement Property as close to the condition in which it was found before such work was undertaken as is reasonably practicable, except for trees, shrubs and structures within the Easement Property that were removed as a result of such work.

This Temporary Construction Easement will expire at such time that the public improvement project described as Parker Road (Avenue K to Avenue P) Project No. 5513, is completed and accepted by the City of Plano, Texas.

This Easement may be assigned in whole or in part.

TO HAVE AND TO HOLD unto the Grantee, its successors and assigns, together with the right and privilege at all times to enter the Easement Property or any part thereof, for the purpose of access by Grantee and Grantee's contractors and their employees and for the purposes set forth above.

SIGNED this _____ day of _____, 2007.

JERRY OLIVERIE

ELIZABETH OLIVERIE

17911 Cedar Creek Canyon Drive
Dallas, Texas 75252

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 2007, by **JERRY OLIVERIE**.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 2007, by **ELIZABETH OLIVERIE**.

Notary Public, State of Texas

After Recording Return To:
City Attorney's Office
City of Plano, Texas
P. O. Box 860358
Plano, TX 75083-0358

7-20

EXHIBIT "A"
The Easement Property

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THENCE South 00°14'20" West, with said westerly line, a distance of 5.00 feet to a point;

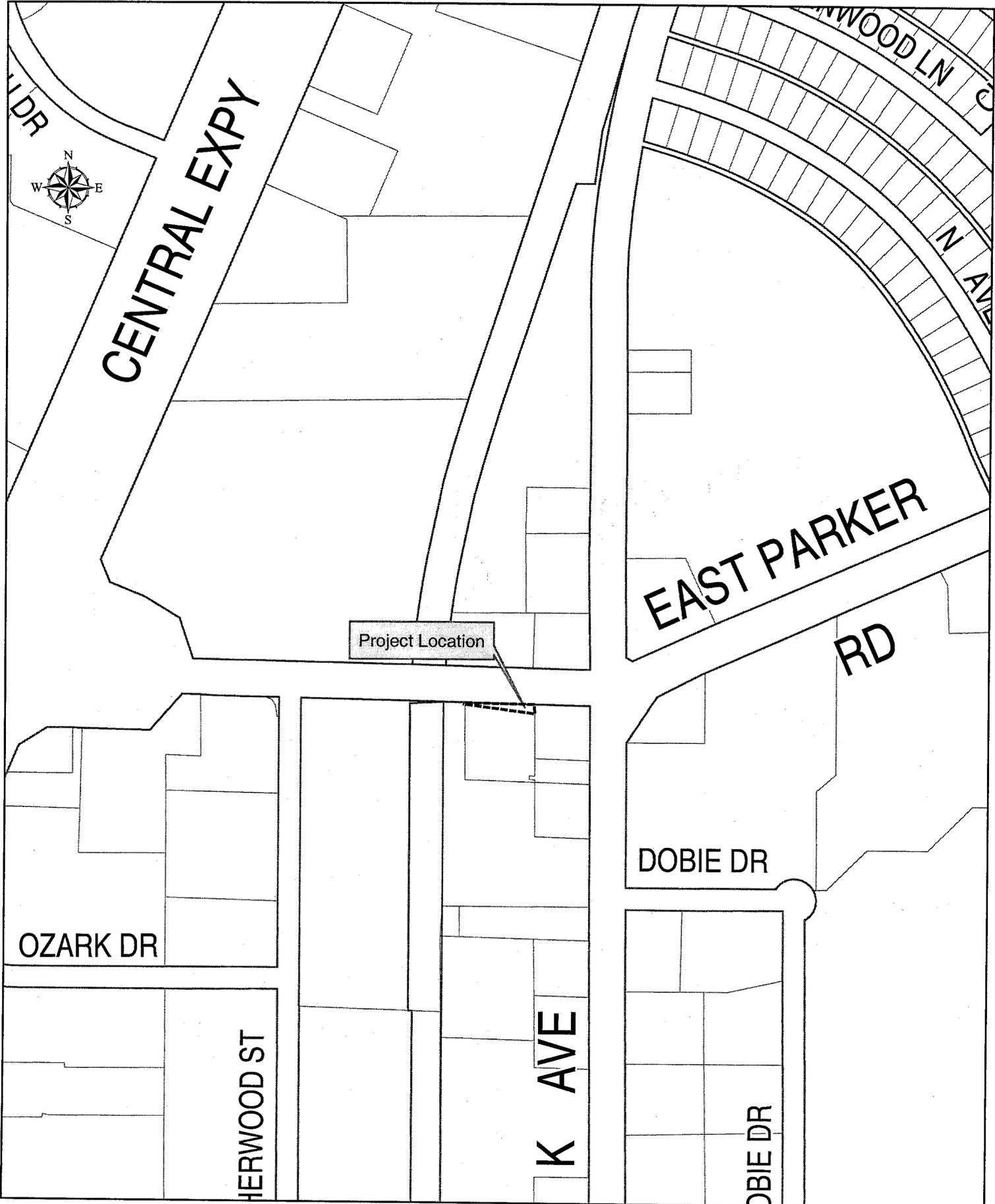
THENCE crossing said Lot 4 the following courses and distances:

North 88°50'03" West, a distance of 50.32 feet to a point;

North 01°10'08" East, a distance of 5.00 feet to a point; and

South 88°49'59" East, a distance of 50.24 feet to the POINT OF BEGINNING, containing 0.006 acre (251 square feet) of land, more or less.

PROPOSED RIGHT TURN LANE



t 22

LOCATION MAP

03/29/07



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		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:	04/09/07	Reviewed by Legal <i>JK</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Budget	Initials	Date	
Department Head	Karen Rhodes	Asst City Manager		
Dept Signature:	<i>KR</i>	City Manager	<i>JK</i>	<i>3/28/07</i>
Agenda Coordinator (include phone #):	Anita Bell x7194			
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input checked="" type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING AND AUTHORIZING THE REFUNDS OF PROPERTY TAX OVERPAYMENTS; AND PROVIDING AN EFFECTIVE DATE.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: 2006-07	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(s):				
COMMENTS: Funds are disbursed by the Collin County Tax Office.				
SUMMARY OF ITEM				
This will authorize the City's Tax Assessor/Collector to make the appropriate property tax refunds totalling \$2,549.03				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Refund request listing provided by Collin County Tax Office				

U-1

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING AND AUTHORIZING THE REFUNDS OF PROPERTY TAX OVERPAYMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 31.11 of the Texas Property Tax Code authorizes refunds of certain payments of taxes upon application to the City; and

WHEREAS, under said Section 31.11 of the Texas Property Tax Code, refunds must be presented to the governing body of the taxing unit for approval; and

WHEREAS, the City Council has been presented a list of tax payments made, a copy of which is attached hereto, made a part hereof and marked Attachment "A", which payments are requested to be refunded because such payments were erroneous or excessive; and

WHEREAS, upon full review and consideration of the above, and all matters attendant and related thereto, the City Council is of the opinion that the tax payments should be refunded.

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

Section I. The City Council of the City of Plano, Texas, finds and determines that the tax payments listed in Attachment "A" were paid erroneously or were in excess of taxes due and shall be refunded in accordance with Section 31.11 of the Texas Property Tax Code.

Section II. The Tax Assessor/Collector for the City of Plano, Texas, or her designee, is hereby authorized to take the necessary action to effectuate the refunds approved under this Resolution.

U-2

Section III. This Resolution shall become effective from and after its passage.

DULY PASSED AND APPROVED this _____ day
of _____, 2007.

Pat Evans, MAYOR

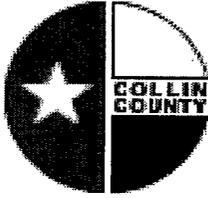
ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

U-3



**KENNETH L. MAUN
TAX ASSESSOR COLLECTOR**

COLLIN COUNTY
1800 N. GRAVES ST., STE 170
P.O. Box 8006
McKinney, TX 75070-8006
(972) 547-5020

METRO (972) 424-1460 ext. 5020
FAX (972) 547-5053

Email: taxassessor@co.collin.tx.us

January 23, 2007

Plano City
Karen Rhodes
P.O. Box 860358
Plano, TX 75086-0358

Dear Ms. Rhodes:

Please place a request for approval of the following "Overpayment Refund Listing" on the agenda for the next Plano City Meeting. The amount of refunds requested for overpayment listing's is: **\$15.00**

Each listing and the amounts are as follows:

OPAP#1		OPAP#8
OPAP#2	\$15.00	OPAP#9
OPAP#3		OPAP#10
OPAP#4		OPAP#11
OPAP#5		OPAP#12
OPAP#6		OPAP#13
OPAP#7		OPAP#14

The listings represent refunds caused by adjustments made by Collin County Central Appraisal District. All requests for refunds of ad valorem taxes are substantiated by documentation that is available upon request.

Please notify our office upon Council approval so that we may issue and mail the checks.

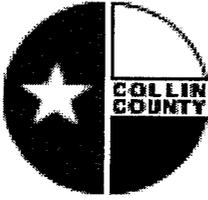
If you have any questions, please let me know.

Sincerely,


Kenneth L. Maun
Tax Assessor Collector

KLM:br
Enclosure

U-4



**KENNETH L. MAUN
TAX ASSESSOR COLLECTOR**

COLLIN COUNTY
1800 N. GRAVES ST., STE 170
P.O. Box 8006
McKinney, TX 75070-8006
(972) 547-5020

METRO (972) 424-1460 ext. 5020
FAX (972) 547-5053

Email: taxassessor@co.collin.tx.us

February 27, 2007

Plano City
Karen Rhodes
P.O. Box 860358
Plano, TX 75086-0358

Dear Ms. Rhodes:

Please place a request for approval of the following "Overpayment Refund Listing" on the agenda for the next Plano City Meeting. The amount of refunds requested for overpayment listing's is: **\$189.40**

Each listing and the amounts are as follows:

OPAP#1		OPAP#8
OPAP#2		OPAP#9
OPAP#3		OPAP#10
OPAP#4	\$189.40	OPAP#11
OPAP#5		OPAP#12
OPAP#6		OPAP#13
OPAP#7		OPAP#14

The listings represent refunds caused by adjustments made by Collin County Central Appraisal District. All requests for refunds of ad valorem taxes are substantiated by documentation that is available upon request.

Please notify our office upon Council approval so that we may issue and mail the checks.

If you have any questions, please let me know.

Sincerely,


Kenneth L. Maun
Tax Assessor Collector

KLM:br
Enclosure

4-5



**KENNETH L. MAUN
TAX ASSESSOR COLLECTOR**

COLLIN COUNTY
1800 N. GRAVES ST., STE 170
P.O. Box 8006
McKinney, TX 75070-8006
(972) 547-5020

METRO (972) 424-1460 ext. 5020
FAX (972) 547-5053

Email: taxassessor@co.collin.tx.us

March 13, 2007

Plano City
Karen Rhodes
P.O. Box 860358
Plano, TX 75086-0358

Dear Ms. Rhodes:

Please place a request for approval of the following "Overpayment Refund Listing" on the agenda for the next Plano City Meeting. The amount of refunds requested for overpayment listing's is: **\$2,344.63**

Each listing and the amounts are as follows:

OPAP#1		OPAP#8
OPAP#2		OPAP#9
OPAP#3		OPAP#10
OPAP#4	\$2,325.47	OPAP#11
OPAP#5	\$19.16	OPAP#12
OPAP#6		OPAP#13
OPAP#7		OPAP#14

The listings represent refunds caused by adjustments made by Collin County Central Appraisal District. All requests for refunds of ad valorem taxes are substantiated by documentation that is available upon request.

Please notify our office upon Council approval so that we may issue and mail the checks.

If you have any questions, please let me know.

Sincerely,


Kenneth L. Maun
Tax Assessor Collector

KLM:br
Enclosure

U-6



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		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:	4/9/07	Reviewed by Legal <i>WS</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Health		<i>initials</i>	Date
Department Head	Brian Collins	Executive Director	<i>initials</i>	4.2
Dept Signature:	<i>[Signature]</i>	City Manager	<i>initials</i>	4.7
Agenda Coordinator (include phone #):		Doris Callaway, Ext. 7494		
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 PUBLIC HEARING				
CAPTION				
To solicit input from the public pertaining to the proposed smoking ordinance, which will replace the current ordinance.				
FINANCIAL SUMMARY				
<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
BALANCE	0	0	0	0
FUND(S):				
COMMENTS:				
SUMMARY OF ITEM				
The public is invited to make comments on the attached proposed regulations. The text of the proposed ordinance is attached as Exhibit "A."				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, REPEALING SECTIONS 14-66 THROUGH 14-72 OF ARTICLE IV, SMOKING, OF CHAPTER 14, OFFENSES – MISCELLANEOUS OF THE CODE OF ORDINANCES OF THE CITY OF PLANO AND ADOPTING NEW REGULATIONS TO BE DESIGNATED AS SECTIONS 14-66 THROUGH 14-71 OF ARTICLE IV, SMOKING, OF CHAPTER 14, OFFENSES – MISCELLANEOUS TO REVISE THE SMOKING REGULATIONS MAKING THE CITY OF PLANO A SMOKEFREE ENVIRONMENT; PROVIDING A PENALTY CLAUSE, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, A REPEALING CLAUSE, A PUBLICATION CLAUSE; AND AN EFFECTIVE DATE.

WHEREAS, the Director of Health of the City of Plano recommended revisions of the current smoking regulations to protect the health, safety and welfare of citizens by creating a smokefree environment for the City of Plano; and

WHEREAS, on November 14, 1994, the City Council of the City of Plano passed Ordinance Nos. 94-11-22 and 94-11-33, amending Article IV, to regulate smoking; and

WHEREAS, on August 28, 1995, the City Council of the City of Plano passed Ordinance No. 95-8-42, amending Section 14-66, Section 14-72 and Section 14-66.1; and

WHEREAS, it is a generally accepted principle that the use of cigarettes, second-hand smoke and other tobacco products constitute a hazard to a person's health; and

WHEREAS, the purpose of this chapter is to improve and protect the public's health by eliminating smoking in public places and places of employment and;

WHEREAS, upon recommendations of the City staff and upon full review and consideration of all matters attendant and related thereto, the City Council finds and determines that it is necessary to repeal Ordinance Nos. 94-11-22, 94-11-33 and 95-8-42, codified in Article IV, Smoking, of Chapter 14, Offenses – Miscellaneous, of the Code of Ordinances for the City of Plano, Texas and replace those ordinances with these new regulations designated as Sections 14-66 through 14-71 of Article IV, Smoking, of Chapter 14, Offenses – Miscellaneous.

NOW, THEREFORE, IT IS ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. Ordinance Nos. 94-11-22 and 94-11-33 passed on November 14, 1994, and Ordinance No. 95-8-42, passed on August 28, 1995, codified in Article IV, Chapter 14 of the Code of Ordinances, are hereby repealed in their entirety.



Section II. Sections 14-66 through 14-71 of Article IV, Smoking, of Chapter 14, Offenses – Miscellaneous, of the Code of Ordinances of the City of Plano, Texas, is hereby replaced to read verbatim as follows:

“ARTICLE IV. SMOKING

Section 14-66 Definitions.

In this Article:

"Bar" means an area which is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages. A "bar" includes those facilities located within a hotel, motel or other similar transient occupancy establishment.

"Business" means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making or not-for-profit purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.

"Director of Health" means the director of the health department or the department's designated representative.

"Employee" means any person who is employed by any employer in consideration for direct or indirect monetary wages or profit.

"Employer" means any person, partnership, corporation, including a municipal corporation, or nonprofit entity, which employs the services of one or more individual persons.

"Enclosed area" means all space between a floor and ceiling which is enclosed on all sides by walls or windows (exclusive of door or passage ways) which extend from the floor to the ceiling.

"Food establishment" means food product or food service establishments.

"Place of employment" means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference and classrooms, employee cafeterias and hallways. A private residence is not a "place of employment" unless it is used as a child care, adult day care or health care facility.

"Private place" means any enclosed area to which the public is not invited or in which the public is not permitted, including but not limited to, personal or private residences; private social clubs or personal automobiles.

"Public place" means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks; educational facilities; health facilities; laundromats; public transportation facilities; reception areas; production and marketing establishments; retail service establishments; retail stores; theaters and waiting rooms.

"Retail tobacco store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

"Service line" means any indoor line at which one or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

"Smoking" means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe, weed, plant or combustible substance in any manner or in any form.

"Sports arena" means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

Section 14-67 Places where smoking is prohibited.

- A. Smoking shall be prohibited in all enclosed public places and enclosed places of employment within the city, including, but not limited to, the following places:
1. Elevators;
 2. Restrooms, lobbies, reception areas, hallways and any other common-use areas;
 3. Buses, bus terminals, taxicabs, train stations, airports and other facilities and means of public transit, as well as ticket, boarding, and waiting areas of public transit depots;
 4. Service lines;
 5. Retail stores;
 6. All areas available to and customarily used by the general public in all businesses, including but not limited to, attorneys' offices and other offices, banks, laundromats and country clubs;

1-4

7. Enclosed facilities within a place of employment;
8. Food establishments, nightclubs and bars;
9. Galleries, libraries, museums, zoo facilities and their grounds;
10. Any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital or other similar performance except when smoking is a part of a theatrical performance upon a stage or in the course of a film or television production and smoking is part of the performance or production;
11. Sports arenas and convention halls, including bowling and billiard facilities;
12. Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including joint committees, or agencies of the city or any political subdivision of the state during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the city;
13. Waiting rooms, hallways, wards, private and semiprivate rooms of physical and mental health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices, and dentists' offices;
14. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities;
15. Polling places;
16. Bingo games/parlors;
17. Hotels and motels, including at least ninety percent (90%) of rooms rented to guests;
18. Within 25 feet of any door, operable window/vent or other opening to an indoor enclosed area.

Section 14-68 Places where smoking is not prohibited.

- A. Notwithstanding any other provision of this chapter to the contrary, the following areas shall not be subject to the smoking restrictions of this chapter:
1. Private residences, except when used as a child care, adult day care or health care facility;
 2. Personal automobiles;

3. Retail tobacco stores in stand alone physical facilities;
4. Not more than ten percent (10%) of hotel and motel rooms rented to guests and designated as smoking rooms. All smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into areas where smoking is prohibited under provisions of this article. The status of rooms as smoking or nonsmoking may not be changed, except to add additional nonsmoking rooms;
5. Outdoor places of employment except within 25 feet of any door, operable window/vent or other opening to an enclosed area.

Section 14-69 Posting of signs.

- A. The owner, manager or other person having control of such building or premise where smoking is prohibited by this chapter shall have a conspicuously posted sign clearly stating "no smoking" at each entrance, whether for the public, employees or deliveries, and at restroom entrances.
- B. Such "No Smoking" signs shall have bold lettering of not less than one inch in height. The international "No Smoking" symbol may also be used (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with red bar across it).
- C. Any owner, manager, or other person having control of any establishment regulated by this chapter shall be responsible for posting appropriate signage.

Section 14-70 Enforcement.

- A. Enforcement of this chapter shall be implemented by the City of Plano Health Department or other official as designated by the City Manager by issuance of a municipal court citation.
- B. Any person may register a complaint under this chapter to initiate enforcement with the City of Plano Health Department.
- C. It is the duty of the owner, manager, operator or person-in-charge of any establishment regulated by this chapter:
 - (1) To post signs in accordance with Section 14-69 of this article and;
 - (2) To not provide ashtrays, matches, lighters or other smoking related paraphernalia in a regulated premise and;
 - (3) To advise a person who violates this article that smoking is not allowed and;

1-6

- (4) To request a person remove themselves from this location after that person has been advised that smoking is not allowed and that person willfully continues to smoke.

Section 14-71 Offenses and penalties.

- A. It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this chapter.
- B. It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this chapter to fail to comply with the following sections and subsections of this ordinance:
- (1) Section 14.69 (A), (B) and (C), and;
- (2) Section 14-70 (C).
- C. Any person who violates any provision of this chapter shall be guilty of a misdemeanor infraction, punishable by a fine not to exceed five hundred dollars (\$500).
- D. Each day on which a violation of this article occurs shall be a separate and distinct violation.”

Section III. Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine not to exceed five hundred dollars (\$500) for each offense. Every day a violation continues shall constitute a separate offense.

Section IV. The repeal of any ordinance or part of ordinances caused 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 ordinances at the time of passage of this ordinance.

Section V. It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision or portion of this Ordinance shall not affect the validity or constitutionality of any other portion of this Ordinance.

Section VI. All provisions of the ordinances of the City of Plano, codified or uncoded, in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the ordinances of the City of Plano, codified or uncoded, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section VII. This ordinance shall become effective on June 1, 2007.

DULY PASSED AND APPROVED this the ____ day of _____, 2007.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

1-8



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		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:	4/9/07	Reviewed by Legal <i>WS</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Health		<i>initials</i>	Date
Department Head	Brian Collins	Executive Director	<i>initials</i>	4.2
Dept Signature:	<i>[Signature]</i>	City Manager	<i>initials</i>	4.2
Agenda Coordinator (include phone #):		Doris Callaway, Ext. 7494		
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, REPEALING SECTIONS 14-66 THROUGH 14-72 OF ARTICLE IV, SMOKING, OF CHAPTER 14, OFFENSES – MISCELLANEOUS OF THE CODE OF ORDINANCES OF THE CITY OF PLANO AND ADOPTING NEW REGULATIONS TO BE DESIGNATED AS SECTIONS 14-66 THROUGH 14-71 OF ARTICLE IV, SMOKING, OF CHAPTER 14, OFFENSES – MISCELLANEOUS TO REVISE THE SMOKING REGULATIONS MAKING THE CITY OF PLANO A SMOKEFREE ENVIRONMENT; PROVIDING A PENALTY CLAUSE, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, A REPEALING CLAUSE, A PUBLICATION 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
BALANCE	0	0	0	0

FUND(S):

COMMENTS:

SUMMARY OF ITEM

An ordinance, the purpose of which is to improve and protect the public's health by eliminating smoking in public places and places of employment.

List of Supporting Documents:

Other Departments, Boards, Commissions or Agencies

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, REPEALING SECTIONS 14-66 THROUGH 14-72 OF ARTICLE IV, SMOKING, OF CHAPTER 14, OFFENSES – MISCELLANEOUS OF THE CODE OF ORDINANCES OF THE CITY OF PLANO AND ADOPTING NEW REGULATIONS TO BE DESIGNATED AS SECTIONS 14-66 THROUGH 14-71 OF ARTICLE IV, SMOKING, OF CHAPTER 14, OFFENSES – MISCELLANEOUS TO REVISE THE SMOKING REGULATIONS MAKING THE CITY OF PLANO A SMOKEFREE ENVIRONMENT; PROVIDING A PENALTY CLAUSE, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, A REPEALING CLAUSE, A PUBLICATION CLAUSE; AND AN EFFECTIVE DATE.

WHEREAS, the Director of Health of the City of Plano recommended revisions of the current smoking regulations to protect the health, safety and welfare of citizens by creating a smokefree environment for the City of Plano; and

WHEREAS, on November 14, 1994, the City Council of the City of Plano passed Ordinance Nos. 94-11-22 and 94-11-33, amending Article IV, to regulate smoking; and

WHEREAS, on August 28, 1995, the City Council of the City of Plano passed Ordinance No. 95-8-42, amending Section 14-66, Section 14-72 and Section 14-66.1; and

WHEREAS, it is a generally accepted principle that the use of cigarettes, second-hand smoke and other tobacco products constitute a hazard to a person's health; and

WHEREAS, the purpose of this chapter is to improve and protect the public's health by eliminating smoking in public places and places of employment and;

WHEREAS, upon recommendations of the City staff and upon full review and consideration of all matters attendant and related thereto, the City Council finds and determines that it is necessary to repeal Ordinance Nos. 94-11-22, 94-11-33 and 95-8-42, codified in Article IV, Smoking, of Chapter 14, Offenses – Miscellaneous, of the Code of Ordinances for the City of Plano, Texas and replace those ordinances with these new regulations designated as Sections 14-66 through 14-71 of Article IV, Smoking, of Chapter 14, Offenses – Miscellaneous.

NOW, THEREFORE, IT IS ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. Ordinance Nos. 94-11-22 and 94-11-33 passed on November 14, 1994, and Ordinance No. 95-8-42, passed on August 28, 1995, codified in Article IV, Chapter 14 of the Code of Ordinances, are hereby repealed in their entirety.

2-2

Section II. Sections 14-66 through 14-71 of Article IV, Smoking, of Chapter 14, Offenses – Miscellaneous, of the Code of Ordinances of the City of Plano, Texas, is hereby replaced to read verbatim as follows:

“ARTICLE IV. SMOKING

Section 14-66 Definitions.

In this Article:

"Bar" means an area which is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages. A "bar" includes those facilities located within a hotel, motel or other similar transient occupancy establishment.

"Business" means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making or not-for-profit purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.

"Director of Health" means the director of the health department or the department's designated representative.

"Employee" means any person who is employed by any employer in consideration for direct or indirect monetary wages or profit.

"Employer" means any person, partnership, corporation, including a municipal corporation, or nonprofit entity, which employs the services of one or more individual persons.

"Enclosed area" means all space between a floor and ceiling which is enclosed on all sides by walls or windows (exclusive of door or passage ways) which extend from the floor to the ceiling.

"Food establishment" means food product or food service establishments.

"Place of employment" means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference and classrooms, employee cafeterias and hallways. A private residence is not a "place of employment" unless it is used as a child care, adult day care or health care facility.

"Private place" means any enclosed area to which the public is not invited or in which the public is not permitted, including but not limited to, personal or private residences; private social clubs or personal automobiles.

2-3

"Public place" means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks; educational facilities; health facilities; laundromats; public transportation facilities; reception areas; production and marketing establishments; retail service establishments; retail stores; theaters and waiting rooms.

"Retail tobacco store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

"Service line" means any indoor line at which one or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

"Smoking" means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe, weed, plant or combustible substance in any manner or in any form.

"Sports arena" means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

Section 14-67 Places where smoking is prohibited.

- A. Smoking shall be prohibited in all enclosed public places and enclosed places of employment within the city, including, but not limited to, the following places:
1. Elevators;
 2. Restrooms, lobbies, reception areas, hallways and any other common-use areas;
 3. Buses, bus terminals, taxicabs, train stations, airports and other facilities and means of public transit, as well as ticket, boarding, and waiting areas of public transit depots;
 4. Service lines;
 5. Retail stores;
 6. All areas available to and customarily used by the general public in all businesses, including but not limited to, attorneys' offices and other offices, banks, laundromats and country clubs;

2-4

7. Enclosed facilities within a place of employment;
8. Food establishments, nightclubs and bars;
9. Galleries, libraries, museums, zoo facilities and their grounds;
10. Any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital or other similar performance except when smoking is a part of a theatrical performance upon a stage or in the course of a film or television production and smoking is part of the performance or production;
11. Sports arenas and convention halls, including bowling and billiard facilities;
12. Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including joint committees, or agencies of the city or any political subdivision of the state during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the city;
13. Waiting rooms, hallways, wards, private and semiprivate rooms of physical and mental health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices, and dentists' offices;
14. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities;
15. Polling places;
16. Bingo games/parlors;
17. Hotels and motels, including at least ninety percent (90%) of rooms rented to guests;
18. Within 25 feet of any door, operable window/vent or other opening to an indoor enclosed area.

Section 14-68 Places where smoking is not prohibited.

- A. Notwithstanding any other provision of this chapter to the contrary, the following areas shall not be subject to the smoking restrictions of this chapter:
1. Private residences, except when used as a child care, adult day care or health care facility;
 2. Personal automobiles;

2-5

3. Retail tobacco stores in stand alone physical facilities;
4. Not more than ten percent (10%) of hotel and motel rooms rented to guests and designated as smoking rooms. All smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into areas where smoking is prohibited under provisions of this article. The status of rooms as smoking or nonsmoking may not be changed, except to add additional nonsmoking rooms;
5. Outdoor places of employment except within 25 feet of any door, operable window/vent or other opening to an enclosed area.

Section 14-69 Posting of signs.

- A. The owner, manager or other person having control of such building or premise where smoking is prohibited by this chapter shall have a conspicuously posted sign clearly stating "no smoking" at each entrance, whether for the public, employees or deliveries, and at restroom entrances.
- B. Such "No Smoking" signs shall have bold lettering of not less than one inch in height. The international "No Smoking" symbol may also be used (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with red bar across it).
- C. Any owner, manager, or other person having control of any establishment regulated by this chapter shall be responsible for posting appropriate signage.

Section 14-70 Enforcement.

- A. Enforcement of this chapter shall be implemented by the City of Plano Health Department or other official as designated by the City Manager by issuance of a municipal court citation.
- B. Any person may register a complaint under this chapter to initiate enforcement with the City of Plano Health Department.
- C. It is the duty of the owner, manager, operator or person-in-charge of any establishment regulated by this chapter:
 - (1) To post signs in accordance with Section 14-69 of this article and;
 - (2) To not provide ashtrays, matches, lighters or other smoking related paraphernalia in a regulated premise and;
 - (3) To advise a person who violates this article that smoking is not allowed and;

2-6

- (4) To request a person remove themselves from this location after that person has been advised that smoking is not allowed and that person willfully continues to smoke.

Section 14-71 Offenses and penalties.

- A. It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this chapter.
- B. It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this chapter to fail to comply with the following sections and subsections of this ordinance:
- (1) Section 14.69 (A), (B) and (C), and;
 - (2) Section 14-70 (C).
- C. Any person who violates any provision of this chapter shall be guilty of a misdemeanor infraction, punishable by a fine not to exceed five hundred dollars (\$500).
- D. Each day on which a violation of this article occurs shall be a separate and distinct violation.”

Section III. Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine not to exceed five hundred dollars (\$500) for each offense. Every day a violation continues shall constitute a separate offense.

Section IV. The repeal of any ordinance or part of ordinances caused 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 ordinances at the time of passage of this ordinance.

Section V. It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision or portion of this Ordinance shall not affect the validity or constitutionality of any other portion of this Ordinance.

Section VI. All provisions of the ordinances of the City of Plano, codified or uncodified, in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the ordinances of the City of Plano, codified or uncodified, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section VII. This ordinance shall become effective on June 1, 2007.

2-7

DULY PASSED AND APPROVED this the ____ day of _____, 2007.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

2-8



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		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: 4/9/07		Reviewed by Legal <i>pm</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Planning		Initials	Date
Department Head	Phyllis M. Jarrell	Executive Director	<i>[Signature]</i>	<i>3/28/07</i>
Dept Signature:	<i>P. Jamill</i>	City Manager	<i>[Signature]</i>	<i>4.2.07</i>
Agenda Coordinator (include phone #):		Lynn Trotter, ext. 7156		
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 checked="" type="checkbox"/> OTHER PUBLIC HEARING				
CAPTION				
PUBLIC HEARING AND CONSIDERATION OF AN ORDINANCE FOR ZONING CASE 2007-01. AN ORDINANCE OF THE CITY OF PLANO AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, ORDINANCE NO. 2006-4-24, AS HERETOFORE AMENDED, SO AS TO AMEND 5.7± ACRES OUT OF THE DENTON DARBY SURVEY, ABSTRACT NO. 260, LOCATED AT THE NORTHEAST CORNER OF PRESTON ROAD AND OLD SHEPARD PLACE IN THE CITY OF PLANO, COLLIN COUNTY, TEXAS, FROM PLANNED DEVELOPMENT-189-RETAIL/GENERAL OFFICE TO PLANNED DEVELOPMENT-186-RETAIL/GENERAL OFFICE; 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. TABLED 03/20/2007.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS:				
SUMMARY OF ITEM				
At the applicant's request, this item was tabled to the April 9, 2007, City Council meeting.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Ordinance		Planning & Zoning Commission		
Staff Write Up				
Follow Up				
2nd Vice Chair Report				

3-1

**Recommendation of the
Planning & Zoning Commission
February 19, 2007 Meeting
2nd Vice Chair Report**

Agenda No. 8A Public Hearing & 8B Concept Plan

Public Hearing: Zoning Case 2007-01

Applicant: Old Shepard Place II, Ltd.

Description: Request to rezone 5.7± acres located at the northeast corner of Preston Road and Old Shepard Place from Planned Development-189-Retail/General Office to Planned Development-Retail/General Office. Zoned Planned Development-189-Retail/General Office with Specific Use Permits #268, 269, 313, 314, & 339 for two restaurants, two private clubs, and an arcade.

Staff Recommendation: Denial

Commission Action: Approved 8A by a vote of 5-3
Approved 8B by a vote of 5-3

REMARKS:

The applicant was requesting to rezone the property to create a planned development district to allow the development of a pharmacy with drive-through. The requested zoning was Planned Development-Retail/General Office (PD-R/O-2).

Staff was first approached by the applicant when a pre-development meeting was requested. At that time the PD stipulations were not thoroughly reviewed, and staff mistakenly allowed the applicant to submit a revised site plan for a pharmacy where the PD did not allow it. The error was discovered upon further review, and discussed with the applicant before the plan reached the Planning & Zoning Commission.

This request proposes to remove these lots from the current PD and create a new retail, and office PD. In addition to the proposed uses, the request includes amendments to lot coverage, floor area ratio, building height, and building materials.

Current Zoning

The current zoning is Planned Development-189-Retail/General Office (PD-189-R/O-2). The existing PD has similar stipulations to the proposed PD. The major exception is that it limits development in this area to uses allowed by right or by Specific Use Permit (SUP) in the O-2 zoning district.

3-2

Proposed Planned Development Zoning Stipulations

The requested zoning is PD-R/O-2. There are two primary parts of this request: land use and design standards.

Land Use - The request proposes to allow R and O-2 uses by right.

Design Standards - The request proposes design standards that mirror the existing zoning and will complement the development as a whole.

Conformance to the Comprehensive Plan

Future Land Use Plan - The Future Land Use Plan designates this property as Major Corridor Development (MCD). Development in these corridors is expected to define the unique character of the Preston Road corridor. This corridor includes major retail development including Collin Creek Mall, along with general commercial, entertainment, lodging and office uses. **The request is generally consistent with the MCD land use designation.**

ISSUES:

Rezoning Land for Retail Use

In 2003, City Council adopted the *Retail Study of Underperforming and Vacant Retail Areas* initiated by the cities of Carrollton, Richardson, and Plano. This study examined the retail market conditions in the three cities and offered alternatives to **address underperforming and vacant retail properties**. The study identified Plano as having an overabundance of retail zoning.

Staff felt the additional retail use proposed with this zoning request would further increase the overabundance of retail zoning in Plano.

Proposed Planned Development District

Section 4.101 of the Zoning Ordinance details five purposes for a planned development district. These are:

1. "To protect and provide for the public health, safety, and general welfare of the city." **The current zoning and the proposed PD-R/O-2 zoning accomplish this purpose.**
2. "To guide the future development of the city in accordance with the Comprehensive Plan." As noted above, **the proposed development does conform to the Comprehensive plan,** but not the Retail Study.

3. "To accommodate innovation by modifying regulations to better accomplish the city's development goals." The Zoning Ordinance is the primary tool for implementing the city's development goals as expressed in the Comprehensive Plan. **There is sufficient, developable retail land in other areas of the city.**
4. "To mitigate development impacts, especially those related to the environment, traffic, public services and facilities and adjacent and area land uses." **The change in zoning would have little development impact on the environment and traffic.**
5. "To protect and enhance the aesthetic and visual quality of development." **The proposed building materials, building articulation, and design standards would be compliant with this purpose.**

SUMMARY:

The applicant is requesting to create a PD district to allow R and O-2 uses by right. The Retail Study advises against rezoning additional land for retail use. Staff feels that the R uses are allowed in many areas of the city, and that there are many locations where they would be more appropriate and that additional retail zoning in such close proximity to an existing overdeveloped retail intersection such as Preston Road and Park Boulevard is not recommended. Therefore, staff recommended denial of the request.

3-4

COMMISSION DISCUSSION

There was much discussion among the commissioners.

Those who spoke in favor gave the following reasons:

- The proposed Zoning doesn't change the existing zoning but merely removes some restrictions imposed by the PD.
- All of the surrounding property owners supported the use.
- There were no letters in opposition.
- Most felt the use would be a good fit in the neighborhood.
- The use complies with the Comprehensive Plan and met all 5 purposes of a Planned Development.
- The use would replace a bar/restaurant which had been closed several times.
- The adjacent retail had very little vacancy and the small additional use would not have a material impact on the area.
- The report which staff made its decision on focused on underperforming and vacant retail sites which did not apply in this case.
- The proposed use would not sell alcohol or adult magazines

Those in opposition state the following reasons:

- The rezoning would add more retail in an area that had enough retail.

PLANNING AND ZONING SUMMARY

The majority of the commission felt the change was not really a change in zoning but merely the removal of some restrictions in the existing PD. In addition the use seemed to be a good fit with the neighborhood and almost all adjacent property owners supported the request. Those in opposition cited too much existing retail as the main reason for denial. The re-zoning request was approved 5-3 and the concept plan was approved 5-3.

Respectfully submitted,

James F. Duggan
Second Vice Chairman

DATE: February 20, 2007
TO: Honorable Mayor & City Council
FROM: Carolyn Kalchthaler, Chairman, Planning & Zoning Commission 
SUBJECT: Results of Planning & Zoning Commission Meeting of February 19, 2007

**AGENDA ITEM NO. 8A - PUBLIC HEARING
ZONING CASE 2007-01
APPLICANT: OLD SHEPARD PLACE II, LTD.**

DESCRIPTION:

Request to rezone 5.7± acres located at the northeast corner of Preston Road and Old Shepard Place **from** Planned Development-189-Retail/General Office **to** Planned Development-Retail/General Office. Zoned Planned Development-189-Retail/General Office with Specific Use Permits #268, 269, 313, 314, & 339 for two restaurants, two private clubs, and an arcade.

APPROVED: 5-3 **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 Planned Development-Retail/General Office (PD-R/O-2) zoning with the following stipulations:

- 1) R uses, as defined by section 2.818 of the Zoning Ordinance, and O-2 uses as defined by section 2.817 of the Zoning Ordinance shall be allowed
- 2) Area, Yard and Bulk Requirements
 - a. Maximum Lot Coverage - 30% (excluding parking structures).
 - b. Maximum Floor Area Ratio - 0.8:1 (excluding parking structures).
 - c. Maximum Building Height - Parking structures shall be not more than four levels at or above grade.

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Honorable Mayor & City Council
Zoning Case 2007-01
February 20, 2007
Page 2 of 2

- 3) Building materials: The sides of all buildings, except parking garages, shall have a consistent facade design and roof line configuration. All mechanical equipment serving the structures and trash receptacles shall be screened from all public streets.

The commissioners voting against the motion felt this was not an appropriate location for retail development.

FOR CITY COUNCIL MEETING OF: March 20, 2007 (To view the agenda for this meeting, see www.planotx.org)

PUBLIC HEARING - ORDINANCE

EH/pp

xc: Joseph F. Bruegger, Old Shepard Place II, Ltd.
Travis Bousquet, P.E., The Bousquet Group, Inc.
Kirk Williams and Tommy Mann, Winstead

CITY OF PLANO
PLANNING & ZONING COMMISSION

February 19, 2007

Agenda Item No. 8A

Public Hearing: Zoning Case 2007-01

Applicant: Old Shepard Place II, Ltd.

DESCRIPTION:

Request to rezone 5.7± acres located at the northeast corner of Preston Road and Old Shepard Place **from** Planned Development-189-Retail/General Office **to** Planned Development-Retail/General Office. Zoned Planned Development-189-Retail/General Office with Specific Use Permits #268, 269, 313, 314, & 339 for two restaurants, two private clubs, and an arcade.

REMARKS:

The applicant is requesting to rezone the property to create a planned development district to allow the development of a pharmacy with drive-through. The requested zoning is Planned Development-Retail/General Office (PD-R/O-2). 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. The O-2 district is intended to allow for a variety of low-, mid-, and high-rise office developments providing for professional, financial, medical, and similar services to local residents; corporate offices for regional and national operations; and major centers of employment for Plano and surrounding communities. A PD district provides the ability to amend use, height, setback, and other development standards at the time of zoning to promote innovative design and better development controls appropriate to both off and onsite conditions.

Staff was first approached by the applicant when a pre-development meeting was requested. At that time the PD stipulations were not thoroughly reviewed, and staff mistakenly allowed the applicant to submit a revised site plan for a pharmacy where the PD did not allow it. The error was discovered upon further review, and discussed with the applicant before the plan reached the Planning & Zoning Commission.

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This request proposes to remove these lots from the current PD and create a new retail, and office PD. In addition to the proposed uses, the request includes amendments to lot coverage, floor area ratio, building height, and building materials. A concept plan, Preston Park South, Phase 2, Block A, Lots 1R & 2, accompanies this request.

Current Zoning

The current zoning is Planned Development-189-Retail/General Office (PD-189-R/O-2). The existing PD has similar stipulations to the proposed PD. The major exception is that it limits development in this area to uses allowed by right or by Specific Use Permit (SUP) in the O-2 zoning district.

Surrounding Land Use and Zoning

The area of the request is currently developed as a restaurant and commercial amusement (indoor) with restaurant, which are allowed by SUP. The property to the north is an office development and is zoned PD-189-R/O-2. To the east is a hotel and is also zoned PD-189-R/O-2. The property to the south is an apartment complex and is zoned Multifamily Residence-2. Across Preston Road to the west is a retail development zoned R.

Proposed Planned Development Zoning Stipulations

The requested zoning is PD-R/O-2. There are two primary parts of this request: land use and design standards.

Land Use - The request proposes to allow R and O-2 uses by right.

Design Standards - The request proposes design standards that mirror the existing zoning and will complement the development as a whole.

This request is for PD-R/O-2 zoning with the following stipulations:

- 1) R uses, as defined by section 2.818 of the Zoning Ordinance, and O-2 uses as defined by section 2.817 of the Zoning Ordinance shall be allowed
- 2) Area, Yard and Bulk Requirements
 - a. Maximum Lot Coverage - 30% (excluding parking structures).
 - b. Maximum Floor Area Ratio - 0.8:1 (excluding parking structures).
 - c. Maximum Building Height - Parking structures shall be not more than four levels at or above grade.
- 3) Building materials: The sides of all buildings, except parking garages, shall have a consistent facade design and roof line configuration. All mechanical equipment serving the structures and trash receptacles shall be screened from all public streets.

Conformance to the Comprehensive Plan

Future Land Use Plan - The Future Land Use Plan designates this property as Major Corridor Development (MCD). Development in these corridors is expected to define the unique character of the Preston Road corridor. This corridor includes major retail development along with general commercial, entertainment, lodging and office uses. The request is generally consistent with the MCD land use designation.

Adequacy of Public Facilities - Adequate water and sanitary sewer services are available on site.

Traffic Impact Analysis (TIA) - A TIA is not required since the trip generation potential of the proposed zoning is less than current zoning.

ISSUES:

Rezoning Land for Retail Use

In 2003, City Council adopted the *Retail Study of Underperforming and Vacant Retail Areas* initiated by the cities of Carrollton, Richardson, and Plano. This study examined the retail market conditions in the three cities and offered alternatives to address underperforming and vacant retail properties. The study identified Plano as having an overabundance of retail zoning.

While the area of the rezoning is fairly small, the requested change would add additional retail development to the Preston Road corridor. To the north of this development is the intersection of Preston Road and Park Boulevard which has a significant amount of retail on each corner. The additional retail use proposed with this zoning request would further increase the overabundance of retail zoning in Plano.

Proposed Planned Development District

Section 4.101 of the Zoning Ordinance details five purposes for a planned development district. These are:

1. "To protect and provide for the public health, safety, and general welfare of the city." The current zoning and the proposed PD-R/O-2 zoning accomplish this purpose.
2. "To guide the future development of the city in accordance with the Comprehensive Plan." As noted above, the proposed development does conform to the Comprehensive plan, but not the Retail Study.
3. "To accommodate innovation by modifying regulations to better accomplish the city's development goals." The Zoning Ordinance is the primary tool for implementing the city's development goals as expressed in the Comprehensive Plan. There is sufficient, developable retail land in other areas of the city.

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4. "To mitigate development impacts, especially those related to the environment, traffic, public services and facilities and adjacent and area land uses." The change in zoning would have little development impact on the environment and traffic.
5. "To protect and enhance the aesthetic and visual quality of development." The proposed building materials, building articulation, and design standards would be compliant with this purpose.

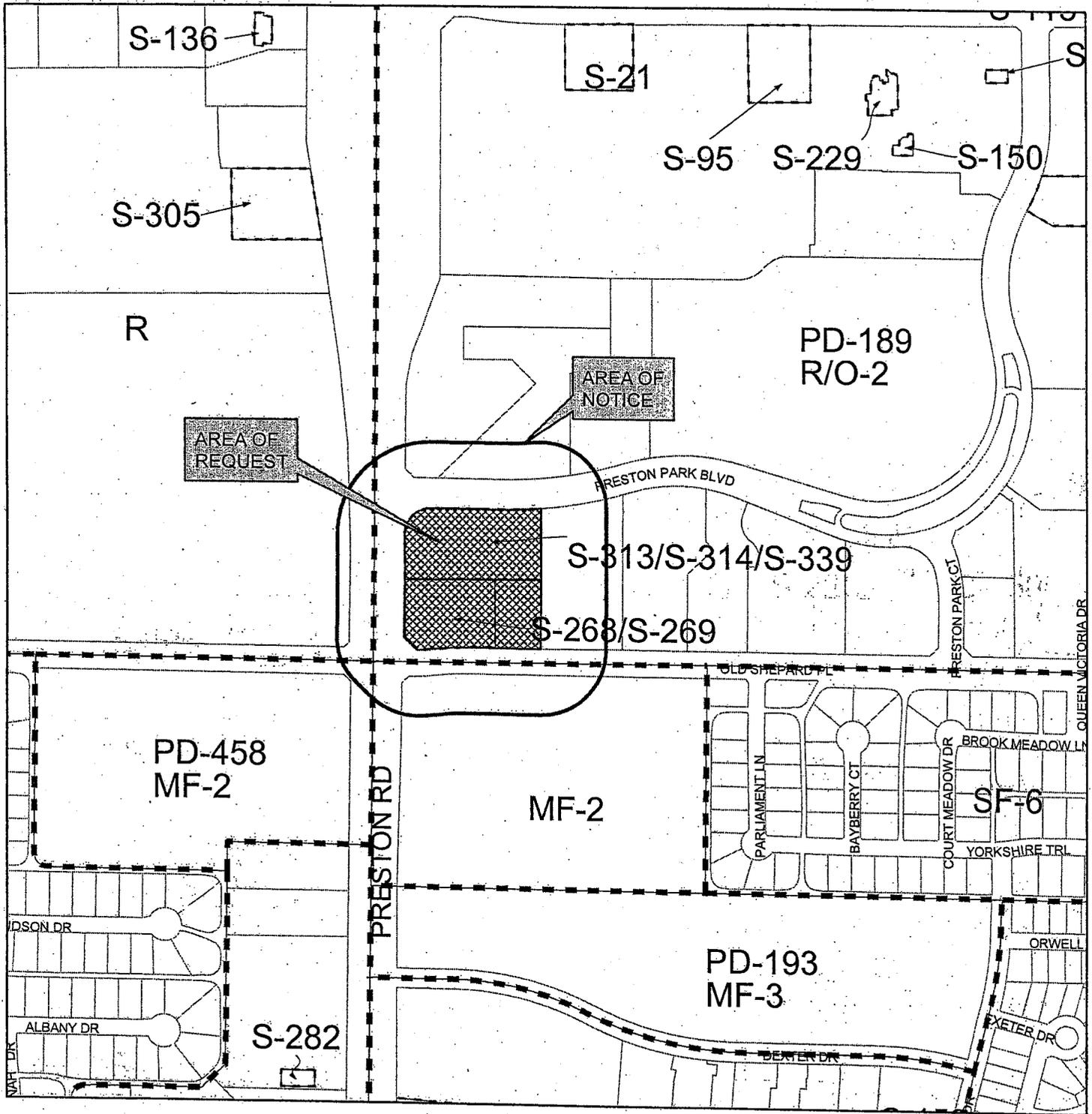
SUMMARY:

The applicant is requesting to create a PD district to allow R and O-2 uses by right. The Retail Study advises against rezoning additional land for retail use. R uses are allowed in many areas of the city, and there are many locations where they would be more appropriate. Additional retail zoning in such close proximity to an existing overdeveloped retail intersection such as Preston Road and Park Boulevard is not recommended. Therefore, staff recommends denial of the request.

RECOMMENDATIONS:

Recommended for denial.

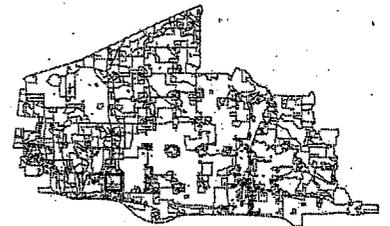
311



Zoning Case #: 2007-01

Existing Zoning: PLANNED DEVELOPMENT-189-
RETAIL/GENERAL OFFICE

w/SPECIFIC USE PERMITS #268, 269, 313, 314, & 339



3-12

○ 200' Notification Buffer

ORDINANCE NO. _____
(Zoning Case 2007-01)

AN ORDINANCE OF THE CITY OF PLANO AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, ORDINANCE NO. 2006-4-24, AS HERETOFORE AMENDED, SO AS TO AMEND 5.7± ACRES OUT OF THE DENTON DARBY SURVEY, ABSTRACT NO. 260, LOCATED AT THE NORTHEAST CORNER OF PRESTON ROAD AND OLD SHEPARD PLACE IN THE CITY OF PLANO, COLLIN COUNTY, TEXAS, FROM PLANNED DEVELOPMENT-189-RETAIL/GENERAL OFFICE TO PLANNED DEVELOPMENT-186-RETAIL/GENERAL OFFICE; 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 9th day of April, 2007, for the purpose of considering amending 5.7± acres out of the Denton Darby Survey, Abstract No. 260, located at the northeast corner of Preston Road and Old Shepard Place in the City of Plano, Collin County, Texas, from Planned Development-189-Retail/General Office to Planned Development-186-Retail/General Office; 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 9th day of April, 2007; and

WHEREAS, the City Council is of the opinion and finds that such amendment 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:

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Section I. The Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended so as to amend 5.7± acres out of the Denton Darby Survey, Abstract No. 260, located at the northeast corner of Preston Road and Old Shepard Place in the City of Plano, Collin County, Texas, from Planned Development-189-Retail/General Office to Planned Development-186-Retail/General Office, said property being described in the legal description on Exhibit "A" attached hereto.

Section II. The change granted in Section I is granted subject to:

- 1) Area, Yard and Bulk Requirements
 - a. Maximum Lot Coverage - 30% (excluding parking structures).
 - b. Maximum Floor Area Ratio - 0.8:1 (excluding parking structures).
 - c. Maximum Building Height - Parking structures shall be not more than four levels at or above grade.
- 2) Building materials: The sides of all buildings, except parking garages, shall have a consistent facade design and roof line configuration. All mechanical equipment serving the structures and trash receptacles shall be screened from all public streets.

Section III. It is directed that the official zoning map of the City of Plano (which is retained in electronic record format) be changed to reflect the zoning classification established by this Ordinance.

Section IV. All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section V. The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

Section VI. Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section VII. It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable, and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

Section VIII. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED THIS THE 9TH DAY OF APRIL, 2007.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

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EXHIBIT "A"
LEGAL DESCRIPTION

BEING all that certain lot, tract, or parcel of land situated in the Denton Darby Survey, Abstract No. 260, located in the City of Plano, Collin County, Texas, and being all of Block A, Lot 1R, Preston Park South, Phase 2, an addition to the City of Denton, according to the plat recorded in Cabinet K, Page 405, of the Plat Records of Collin County, Texas, Block A, Lot 2, Preston Park South, Phase 2, an addition to the City of Denton, according to the plat recorded in Cabinet J, Page 892, of the Plat Records of Collin County, Texas, and being portions of the north right-of-way of Old Shepard Place, the east right-of-way of Preston Road (State Highway No. 289), the south right-of-way of Preston Park Boulevard and being more particularly described by metes and bounds as follows:

BEGINNING at a point in or near the centerline of Old Shepard Place, same being in or near the centerline of Preston Road (State Highway No. 289);

THENCE North, $00^{\circ} 32' 40''$ East, along in or near the centerline of Preston Road (State Highway No. 289), a distance of 522.17 feet to a point in or near the centerline of Preston Park Boulevard;

THENCE South, $89^{\circ} 27' 20''$ East, along in or near the centerline of Preston Park Boulevard a distance of 371.86 feet to a point for corner and the beginning of tangent curve to the left having a radius of 1,270.00 feet, a central angle of $05^{\circ} 07' 02''$, and whose chord bears North, $87^{\circ} 59' 09''$ East, with a chord distance of 113.39 feet;

THENCE northeasterly along said curve, an arc length of 113.42 feet to a point for corner;

THENCE South, $00^{\circ} 16' 40''$ West, over and across said Preston Park Boulevard, along the east line of said Block A, Lot 1R, and Block A, Lot 2, and over across said Old Shepard Place, a distance of 514.40 feet to a point for corner in or near the centerline of said Old Shepard Place;

THENCE along in or near the centerline of Old Shepard Place, the following courses and distances;

NORTH, $89^{\circ} 43' 20''$ West, a distance of 234.93 feet to a point for corner and the beginning of a tangent curve to the left having a radius 598.75 feet, a central angle of $07^{\circ} 32' 56''$, and whose chord bears South, $86^{\circ} 30' 12''$ West, with a chord distance of 78.83 feet;

SOUTHWESTERLY along said curve, an arc length of 78.89 feet to a point for corner and the beginning of a reverse curve to the right having a radius 601.25 feet, a central angle of $05^{\circ} 28' 22''$, and whose chord bears South $85^{\circ} 27' 55''$ West, with a chord distance of 57.41 feet;

SOUTHWESTERLY along said curve, an arc length of 57.43 feet to a point for corner;

NORTH, $90^{\circ} 00' 00''$ West, a distance of 116.79 feet to the POINT OF BEGINNING and CONTAINING 5.745 acres of land, more or less.

3-17



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		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: 4/9/2007		Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	Planning		Initials	Date
Department Head	Phyllis Jarrell		<i>[Signature]</i>	4/2/07
Dept Signature:	<i>[Signature]</i>		Executive Director	4/4/07
Agenda Coordinator (include phone #):		Lynn Trotter, ext. 7156		
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 APPEAL		
CAPTION				
PUBLIC HEARING AND CONSIDERATION OF AN APPEAL OF THE PLANNING & ZONING COMMISSION'S DENIAL OF ZONING CASE 2006-36 - REQUEST TO REZONE 7.1± ACRES LOCATED AT THE SOUTHEAST CORNER OF PARK BOULEVARD AND ALMA DRIVE FROM CORRIDOR COMMERCIAL TO PLANNED DEVELOPMENT-CORRIDOR COMMERCIAL. ZONED CORRIDOR COMMERCIAL. NEIGHBORHOOD #58.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS:				
SUMMARY OF ITEM				
The applicant has appealed the Commission's denial of this zoning petition. On February 5, 2007, the Planning & Zoning Commission denied the case by a vote of 5-2. Since the Commission denied the request, a 3/4 vote of the City Council will be required to approve the request.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
2nd Vice Chair Report				
P&Z Follow-up Memo				
Staff Report				
Zoning Exhibit				
Location Map				
Applicant's letter of appeal				

4-1

**CITY OF PLANO
Recommendation of the
Planning & Zoning Commission
February 5, 2007 Meeting
2nd Vice Chair Report**

Agenda Item No. 7A & 7B

Public Hearing: Zoning Case 2006-36

Applicant: Litwin & Company

DESCRIPTION:

Request to rezone 7.1± acres located at the southeast corner of Park Boulevard and Alma Drive **from** Corridor Commercial **to** Planned Development-Corridor Commercial.

Staff Recommendation: Denial

Commission Action: Denial 7A by a vote of 5-2
Denial 7B by a vote of 5-2

Applicant Action: Appealed to City Council

STAFF REMARKS:

The applicant was requesting to rezone the property to create a planned development district. The requested zoning is Planned Development-Corridor Commercial (PD-CC). The CC district is intended to provide for retail, service, office, and limited manufacturing uses within major regional transportation corridors. The regulations and standards of this district are reflective of the high traffic volumes and high visibility of these regional highways. A PD district provides the ability to amend use, height, setback, and other development standards at the time of zoning to promote innovative design and better development controls appropriate to both off and onsite conditions.

The request proposed to amend allowable uses, landscaping, setbacks, building materials, and other standards of the CC zoning district. The purpose of the request is to develop a public storage/mini-warehouse use.

Surrounding Land Use and Zoning

The area of the request is currently undeveloped. Approximately one-third of the area is within the floodplain of Spring Creek. The property to the north and west is zoned CC and is currently developed as retail, retail service, and restaurant uses. To the north, across Park Boulevard, is a multifamily development zoned Planned Development-67-Multifamily Residence-2 (PD-67-MF-2). East of the request, across Spring Creek, the property is zoned CC and contains floodplain and office, church, restaurant, and retail

4-2

uses. To the south, the property is zoned CC and is currently vacant. To the west, across Alma Drive, the property is zoned Planned Development-109-Retail/General Office (PD-109-R/O-2). The PD-109-R/O-2 is partially developed as convenience store and office uses.

Proposed Planned Development Zoning Stipulations

The requested zoning is PD-CC. There are two primary parts to the applicant's request: allowable uses and design standards.

Allowable Uses - The applicant's request proposes:

- 1) To allow Public Storage/Mini-Warehouse use by right.
- 2) To prohibit the following uses: Automobile Parking Lot/Garage, Automobile Repair - Major, Automobile Repair - Minor, Car Wash, New Car Dealer, Concrete/Asphalt Batching Plant (Temporary), Limited Assembly and Manufacturing, Cabinet/Upholstery Shop, Building Material Sales, Body Piercing, Dance Hall, Indoor Gun Range, Laundromat, Small Engine Repair Shop, Tattooing and Permanent Cosmetics, Manufacturing - Light Intensity, Tire Dealer.

Design Standards - The applicant's request proposes:

- 1) There shall be no outside storage of goods or materials.
- 2) Area, Yard and Bulk Requirements:
 - a. Buildings shall be set back a minimum of fifteen feet from the eastern boundary of lot 3R.
 - b. A fifteen foot hike and bike trail easement shall be provided along the eastern boundary of Lot 3R.
 - c. Any buildings built along the access easement on the boundary of Lot 3R shall be limited to one story.
- 3) Building Materials: The exterior elevations of any buildings built along the access easement on the eastern boundary of Lot 3R shall be faced with masonry materials as defined by the City of Plano Zoning Ordinance. A minimum of two building materials shall be required on each facade. Building articulation and design features shall be incorporated to provide architectural relief along the building facade. A facade plan for buildings along the access easement on the eastern boundary of Lot 3R shall be submitted concurrently with the final site plan for staff review.

4-3

- 4) Landscaping along the eastern boundary of Lot 3R: Twenty-one additional (not part of the required total) trees at 3" caliper (as measured 12" above the finish grade) shall be installed. Locations shall be at each building's depressed articulations and at other random locations to enhance and compliment the building facades.

Conformance to the Comprehensive Plan

Future Land Use Plan - The Future Land Use Plan designates this property as Major Corridor Development (MCD). Development in these corridors is expected to define the unique character of the U.S. Highway 75 corridor. This corridor includes major retail development including Collin Creek Mall, along with general commercial, entertainment, lodging and office uses. The request is generally consistent with the Major Corridor Development land use designation.

ISSUES:

Spring Creekwalk

The area of the request falls within the Spring Creekwalk Master Plan area. The Urban Design Element of the Comprehensive Plan refers to the Spring Creekwalk as: "a portion of the Chisholm Trail improvements. This concept was originally envisioned as a unique mixed-use development on approximately 160 acres of land on the west side of U.S. Highway 75, between Collin Creek Mall and Park Boulevard. The public amenities area of this project would include special water features, terraces, walk-ways, and open spaces in conjunction with surrounding offices, restaurants and retail shops to create a vibrant place for economic and social activity." The intent of Spring Creekwalk is to have a walkable, mixed-use development oriented along a central pathway that follows the creek. Development of the site as a public storage/mini-warehouse use would allow construction of the central pathway. However, the building arrangement and screening walls isolate the site, and the use is not an activity generator. The request, therefore, is not consistent with the Urban Design Element of the Comprehensive Plan.

Proposed Planned Development District

Section 4.101 of the Zoning Ordinance details five purposes for a planned development district. These are:

1. "To protect and provide for the public health, safety, and general welfare of the city." The current CC zoning and the proposed PD-CC zoning accomplish this purpose.
2. "To guide the future development of the city in accordance with the Comprehensive Plan." As noted above, the proposed public storage/mini-warehouse development does not conform to the Urban Design Element of the Comprehensive Plan.

4-4

3. "To accommodate innovation by modifying regulations to better accomplish the city's development goals." The Zoning Ordinance is the primary tool for implementing the city's development goals as expressed in the Comprehensive Plan. Public storage/mini-warehouse use is allowed by right in the Light Commercial, Commercial Employment, Central Business-1, Light Industrial-1, and Light Industrial-2 zoning districts. It is allowed by SUP in the Retail and Corridor Commercial districts "provided there are adequate development standards and safeguards are established." There is sufficient, developable land for this use in other areas of the city. While some development standards are proposed, staff feels that development of a mini-warehouse/public storage use in this location does not better accomplish the city's development goals. This area is a high traffic/high visibility location that should be reserved for development that better suits the city's long range plans.
4. "To mitigate development impacts, especially those related to the environment, traffic, public services and facilities and adjacent and area land uses." The requested zoning would add public storage/mini-warehouse and delete other uses. This change would have little development impact on the environment and traffic. A walled self-storage area could negatively impact the future Spring Creekwalk public area and would partially isolate the existing restaurant and retail uses from the Spring Creekwalk.
5. "To protect and enhance the aesthetic and visual quality of development." The proposed building materials, building articulation, and landscaping standards would help offset the negative aesthetic of the public storage/mini-warehouse walls.

STAFF SUMMARY:

Public storage/mini-warehouse use is allowed in many areas of the city, and there are many locations where the use would be more appropriate. The requested zoning contains design standards that would help offset the perception of a negative visual impact of the development adjacent to the future Spring Creekwalk. The proposed public storage/mini-warehouse use, however, is inconsistent with the "vibrant place for economic and social activity" objective of the Urban Design Element of the Comprehensive Plan, and could partially isolate existing and future uses from Spring Creekwalk. Therefore, staff recommends denial of the proposed zoning request.

The applicant has requested planned development stipulations to attempt to address concerns about the appearance of the proposed mini-warehouse development and to restrict uses that might also be considered inappropriate in this location. One of the proposed stipulations is the dedication of a hike and bike trail easement. Exactions for public facilities of this type should not be considered as part of a zoning request. If the City Council believes that a mini-warehouse use is appropriate in this location, this should be done through SUP instead of using a PD.

4-5

STAFF RECOMMENDATION:

Recommended for denial.

PLANNING & ZONING COMMISSION DISCUSSION

There was some discussion among the commissioners.

Those who spoke in support of Staff's recommendation for denial cited the following reasons:

- The proposed use did not really meet the Urban Design Element of the Comprehensive Plan.
- The proposed PD was not the appropriate zoning and the use should be requested under a SUP
- Most felt the use would not be a good fit in the neighborhood.

Those who were not in support of Staff's recommendation stated the following reasons:

- The PD would provide additional building restrictions not provided under a SUP.
- The proposed use would not detract from the area.
- The proposed use would be an attractive land bank of the property.

PLANNING AND ZONING COMMISSION SUMMARY

The majority of the Planning & Zoning commission felt the mini-warehouse use was not an appropriate use at this intersection and that it did not comply with the intent of a PD zoning or the long term Comprehensive Plan. Those in support felt it would be a good location and should be approved. The re-zoning request was denied by a vote of 5-2 and the concept plan was also denied by a vote of 5-2.

Respectfully submitted,

James F. Duggan
Second Vice Chairman

4-6

DATE: February 6, 2007
TO: Applicants with Items before the Planning & Zoning Commission
FROM: Carolyn Kalchthaler, Chairman, Planning & Zoning Commission
SUBJECT: Results of Planning & Zoning Commission Meeting of February 5, 2007

**AGENDA ITEM NO. 7A - PUBLIC HEARING
ZONING CASE 2006-36
APPLICANT: LITWIN & COMPANY**

DESCRIPTION:

Request to rezone 7.1± acres located at the southeast corner of Park Boulevard and Alma Drive **from** Corridor Commercial **to** Planned Development-Corridor Commercial.

APPROVED: _____ **DENIED:** 5-2 **TABLED:** _____

STIPULATIONS:

Denied. The commissioners voting in support of the item felt this was a good location for Public Storage/Mini-Warehouse.

EH/pp

xc: Rodney Haggard, Fairview Farm Land Company
Charles Gelinas, Gelinas & Associates, Inc.
Bennett Litwin, Litwin & Company, Inc.

4-7

CITY OF PLANO
PLANNING & ZONING COMMISSION

February 5, 2007

Agenda Item No. 7A

Public Hearing: Zoning Case 2006-36

Applicant: Litwin & Company

DESCRIPTION:

Request to rezone 7.1± acres located at the southeast corner of Park Boulevard and Alma Drive **from** Corridor Commercial **to** Planned Development-Corridor Commercial.

REMARKS:

This applicant is requesting to rezone the property to create a planned development district. The requested zoning is Planned Development-Corridor Commercial (PD-CC). The CC district is intended to provide for retail, service, office, and limited manufacturing uses within major regional transportation corridors. The regulations and standards of this district are reflective of the high traffic volumes and high visibility of these regional highways. A PD district provides the ability to amend use, height, setback, and other development standards at the time of zoning to promote innovative design and better development controls appropriate to both off and onsite conditions.

The request proposes to amend allowable uses, landscaping, setbacks, building materials, and other standards of the CC zoning district. The purpose of the request is to develop a public storage/mini-warehouse use. A preliminary site plan, Chisholm Place Retail, Block A, Lots 3R & 5, accompanies this request as Agenda Item No. 7B.

Surrounding Land Use and Zoning

The area of the request is currently undeveloped. Approximately one-third of the area is within the floodplain of Spring Creek. The property to the north and west is zoned CC and is currently developed as retail, retail service, and restaurant uses. To the north, across Park Boulevard, is a multifamily development zoned Planned Development-67-Multifamily Residence-2 (PD-67-MF-2). East of the request, across Spring Creek, the property is zoned CC and contains floodplain and office, church, restaurant, and retail uses. To the south, the property is zoned CC and is currently vacant. To the west, across Alma Drive, the property is zoned Planned Development-109-Retail/General Office (PD-109-R/O-2). The PD-109-R/O-2 is partially developed as convenience store and office uses.

4-8

Proposed Planned Development Zoning Stipulations

The requested zoning is PD-CC. There are two primary parts to the applicant's request: allowable uses and design standards.

Allowable Uses - The applicant's request proposes:

- 1) To allow Public Storage/Mini-Warehouse use by right.
- 2) To prohibit the following uses: Automobile Parking Lot/Garage, Automobile Repair - Major, Automobile Repair - Minor, Car Wash, New Car Dealer, Concrete/Asphalt Batching Plant (Temporary), Limited Assembly and Manufacturing, Cabinet/Upholstery Shop, Building Material Sales, Body Piercing, Dance Hall, Indoor Gun Range, Laundromat, Small Engine Repair Shop, Tattooing and Permanent Cosmetics, Manufacturing - Light Intensity, Tire Dealer.

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- 4) Landscaping along the eastern boundary of Lot 3R: Twenty-one additional (not part of the required total) trees at 3" caliper (as measured 12" above the finish grade) shall be installed. Locations shall be at each building's depressed articulations and at other random locations to enhance and compliment the building facades.

Conformance to the Comprehensive Plan

Future Land Use Plan - The Future Land Use Plan designates this property as Major Corridor Development (MCD). Development in these corridors is expected to define the unique character of the U.S. Highway 75 corridor. This corridor includes major retail development including Collin Creek Mall, along with general commercial, entertainment, lodging and office uses. The request is generally consistent with the Major Corridor Development land use designation.

Adequacy of Public Facilities - Adequate water and sanitary sewer services are available via extensions from existing lines along Park Boulevard and Alma Drive.

Traffic Impact Analysis (TIA) - Because the request does not propose to change the underlying base CC zoning, there is no potential increase in vehicle trip generation. Therefore, a TIA is not required.

ISSUES:

Spring Creekwalk

The area of the request falls within the Spring Creekwalk Master Plan area. The Urban Design Element of the Comprehensive Plan refers to the Spring Creekwalk as: "a portion of the Chisholm Trail improvements. This concept was originally envisioned as a unique mixed-use development on approximately 160 acres of land on the west side of U.S. Highway 75, between Collin Creek Mall and Park Boulevard. The public amenities area of this project would include special water features, terraces, walk-ways, and open spaces in conjunction with surrounding offices, restaurants and retail shops to create a vibrant place for economic and social activity." The intent of Spring Creekwalk is to have a walkable, mixed-use development oriented along a central pathway that follows the creek. Development of the site as a public storage/mini-warehouse use would allow construction of the central pathway. However, the building arrangement and screening walls isolate the site, and the use is not an activity generator. The request, therefore, is not consistent with the Urban Design Element of the Comprehensive Plan.

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410

3. "To accommodate innovation by modifying regulations to better accomplish the city's development goals." The Zoning Ordinance is the primary tool for implementing the city's development goals as expressed in the Comprehensive Plan. Public storage/mini-warehouse use is allowed by right in the Light Commercial, Commercial Employment, Central Business-1, Light Industrial-1, and Light Industrial-2 zoning districts. It is allowed by SUP in the Retail and Corridor Commercial districts "provided there are adequate development standards and safeguards are established." There is sufficient, developable land for this use in other areas of the city. While some development standards are proposed, staff feels that development of a mini-warehouse/public storage use in this location does not better accomplish the city's development goals. This area is a high traffic/high visibility location that should be reserved for development that better suits the city's long range plans.
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5. "To protect and enhance the aesthetic and visual quality of development." The proposed building materials, building articulation, and landscaping standards would help offset the negative aesthetic of the public storage/mini-warehouse walls.

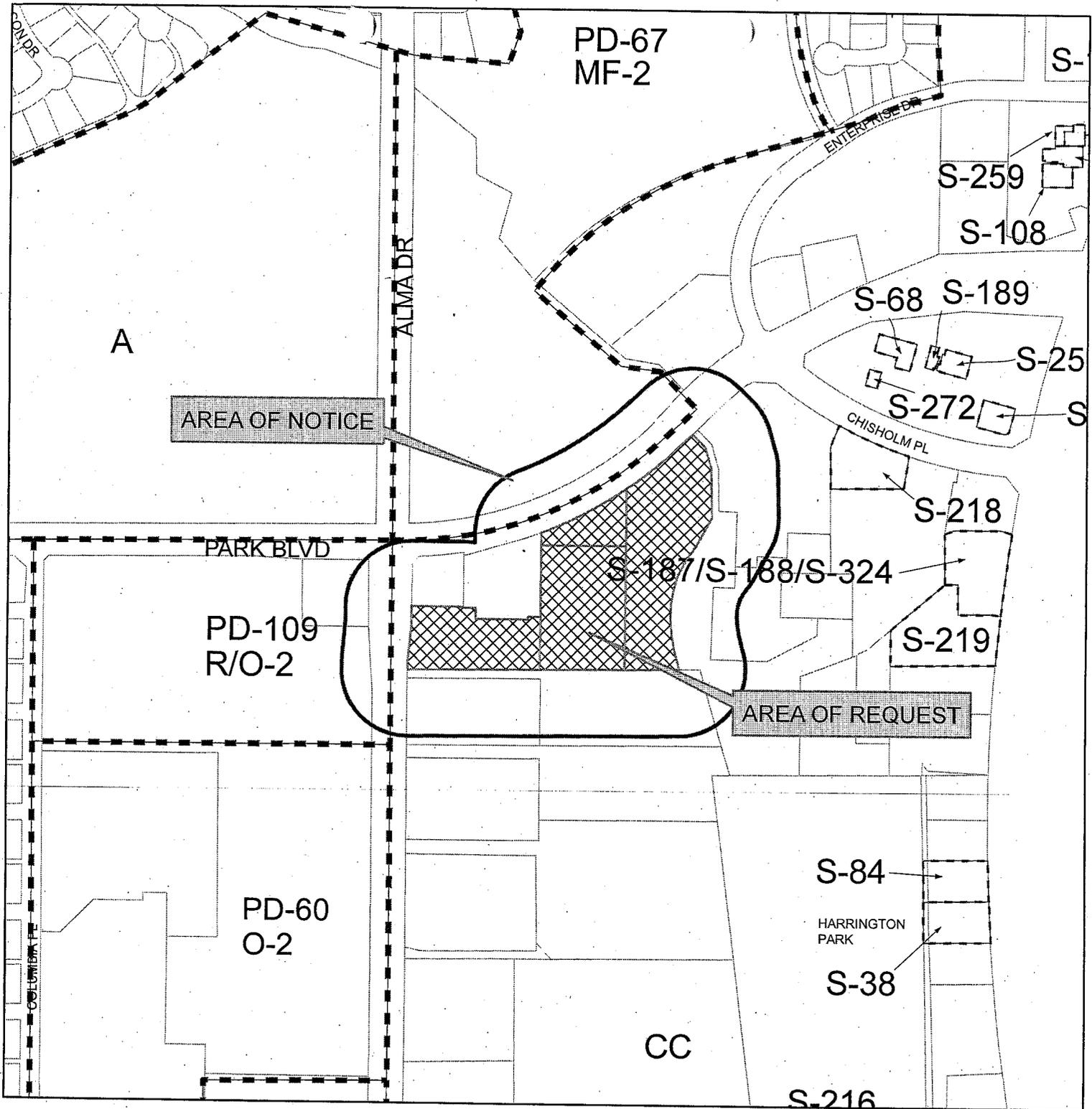
SUMMARY:

Public storage/mini-warehouse use is allowed in many areas of the city, and there are many locations where the use would be more appropriate. The requested zoning contains design standards that would help offset the perception of a negative visual impact of the development adjacent to the future Spring Creekwalk. The proposed public storage/mini-warehouse use, however, is inconsistent with the "vibrant place for economic and social activity" objective of the Urban Design Element of the Comprehensive Plan, and could partially isolate existing and future uses from Spring Creekwalk. Therefore, staff recommends denial of the proposed zoning request.

The applicant has requested planned development stipulations to attempt to address concerns about the appearance of the proposed mini-warehouse development and to restrict uses that might also be considered inappropriate in this location. One of the proposed stipulations is the dedication of a hike and bike trail easement. Exactions for public facilities of this type should not be considered as part of a zoning request. If the Commission believes that a mini-warehouse use is appropriate in this location, this should be done through SUP instead of using a PD.

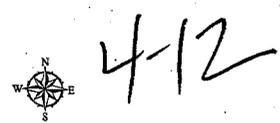
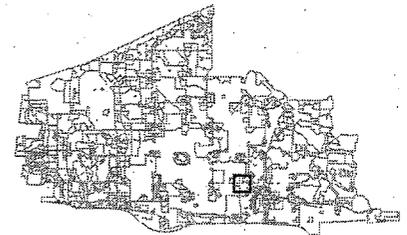
RECOMMENDATION:

Recommended for denial.



Zoning Case #: 2006-36

Existing Zoning: CORRIDOR COMMERCIAL



○ 200' Notification Buffer

NO.	1
CITY REVIEW	
REVISION	

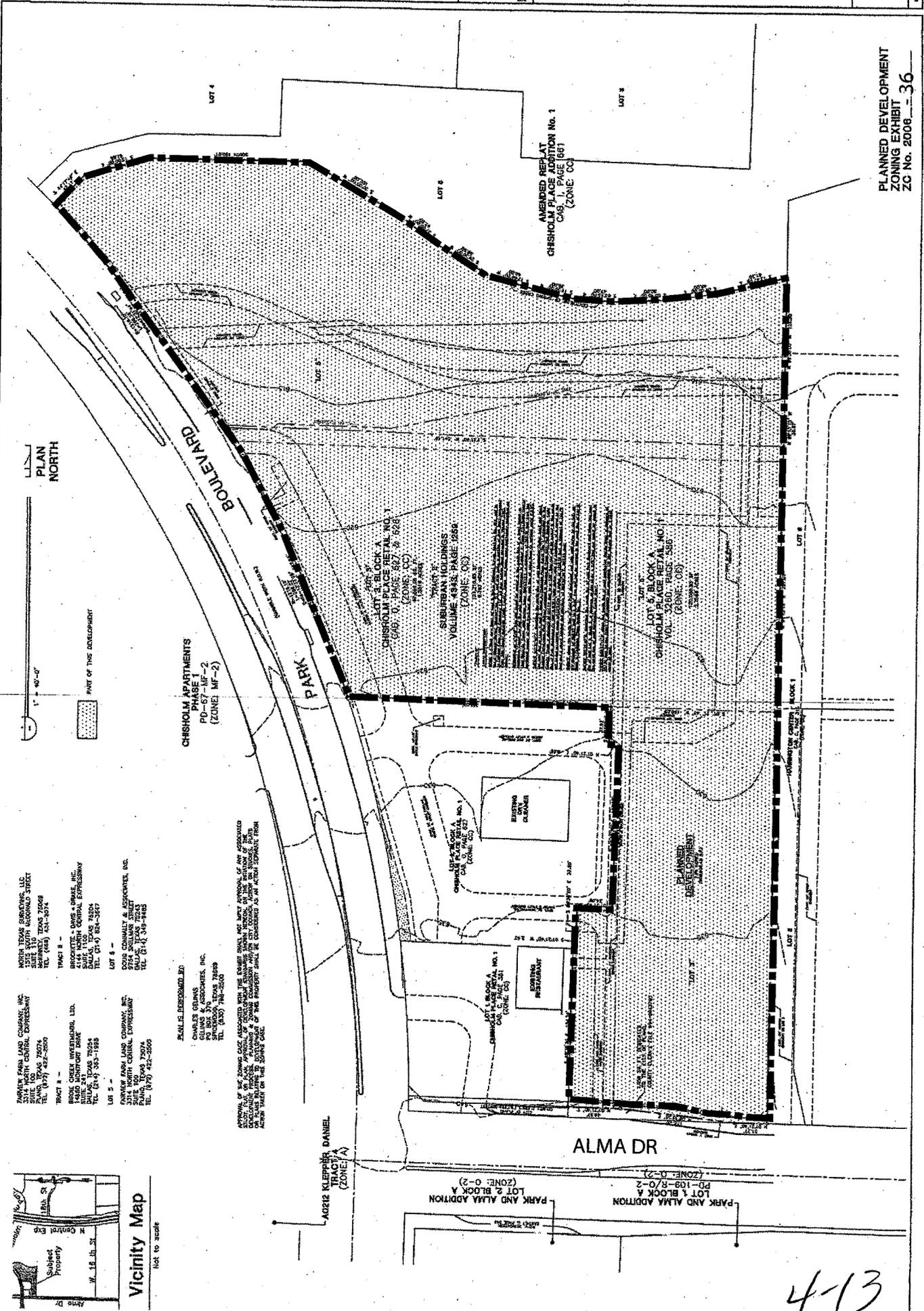
GELINAS & ASSOCIATES, INC.
ENGINEERS AND ARCHITECTS

DATE	12-19-84
SCALE	1" = 40'-0"
PROJECT	CHISHOLM PLACE RETAIL
CLIENT	GELINAS & ASSOCIATES, INC.

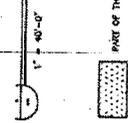
CHISHOLM PLACE RETAIL
PLANNED DEVELOPMENT
PARK BOULEVARD

PD

PLANNED DEVELOPMENT
ZONING EXHIBIT
ZC No. 2008 - 36



PLAN NORTH



TRACT A -
PARKVIEW LAND COMPANY, INC.
3114 NORTH CENTRAL EXPRESSWAY
PLANO, TEXAS 75074
TEL. (972) 492-2800

TRACT B -
BROOKHURST INVESTMENT, LTD.
BROOKHURST INVESTMENT, LTD.
3114 NORTH CENTRAL EXPRESSWAY
PLANO, TEXAS 75074
TEL. (972) 492-2800

TRACT C -
PARKVIEW LAND COMPANY, INC.
3114 NORTH CENTRAL EXPRESSWAY
PLANO, TEXAS 75074
TEL. (972) 492-2800

TRACT D -
PARKVIEW LAND COMPANY, INC.
3114 NORTH CENTRAL EXPRESSWAY
PLANO, TEXAS 75074
TEL. (972) 492-2800

TRACT E -
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TRACT F -
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TRACT G -
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TRACT H -
PARKVIEW LAND COMPANY, INC.
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TRACT I -
PARKVIEW LAND COMPANY, INC.
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TRACT J -
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TRACT K -
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TRACT L -
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TRACT M -
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TRACT N -
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TRACT O -
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TRACT P -
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TRACT Q -
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TRACT R -
PARKVIEW LAND COMPANY, INC.
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TRACT S -
PARKVIEW LAND COMPANY, INC.
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TRACT T -
PARKVIEW LAND COMPANY, INC.
3114 NORTH CENTRAL EXPRESSWAY
PLANO, TEXAS 75074
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TRACT U -
PARKVIEW LAND COMPANY, INC.
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TRACT V -
PARKVIEW LAND COMPANY, INC.
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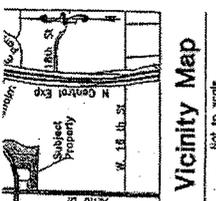
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TRACT Y -
PARKVIEW LAND COMPANY, INC.
3114 NORTH CENTRAL EXPRESSWAY
PLANO, TEXAS 75074
TEL. (972) 492-2800

TRACT Z -
PARKVIEW LAND COMPANY, INC.
3114 NORTH CENTRAL EXPRESSWAY
PLANO, TEXAS 75074
TEL. (972) 492-2800

EXAMPLES DISCLOSED BY:
CHARLES COLEMAN
GELINAS & ASSOCIATES, INC.
3114 NORTH CENTRAL EXPRESSWAY
PLANO, TEXAS 75074
TEL. (972) 492-2800

APPROVAL OF THIS PLAN IS SUBJECT TO THE REVIEW AND APPROVAL OF THE CITY OF DALLAS. THE CITY OF DALLAS IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED IN THIS PLAN. THE CITY OF DALLAS IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED IN THIS PLAN. THE CITY OF DALLAS IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED IN THIS PLAN.



PARK AND ALMA ADDITION
LOT 1 BLOCK A
PD-109-B/C-2
(ZONE: O-2)

PARK AND ALMA ADDITION
LOT 2 BLOCK A
(ZONE: O-2)

4-13

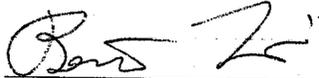
March 5, 2007

City of Plano
Planning Department
Attention: Phyllis Jarrell
Director of Planning
P.O. Box 860358
Plano, TX 75086-0358

Dear Ms. Jarrell:

This letter is to serve as notice of the Applicant's appeal of the Planning & Zoning Commission's decision re: Case # 2006-36 on February 5, 2007. The specific Agenda Items were 7A and 7B. A check in the amount of \$115 (\$110.00 for the appeal and \$5.00 for the one property owner listed in the public hearing notice) has been included with this letter.

Litwin & Company, Inc. (Applicant)

By: 

Bennett Litwin

4-14

Receipt # 1205076

DATE: March 20, 2007
TO: Honorable Mayor & City Council
FROM: Laura Williamson, 1st Vice Chairman, Planning & Zoning Commission 
SUBJECT: Results of Planning & Zoning Commission Meeting of March 19, 2007

AGENDA ITEM NO. 7A - PUBLIC HEARING
ZONING CASE 2006-31
APPLICANT: JOE AND SUSANA HERNANDEZ

DESCRIPTION:

Request for expansion of Specific Use Permit #571 for service contractor with storage yard on 2.7± acres located on the south side of Rigsbee Drive, 565± feet west of 14th Street. Zoned Light Commercial with Specific Use Permit #571 for Service Contractor with Storage Yard. Tabled 12/18/06, 01/02/07, 01/16/07, 02/19/07, & 03/05/07.

APPROVED: 5-1 **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. The commissioner voting in opposition was concerned that the applicant would not install proper required screening.

FOR CITY COUNCIL MEETING OF: April 9, 2007 (To view the agenda for this meeting, see www.planotx.org)

PUBLIC HEARING - ORDINANCE

EH/dc

xc: Jose Hernandez
Fred Bemenderfer, Roome Land Surveying

CITY OF PLANO
PLANNING & ZONING COMMISSION

March 19, 2007

Agenda Item No. 7A

Public Hearing: Zoning Case 2006-31

Applicant: Joe and Susana Hernandez

DESCRIPTION:

Request for expansion of Specific Use Permit #571 for service contractor with storage yard on 2.7± acres located on the south side of Rigsbee Drive, 565± feet west of 14th Street. Zoned Light Commercial with Specific Use Permit #571 for Service Contractor with Storage Yard. Tabled 12/18/06, 01/02/07, 01/16/07, 02/19/07, & 03/05/07.

REMARKS:

This item was tabled at the March 5, 2007, Planning & Zoning Commission meeting. It must be removed from the table.

In December 2005, City Council granted the applicant Specific Use Permit (SUP) #571 for Service Contractor with Storage Yard. This request proposes to expand the area of SUP #571 to include the adjacent 2.7± acres undeveloped tract to the east of their existing business. A preliminary site plan application accompanies this request, Enid Braswell Addition, Block A, Lot 1R.

Service contractors are defined as establishments whose primary activity is the provision of services for the construction, maintenance, cleaning, or repair of buildings, and properties on a fee or contract basis. Service contractors with storage yard may include, but are not limited to, plumbing, heating and air conditioning, construction, and landscape maintenance services with an open storage area for goods, materials, and equipment, including trailers designed to be towed, associated with the conduct of the business. The open storage yard is subject to the screening, paving, and other standards for open storage in Section 3.900 (Open Storage) of the Zoning Ordinance. The applicant is proposing a 6-foot irrigated living screen along the western and southern property lines and along the eastern side of the open storage.

5-2

The area of the request and adjacent properties are zoned Light Commercial (LC). The LC district is intended to provide for a wide array of retail, office, and service uses to meet the needs of local residents and businesses. The property to the west of SUP #571 is zoned LC with SUP #499 for Contract Construction (now called Service Contractor with Storage Yard). The southern boundary of the property is the St. Louis Southwestern Railroad owned by Dallas Area Rapid Transit. On the north side of Rigsbee Drive, across from the request, the property has been partially developed as single family and multifamily use. To the east of the request, the property is zoned Planned Development-147-Light Commercial that permits and has been developed as long-term care facility use (retirement housing).

RECOMMENDATION:

Recommended for approval as submitted.

ORDINANCE NO. _____
(Zoning Case 2006-31)

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, ORDINANCE NO. 2006-4-24, AS HERETOFORE AMENDED, AMENDING SPECIFIC USE PERMIT NO. 571 FOR SERVICE CONTRACTOR WITH STORAGE YARD SO AS TO EXPAND THE AREA OF THE SPECIFIC USE PERMIT TO INCLUDE 2.7± ACRES OF LAND OUT OF THE ELI MURPHY SURVEY, ABSTRACT NO. 597, LOCATED ON THE SOUTH SIDE OF RIGSBEE DRIVE, 565± FEET WEST OF 14TH STREET IN THE CITY OF PLANO, COLLIN COUNTY, TEXAS, PRESENTLY ZONED LIGHT COMMERCIAL WITH SPECIFIC USE PERMIT NO. 571 FOR SERVICE CONTRACTOR WITH STORAGE YARD; 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 9th day of April, 2007, for the purpose of considering amending Specific Use Permit No. 571 for Service Contractor with Storage Yard so as to expand the area of the specific use permit to include 2.7± acres of land out of the Eli Murphy Survey, Abstract No. 597, located on the south side of Rigsbee Drive, 565± feet west of 14th Street in the City of Plano, Collin County, Texas, presently zoned Light Commercial with Specific Use Permit No. 571 for Service Contractor with Storage Yard; 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 9th day of April, 2007; and

WHEREAS, the City Council is of the opinion and finds that the amending of Specific Use Permit No. 571 so as to expand the area of the specific use permit to include 2.7± acres of land out of the Eli Murphy Survey, Abstract No. 597, located on the south side of Rigsbee Drive, 565± feet west of 14th Street 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

5-6

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. 2006-4-24, as the same has been heretofore amended, is hereby further amended so as to amend Specific Use Permit No. 571 so as to expand the area of the specific use permit to include 2.7± acres of land out of the Eli Murphy Survey, Abstract No. 597, located on the south side of Rigsbee Drive, 565± feet west of 14th Street in the City of Plano, Collin County, Texas, presently zoned Light Commercial with Specific Use Permit No. 571 for Service Contractor with Storage Yard, 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 affectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

Section V. Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section VI. It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable, and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

Section VII. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED THIS THE 9TH DAY OF APRIL, 2007.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

5-8

EXHIBIT "A"
LEGAL DESCRIPTION

SITUATED in the State of Texas, County of Collin and City of Plano, being part of the Eli Murphy Survey, Abstract No. 597, being all of Lot 1, Block A of the Enid Braswell Addition, an addition to the City of Plano as recorded in Volume D, Page 119 of the Collin County Map Records, all of a 2.7433 acre tract of land as recorded under County Clerk No. 2006-000999840 of the Collin County Land Records with said premises being more particularly described as follows:

BEGINNING at a 1/2-inch iron rod found in the north right-of-way line of a St. Louis & Southwestern Railroad (D.A.R.T. Railway – 100' R.O.W.) marking the southwest corner of Lot 1, Block A of said Enid Braswell Addition and the southeast corner of Keane's 0.428 acre tract as recorded in Volume 256, Page 35 of the Collin County Land Records;

THENCE with the west line of said Lot 1 and the east line of said 0.428 acre tract, North $00^{\circ} 08' 30''$ East, 300.16 feet to a 1/2-inch Roome capped iron rod set in the south right-of-way line of S. Rigsbee Drive marking the northwest corner of Lot 1 and the northeast corner of said 0.428 acre tract;

THENCE with the south right-of-way line of S. Rigsbee Drive and the north line of said Lot 1, South $85^{\circ} 39' 30''$ East, 80.00 feet to a 1/2-inch iron rod found marking the northeast corner of Lot 1 and the northwest corner of the aforementioned 2.7433 acre tract;

THENCE continuing with the south right-of-way line of S. Rigsbee Drive and the north line of said 2.7433 acre tract, South $85^{\circ} 57' 08''$ East, 374.02 feet to a 3/8-inch iron rod found marking the northeast corner of said 2.7433 acre tract and the northwest corner of Plano Nursing Home Addition, an addition to the City of Plano as recorded in Volume 10, Page 9 of the Collin County Map Records;

THENCE with the east line of said 2.7433 acre tract and the west line of said Plano Nursing Home Addition, South $04^{\circ} 20' 30''$ West, 351.46 feet to a 3/8-inch iron rod found in the north right-of-way line of the aforementioned St. Louis & Southwestern Railroad (D.A.R.T. Railway – 100' R.O.W.) marking the southeast corner of said 2.7433 acre tract and the southwest corner of said Plano Nursing Home Addition;

THENCE with the north right-of-way line of said railway and the south line of said 2.7433 acre tract, North $79^{\circ} 02' 06''$ West, 353.70 feet to the southwest corner of said 2.7433 acre tract and the southeast corner of the aforementioned Lot 1, from which a 1/2-inch iron rod found for reference bears North $05^{\circ} 57' 25''$ West, 0.27 feet;

THENCE continuing with the north right-of-way line of said railway and the south line of said Lot 1, North $79^{\circ} 01' 02''$ West, 81.24 feet to the PLACE OF BEGINNING and CONTAINING 143,827 square feet or 3.30 acres of land.

DATE: March 20, 2007
TO: Honorable Mayor & City Council
FROM: Laura Williamson, 1st Vice Chairman, Planning & Zoning Commission
SUBJECT: Results of Planning & Zoning Commission Meeting of March 19, 2007

TL
PM

**AGENDA ITEM NO. 9A - PUBLIC HEARING
ZONING CASE 2007-02
APPLICANT: J. H. A. MAPLESHADE, L.P.**

DESCRIPTION:

Request for Specific Use Permit for Day Care Center on 0.1± acre located at the northwest corner of Silverglen Drive and Mapleshade Lane. Zoned Light Industrial-1.

APPROVED: 6-0 **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: April 9, 2007 (To view the agenda for this meeting, see www.planotx.org)

PUBLIC HEARING – ORDINANCE

BT/dc

xc: Douglas Harman, J.H.A. Mapleshade, L.P.

6-1

CITY OF PLANO
PLANNING & ZONING COMMISSION

March 19, 2007

Agenda Item No. 9A

Public Hearing: Zoning Case 2007-02

Applicant: J. H. A. Mapleshade, L.P.

DESCRIPTION:

Request for Specific Use Permit for Day Care Center on 0.1± acre located at the northwest corner of Silverglen Drive and Mapleshade Lane. Zoned Light Industrial-1.

REMARKS:

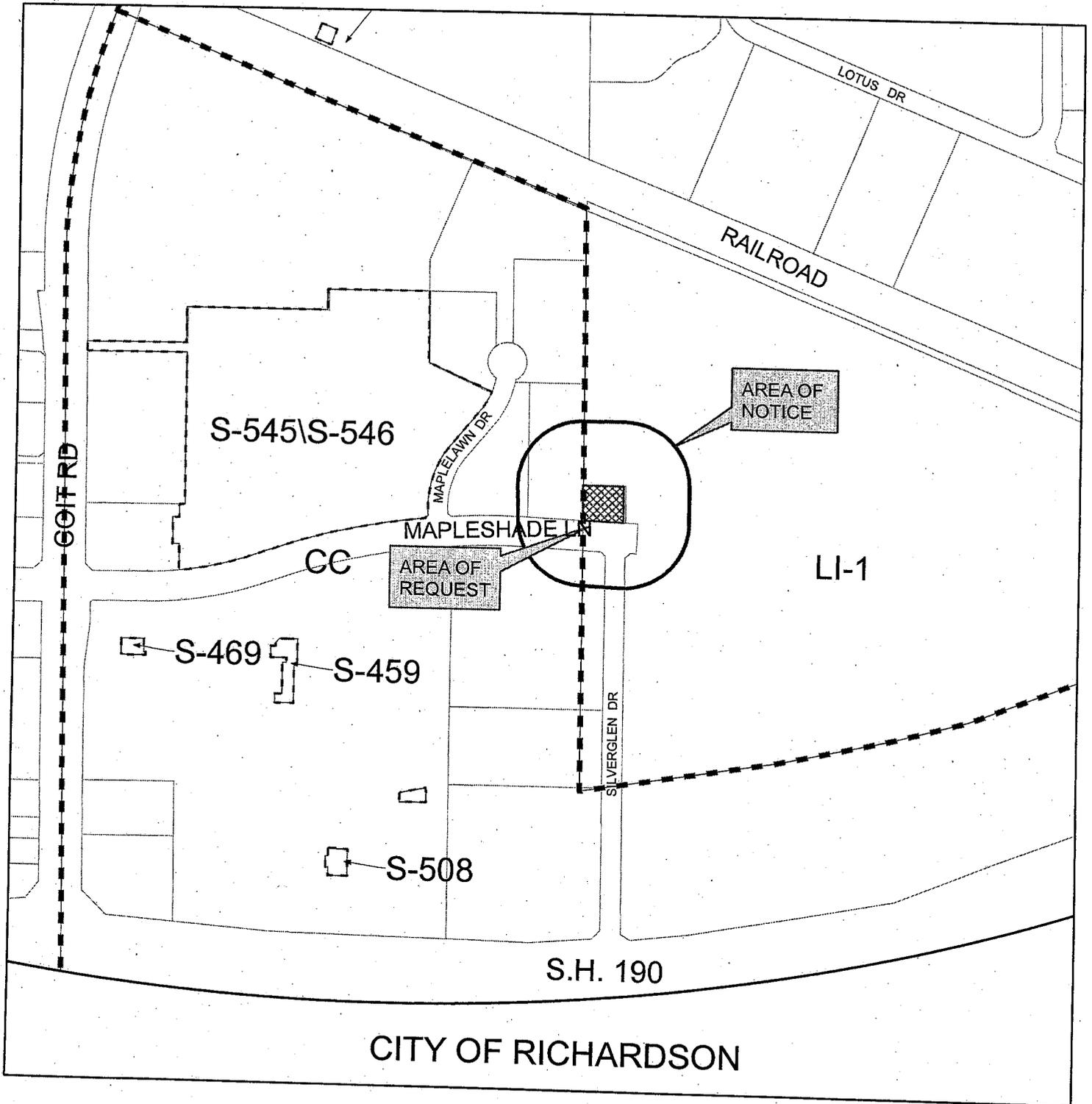
The requested zoning is a Specific Use Permit (SUP) for Day Care Center. A day care center is defined as a facility providing care, training, education, custody, treatment, or supervision for 13 or more children for less than 24 hours per day. The purpose and intent of an SUP is to authorize and regulate a use not normally permitted in a district which could be of benefit in a particular case to the general welfare, provided adequate development standards and safeguards are established for such use during the review of an SUP application.

The proposed care is in a multi-occupant building with direct access to the exterior of the building. It has direct access to the outdoor play space and the outdoor play space is immediately adjacent to the day care center. The day care meets the required play space, parking, loading and unloading areas. It is also not within 300 feet of gasoline pumps or underground storage tanks.

RECOMMENDATIONS:

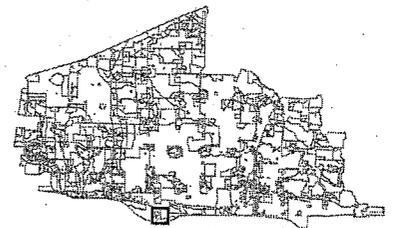
Recommended for approval as submitted.

62



Zoning Case #: 2007-02

Existing Zoning: LIGHT INDUSTRIAL-1



○ 200' Notification Buffer

6-3

ORDINANCE NO. _____
(Zoning Case 2007-02)

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY, ORDINANCE NO. 2006-4-24, AS HERETOFORE AMENDED, GRANTING SPECIFIC USE PERMIT NO. 581 SO AS TO ALLOW THE ADDITIONAL USE OF DAY CARE CENTER ON 0.1± ACRE OF LAND OUT OF THE MARTHA MCBRIDE SURVEY, ABSTRACT NO. 553, LOCATED AT THE NORTHWEST CORNER OF SILVERGLEN DRIVE AND MAPLESHADE LANE IN THE CITY OF PLANO, COLLIN COUNTY, TEXAS, PRESENTLY ZONED LIGHT INDUSTRIAL-1; DIRECTING A CHANGE ACCORDINGLY IN THE OFFICIAL ZONING MAP OF THE CITY; AND PROVIDING A PENALTY CLAUSE, A REPEALER CLAUSE, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

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 9th day of April, 2007, for the purpose of considering granting Specific Use Permit No. 581 for the additional use of day care center on 0.1± acre of land out of the Martha McBride Survey, Abstract No. 553, located at the northwest corner of Silverglen Drive and Mapleshade Lane in the City of Plano, County, Texas, presently zoned Light Industrial-1; 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 9th day of April, 2007; and

WHEREAS, the City Council is of the opinion and finds that the granting of Specific Use Permit No. 581 for the additional use of day care center on 0.1± acre of land out of the Martha McBride Survey, Abstract No. 553, located at the northwest corner of Silverglen Drive and Mapleshade Lane 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. 2006-4-24, as the same has been heretofore amended, is hereby further amended so as to grant Specific Use Permit No. 581, allowing the additional use of Day Care Center on 0.1± acre of land out of the Martha McBride Survey, Abstract No. 553, located at the northwest corner of Silverglen Drive and Mapleshade Lane in the City of Plano, Collin County, Texas, presently zoned Light Industrial-1, 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.

6-6

Section VII. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED THIS THE 9TH DAY OF APRIL, 2007.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

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EXHIBIT "A"
LEGAL DESCRIPTION

BEING a tract of land out of the Martha McBride Survey, Abstract No. 553, located in the City of Plano, Collin County, Texas, being all of Lot 5, Block A, Coit Center, an addition to the City of Plano, Collin County, Texas, according to the Revised Conveyance Plat thereof recorded in Cabinet P, Page 727, Map Records, Collin County, Texas, being more particularly described as follows:

BEGINNING at a one-half inch iron rod found for corner, said point being the southeast corner of said Lot 5, and being in the north line of Mapleshade Lane (92 foot right-of-way);

THENCE North $87^{\circ} 35' 30''$ West, 299.71 feet along the north line of said Mapleshade Lane to a one-half inch iron rod found for corner, said point being the southeast corner of Lot 3R, Block A of said Coit Center;

THENCE North 417.76 feet along the east line of said Lot 3R to a one-half inch iron rod found for corner, said point being the northeast corner of said Lot 3R and being in the south line of Lot 6, Block A of said Coit Center;

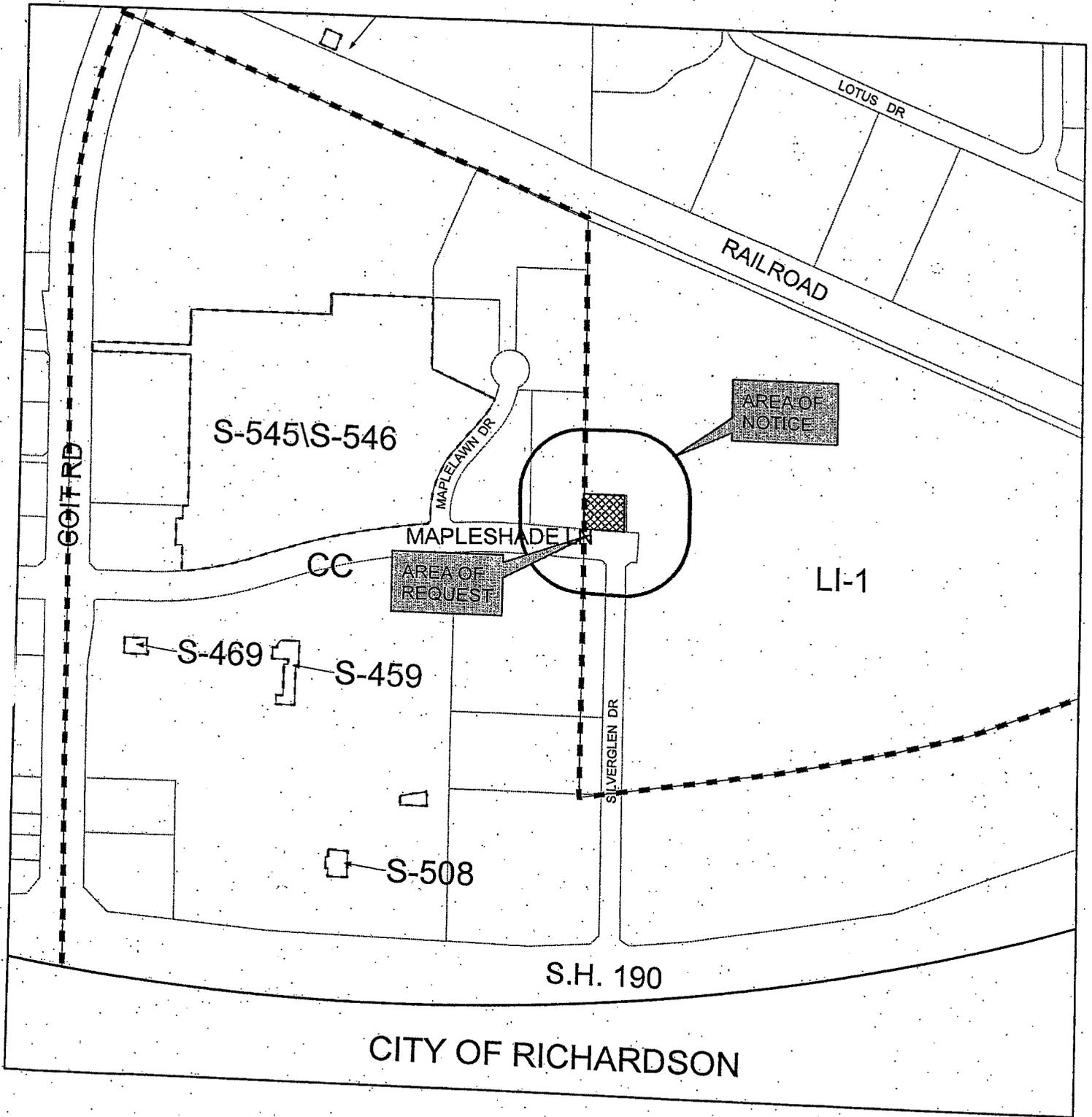
THENCE East, 169.63 feet along the south line of said Lot 6 to a one-half inch iron rod found for corner, said point being the southeast corner of said Lot 6 and being in the west line of a tract of land described in Deed to the University of Texas as recorded in Volume 976, Page 517, Collin County Deed Records;

THENCE South $00^{\circ} 01' 27''$ West, 315.14 feet along the west line of said University of Texas tract to a one-half inch iron rod found for corner;

THENCE South $89^{\circ} 58' 33''$ East, 130 feet to a one-half inch iron rod found for corner;

THENCE South $00^{\circ} 01' 27''$ West, 115.15 to the POINT OF BEGINNING and CONTAINING 86,050 square feet or 1.975 acres of land.

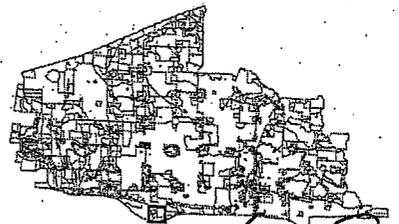
6-8



CITY OF RICHARDSON

Zoning Case #: 2007-02

Existing Zoning: LIGHT INDUSTRIAL-1



○ 200' Notification Buffer





**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		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: 4/9/07		Reviewed by Legal <i>plw</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department:	City Secretary		Initials	Date	
Department Head	Diane Zucco		Executive Director		
Dept Signature:	<i>Diane Zucco</i>		City Manager	<i>plw</i> 4/5/07	
Agenda Coordinator (include phone #):		Di Zucco x7551			

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

CAPTION

A RESOLUTION OF THE PLANO CITY COUNCIL AFFIRMING THE APPOINTMENT OF A BOARD MEMBER TO SERVE THE REMAINDER OF A CURRENT TERM ON THE DALLAS AREA RAPID TRANSIT AUTHORITY (DART) BOARD OF DIRECTORS AS PROVIDED IN CHAPTER 452 OF THE TEXAS TRANSPORTATION CODE 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
BALANCE	0	0	0	0

FUND(s):

COMMENTS:

SUMMARY OF ITEM

List of Supporting Documents: _____ Other Departments, Boards, Commissions or Agencies

RESOLUTION NO. _____

A RESOLUTION OF THE PLANO CITY COUNCIL AFFIRMING THE APPOINTMENT OF A BOARD MEMBER TO SERVE THE REMAINDER OF A CURRENT TERM ON THE DALLAS AREA RAPID TRANSIT AUTHORITY (DART) BOARD OF DIRECTORS AS PROVIDED IN CHAPTER 452 OF THE TEXAS TRANSPORTATION CODE AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 452 of the Texas Transportation Code provides for the appointment of board members to DART; and

WHEREAS, the Plano City Council desires to appoint a board member to serve the remainder of a current term and has duly considered candidates for the full DART Board Member.

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

Section I. The City of Plano appoints _____ to serve as the full DART Board Member to represent the City of Plano for the remainder of the current term.

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

DULY PASSED AND APPROVED this the _____ day of _____ 2007.

Pat Evans, MAYOR

ATTEST:

Diane Zucco, City Secretary

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY



DARTRES07