

CITY COUNCIL

1520 AVENUE K



DATE: 6/28/2010
CALL TO ORDER: 7:00 p.m.
INVOCATION: Pastor Jack Schneider
St. Paul Lutheran Church
PLEDGE OF ALLEGIANCE:

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 & SPECIAL RECOGNITION</u> Proclamation: Scleroderma Awareness Day</p> <p><u>OATHS OF OFFICE</u> <u>Plano Housing Authority</u> Jeanine Boehl</p> <p><u>COMMENTS OF PUBLIC INTEREST</u> <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>CONSENT AGENDA</u> <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>	

ITEM NO.	EXPLANATION	ACTION TAKEN
(a)	<p><u>Approval of Minutes</u></p> <p>June 14, 2010 - CPR/AED Training June 14, 2010</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) Rejection of all Bids for Bid No. 2010-76-B Best Value Bid for Two (2) Communications Shelters for the Public Safety Communications Department.</p> <p>(c) Rejection of all Bids for Bid No. 2010-132-B Fire Station No. 7 Replacement of Under Floor Piping.</p> <p>(d) CSP No. 2010-89-B for Radio System Infrastructure Replacement - School House and Communication Towers. Sabre Commuication Corporation for supply and installation of two (2) Public Safety Communication Tower at 6825 Communications Parkway and 435 West Spring Creek Parkway in the amount of \$213,938; and authorizing the City Manager to execute all necessary documents.</p> <p>(e) CSP No. 2010-123-B for the construction of Plano Fire Station No. 13 to Crossland Construction Company, Inc., in the amount of \$3,250,000 and authorizing the City Manager to execute all necessary documents.</p> <p>Purchase from an Existing Contract</p> <p>(f) To approve a 48 month lease agreement for Copiers in an estimated amount of \$658,560 for City departments from OCE' North America through an existing contract with the State of Texas Department of Information Resources (DIR) and authorizing the City Manager to execute all necessary documents. (DIR-SDD-524)</p> <p>(g) To approve a contract for the purchase of PASS (Partner Assurance Support Services), in the amount of \$148,203 paid over three years at \$49,401 annually from Affiliated Communications, through an existing contract/agreement with Texas Department of Information Resources (DIR), and authorizing the City Manager to execute all necessary documents. (DIR-SDD-289).</p> <p>Approval of Contract: (Purchase of products/services exempt from State of Texas Competitive Bid Laws)</p> <p>(h) To approve an agreement with Oncor Electric Delivery to provide electrical service to Fire Station 13 for the amount of \$60,005; and authorizing the City Manager to execute all necessary documents.</p> <p>(i) To approve a engineering contract by and between the City of Plano and Freese and Nichols, Inc. in the amount of \$180,000 for the Park Boulevard and US 75 Pedestrian Crossing project and authorizing the City Manager to execute all necessary documents.</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
(j)	<p>Approval of Contract Modification</p> <p>To approve and authorize Contract Modification No. 1 for the purchase of an upgrade to our existing Microsoft Enterprise Agreement, in the amount of \$95,688 from Dell Marketing, LP. This modification will provide for the addition of Microsoft Business Productivity Online Standard Suite hosted by Microsoft and authorizing the City Manager to execute all necessary documents.</p>	
(k)	<p>Approval of Change Order</p> <p>To Tiseo Paving Company, increasing the contract by \$55,790 for McDermott Road from Ohio Drive to Coit Road, Change Order No. 2. Original Bid No. 2009-143-B.</p>	
(l)	<p><u>Adoption of Resolutions</u></p> <p>To approve the terms and conditions of an agreement by and between the City of Plano, Texas and Alcatel-Lucent USA, Inc., a sole source provider, to purchase services and products related to microwave radio systems for 3 additional tower sites that will interface with the existing Alcatel-Lucent Digital Microwave Loop in the amount of \$472,826; authorizing its execution by the City Manager; and providing an effective date.</p>	
(m)	<p>To designate authorized representatives and investment officers of the City of Plano to transact business with TexPool/TexPool Prime, public funds investment pool; and providing an effective date.</p>	
(n)	<p>To designate authorized representatives and investment officers of the City of Plano to transact business with TexasTERM and TexasDAILY, public funds investment pools; and providing an effective date.</p>	
(o)	<p>To approve the revised terms and conditions of an Interlocal Cooperative agreement between the North Central Texas Council of Governments (NCTCOG) and the City of Plano, for a Local Air Quality Bicycle/Pedestrian Regional Connection Project, and authorizing its execution by the City Manager, and providing an effective date.</p>	
(p)	<p>To approve the terms and conditions of an Amended Interlocal Cooperation Agreement by and between the City of Plano and Collin County, Texas, concerning the construction of Plano Parkway from east of Los Rios to 14th Street; authorizing its execution by the City Manager; and providing an effective date.</p>	
(q)	<p>To approve the terms and conditions of a Real Estate Contract between the City of Plano and Earlane Baccus Croom and Croom Interests, Ltd., for the purchase of 89,627 sq. ft. of land and 206,651 sq. ft. of temporary construction easement for Communications Parkway north of Spring Creek Parkway, situated in the H.B. Miller Survey, Abstract 614; authorizing its execution by the City Manager; and providing an effective date.</p>	
(r)	<p>To authorize the purchase of eight (8) additional XpressCheck™ patron self-checkout stations in an amount not to exceed \$53,149 from Integrated Technology Group, the sole source provider of such equipment, for the City of Plano Public Library System; and 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.</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p><u>Adoption of Ordinances</u></p> <p>(s) To amend specific sections of Ordinance No 2004-9-28 and Ordinance No 2004-10-25 codified as sections 21-152 and 21-154 respectively, of article IV, Service Charges Generally, of Chapter 21, Utilities, of the Code of Ordinances of the City of Plano to increase the deposit amount for residential customers, modify the response schedule for non-emergency calls and amend the utility service fee schedule, effective August 1, 2010, and providing a repealer clause, a severability clause, a savings clause, and an effective date.</p> <p>(t) To repeal Section 2-137 Emergency management director; appointment of emergency management coordinator; responsibilities and Section 2-139 Operation of warning devices of Article VI Emergency Management of Chapter 2 Administration of the Code of Ordinances of the City of Plano, Texas and providing a repealer clause, a severability clause, a savings clause, and 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>	
(1)	Consideration of a Resolution to approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas, and Rapid Tooling, Inc., a Texas corporation; authorizing its execution by the City Manager; and providing an effective date.	
(2)	Public Hearing and consideration of a Resolution to adopt the 2010-2011 Action Plan, including the final statement of Community Development Block Grant and HOME programs objectives and proposed use of funds for program year 2010-2011; and declaring an effective date.	
(3)	Consideration of a Resolution to authorize the filing of applications for Federal Funds in an amount not to exceed \$1,863,898 under the Housing and Community Development Act and the HOME Investment Partnership Act; designating Thomas H. Muehlenbeck as Chief Executive Officer and authorized representative of the City for the purpose of giving required assurances and acting in connection with said application and providing required information; and declaring an effective date.	

ITEM NO.	EXPLANATION	ACTION TAKEN
(4)	<p>Consideration of a Resolution to approve the terms and conditions of Agreements between the City of Plano and various community organizations, providing for the expenditure of Community Development Block Grant funds in the amount of \$246,185 and HOME funds in the amount of \$320,493 for the provisions of various community services and developments; authorizing its execution by the City Manager; and providing the effective date.</p>	
(5)	<p>Public Hearing and consideration of an Ordinance as requested in Zoning Case 2010-02 amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 62.3± acres out of the G.H. Pegues Survey, Abstract No. 700 and the M.R. Foster Survey, Abstract No. 332, bounded by Bradshaw Drive on the west, Plano's city limit line on the south, extending approximately 2,870± feet east of Bradshaw Drive, and bounded on the north by the Dallas Area Rapid Transit rail line in the City of Plano, Collin County, Texas, from Planned Development-202-Research/Technology Center to Single-Family Residence-6 and Single-Family Residence Attached; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, a publication clause, and an effective date. Applicant: Industrial Developments International. Public Hearing opened on 6/14/10. Item tabled and Public Hearing continued to 6/28/10.</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>	



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		06/28/2010		
Department:		City Manager's Office		
Department Head		Thomas Muehlenbeck		
Agenda Coordinator (include phone #): Melinda White X7548, Cindy Pierce X5161				
CAPTION				
Proclamation: Scleroderma Awareness Day				
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	

**PLANO CITY COUNCIL
PRELIMINARY OPEN MEETING
June 14, 2010**

COUNCIL MEMBERS

Phil Dyer, Mayor
Lee Dunlap, Mayor Pro Tem
Pat Miner, Deputy Mayor Pro Tem
Ben Harris
André Davidson
Lissa Smith
Harry LaRosiliere
Jean Callison

STAFF

Thomas H. Muehlenbeck, City Manager
Frank Turner, Deputy City Manager
Bruce Glasscock, Deputy City Manager
Mark Israelson, Assistant City Manager
LaShon Ross, Assistant City Manager
Diane C. Wetherbee, City Attorney
Diane Zucco, City Secretary

Mayor Dyer called the meeting to order at 4:35 p.m., Monday, June 14, 2010, in the Building Inspections Training Room of the Municipal Center, 1520 K Avenue. All Council Members were present with the exception of Council Members Callison, LaRosiliere and Smith. Council Member Davidson arrived at 4:38 p.m.

CPR - AED Training

Dr. Gamber of the Plano Fire Department provided training to Council Members.

Nothing further was discussed. Mayor Dyer adjourned the session at 4:55 p.m.

Phil Dyer, Mayor

ATTEST:

Diane Zucco, City Secretary

**PLANO CITY COUNCIL
PRELIMINARY OPEN MEETING
June 14, 2010**

COUNCIL MEMBERS

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Bruce Glasscock, Deputy City Manager
Mark Israelson, Assistant City Manager
LaShon Ross, Assistant City Manager
Diane C. Wetherbee, City Attorney
Diane Zucco, City Secretary

Mayor Dyer called the meeting to order at 5:12 p.m., Monday, June 14, 2010, in Training Room A of the Municipal Center, 1520 K Avenue. All Council Members were present with the exception of Council Member Smith. Mayor Dyer 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/Litigation, and to receive information regarding Economic Development, Section 551.087 for which a certified agenda will be kept in the office of the City Secretary for a period of two years as required.

Mayor Dyer reconvened the meeting back into the Preliminary Open Meeting at 5:46 p.m.

Consideration and action resulting from Executive Session discussion:

No items were brought forward.

Personnel Appointments – Plano Housing Authority

Upon a motion made by Council Member LaRosiliere and seconded by Council Member Callison, the Council voted 7-0 to appoint Jeanine Boehl.

Discussion regarding Agreement between the City of Plano and the Boys & Girls Clubs related to the Douglass Community Center

Director of Parks and Recreation Fortenberry advised that the proposed agreement would transfer operation of the Douglass Community Center to the Boys & Girls Clubs for an annual savings of \$493,000. She stated that the Boys & Girls Clubs would provide children and family programs, supervise the game room and gymnasium time, permit seniors to meet twice per week at no charge, set consistent rates for use time, and pay all facility expenses. Ms. Fortenberry spoke to the impact of budget shortfalls on the Parks and Recreation Department including removal of positions and fragmentation of limited resources. She stated that without the agreement, cutbacks in service are forthcoming and spoke to the low attendance for sessions at the center, the current partnership with the Boys & Girls Clubs, and meetings held with members of the community. Ms. Fortenberry advised that under the agreement, seniors would manage their own activities and current transportation would be discontinued. She spoke to revised hours of operation and advised the Council that there is not a controlled access system to track attendance. She spoke to potential savings, expansion of nationally known programs for 6-18 year olds, access to tutoring/computer skills, character development, meal opportunities and possible scholarships for children to enter the program.

Tanya Greene of the Boys & Girls Clubs spoke to adaptation of programs, partnerships with the school district, scholarships and the opportunity to serve more children. She spoke to opportunities for improvement to the building, receipt of grants and corporate funding, hours of operation and partnering for special events. Ms. Fortenberry advised that currently 50% of floor space is utilized by the City with the remainder being for the Boys & Girls Clubs. City Manager Muehlenbeck spoke to prior discontinuation of transportation services by the Senior Center. Ms. Fortenberry spoke to implementation 30 days from contract execution, reviewed potential City-wide cuts in park services including facility closures during periods of under-utilization and spoke to outings coordinated by the Senior Center. Ms. Fortenberry spoke to consideration of cost containment through contract management of other centers, but stated concern that memberships would not then be recognized at all locations and finding a balance between core values/service levels and profits. Mayor Dyer advised that the Council will consider this item at a future date.

Departmental Report – Public Information

Director of Public Information Conklin spoke to Staff providing web services, public information and Plano Television Network support and embracing new communication methods to provide information to residents in a timely manner. She spoke to outreach including utility bill inserts, public relations campaigns, collaboration with other departments and introduction of Planopedia (an intranet site for employee information).

Ms. Conklin spoke to formation of a multi-department communications team to address the promotion of programs/services and a Web 2.0 Committee to review aspects of City participation in social media. She advised that the City's web site includes 3,159 pages and 14,000 documents and responded to Council Member Harris regarding the continued value of mail-outs.

Council Items for discussion/action on future agendas

Council Member LaRosiliere requested discussion regarding the naming of a library program room in honor of a citizen.

Consent and Regular Agendas

Staff requested that Consent Agenda Item "L," to approve and authorize a contract modification for the purchase of Professional Engineering Services for Screening Wall-Parker & Independence in the amount of \$17,650 from Mandy Vassigh Engineering, Inc. be pulled.

Mayor Pro Tem Dunlap requested that Consent Agenda Item "N," Change Order to Jim Bowman Construction Company, L.P., increasing the contract by \$112,730 for the 2008-2009 Residential Concrete Pavement Rehabilitation, Zone G7 & G8 be pulled for individual consideration due to a possible conflict of interest.

Council Member LaRosiliere requested that Consent Agenda Item "P," a resolution to approve the terms and conditions of a Management Services Agreement by and between the City of Plano and Steve Heidelberg to operate and manage Pecan Hollow Golf Course be pulled for individual consideration.

Nothing further was discussed. Mayor Dyer adjourned the Preliminary Meeting at 6:51 p.m.

Phil Dyer, Mayor

ATTEST:

Diane Zucco, City Secretary

PLANO CITY COUNCIL
June 14, 2010

COUNCIL MEMBERS

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Ben Harris
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STAFF

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Bruce Glasscock, Deputy City Manager
Mark Israelson, Assistant City Manager
LaShon Ross, Assistant City Manager
Diane C. Wetherbee, City Attorney
Diane Zucco, City Secretary

Mayor Dyer convened the Council into the Regular Session on Monday, June 14, 2010, at 7:03 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present with the exception of Council Member Smith.

Mayor Dyer led the invocation and Pledge of Allegiance was led by Eagle Scouts of Troop 999 - Grace Presbyterian Church.

Mayor Dyer received presentation from the Plano Rotary Club of the "Battle of the Badges" Trophy and the American Public Works Re-Accreditation Certification.

Comments of Public Interest

No one appeared to speak.

Consent Agenda

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

Upon the request of Deputy Mayor Pro Tem Dunlap, Consent Agenda Items "N" was removed for individual consideration due to possible conflicts of interest.

Upon the request of Council Member LaRosiliere, Consent Agenda Items "P" was removed for individual consideration.

Upon a motion made by Council Member LaRosiliere and seconded by Council Member Callison, the Council voted 7-0 to approve and adopt all remaining items on the Consent Agenda as recommended and as follows:

Approval of Minutes (Consent Agenda Item “A”)

May 20, 2010
May 21, 2010
May 22, 2010
May 24, 2010

Approval of Expenditures

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

Bid No. 2010-129-B for the purchase of Steel Signal Poles and Anchor Bolts to be utilized by Traffic Operations to SANPEC, Inc. in the amount of \$106,612 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “B”)

Purchase from an Existing Contract

To approve the purchase of four ultraviolet sanitation systems for aquatic facilities in the amount of \$128,440 from (Sunbelt Pools, Inc.) through an existing BuyBoard Contract and authorizing the City Manager to execute all necessary documents. (BuyBoard Contract Number: 288-08) (Consent Agenda Item “C”)

To approve the purchase of computer equipment in the amount of \$66,021 for the Department of Emergency Management from Dell Computer through an existing contract with Texas Department of Information Resources (DIR), and authorizing the City Manager to execute all necessary documents. (DIR-SDD-890-TX) (Consent Agenda Item “D”)

To approve the purchase of office furniture in the amount of \$105,452 for the Department of Emergency Management from Plano Office Supply Company through existing agreements with Collin County Community College District and TXMAS, and authorizing the City Manager to execute all necessary documents. (CCCCD # B-3059, TXMAS # 3-711030-20) (Consent Agenda Item “E”)

To approve a one (1) year contract with five (5) optional renewals for the purchase of Fleet Fuel Cards for the Fleet Department in an estimated amount of \$1,500,000 from Mansfield Oil Company through an existing contract/agreement with Tarrant County, and authorizing the City Manager to execute all necessary documents (Tarrant County Bid No. 2010-056). (Consent Agenda Item “F”)

To approve a one (1) year contract with five (5) optional renewals for the purchase of Bulk Fuel for the Fleet Department in an estimated amount of \$1,750,000 from Martin Eagle Oil Company through an existing contract/agreement with Tarrant County, and authorizing the City Manager to execute all necessary documents (Tarrant County Bid No. 2010-046). (Consent Agenda Item “G”)

To approve a contract for the purchase of consulting services for Business Process Mapping for the Customer and Utility Services Department, in the amount of \$98,000 from Loblolly Consulting, LLC., through an existing contract/agreement with the State of Texas Department of Information Resources (DIR) and authorizing the City Manager to execute all necessary documents. (DIR-SDD-893) (Consent Agenda Item “H”)

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

To approve an Architectural Services Agreement by and between the City of Plano and Brinkley Sargent Architects in the amount of \$397,540 for Aquatic Center Renovation and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “I”)

Approval of Contract Modification

To approve and authorize Contract Modification No. 2 for the purchase of professional Engineering Services for Marsh Lane - Parker Road South 1200 Feet in the amount of \$5,400 from Wier & Associates, Inc. (Consent Agenda Item “J”)

To approve and authorize Contract Modification No. 3 for the purchase of Professional Engineering Services for the Intersection Improvements on Preston Road, Spring Creek Parkway & Jupiter Road project in the amount of \$12,000 from Binkley & Barfield, Inc. (Consent Agenda Item “K”)

To approve and authorize Contract Modification No. 2 for the purchase of Professional Engineering Services for Screening Wall-Parker & Independence in the amount of \$17,650 from Mandy Vassigh Engineering, Inc. (Consent Agenda Item “L”) (This item was pulled)

Approval of Change Order

To Tiseo Paving Company, increasing the contract by \$36,554 for McDermott Road from Ohio Drive to Coit Road, Change Order No. 1. Original Bid No. 2009-143-B. (Consent Agenda Item “M”)

Adoption of Resolutions

Resolution No. 2010-6-1(R): To approve the terms and conditions of a Funding Agreement between the City of Plano, Texas, and the Historic Downtown Plano Association whereby the City will provide funding in part for the 2010 Downtown @ Sundown event; authorizing the City Manager to execute such Agreement; and providing an effective date. (Consent Agenda Item “O”)

Resolution No. 2010-6-2(R): To authorize continued participation with the Steering Committee of Cities served by Oncor; authorizing the payment of 10 cents per capita to the Steering Committee to fund regulatory and related activities related to Oncor Electric Delivery Company, LLC, and providing an effective date. (Consent Agenda Item “Q”)

Resolution No. 2010-6-3(R): To repeal Resolution No. 2010-5-12(R) and nominate Rent-A-Center, Inc. to the Office of the Governor, Economic Development and Tourism through the Economic Development Bank for designation as an Enterprise Project under the Texas Enterprise Zone Program pursuant to the Texas Enterprise Zone Act, Texas Government Code, Chapter 2303; and providing an effective date. (Consent Agenda Item “R”)

Resolution No. 2010-6-4(R): To approve the terms and conditions of an Amended Interlocal Cooperation Agreement by and between the City of Plano and Collin County, Texas, concerning the widening and extension of Parkwood Boulevard from Park Boulevard to Spring Creek Parkway; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “S”)

Resolution No. 2010-6-5(R): To approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano and Collin County, Texas, concerning major thoroughfare rehabilitation improvements on Independence Parkway, from SH 190 to SH 121, Custer Road, from SH 190 to SH 121, Spring Creek Parkway, from Custer Road to Preston Road; F Avenue, from Plano Parkway to 14th Street; Park Boulevard, from Ohio Drive to Ventura Drive; and Spring Creek Parkway, from K Avenue to Jupiter Road; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “T”)

Adoption of Ordinances

Ordinance No. 2010-6-6: To transfer the sum of \$128,440 from the General Fund unappropriated fund balance to the General Fund operating appropriation for fiscal year 2009-10 for the purpose of providing additional funds for State-mandated compliance costs to purchase secondary sanitation systems on all City-owned aquatic facilities that include a public interactive water feature; amending the budget of the City and Ordinance 2009-9-13, 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 “U”)

Ordinance No. 2010-6-7: To abandon all right, title and interest of the City, in and to a portion of that certain variable width Right-of-Way at the southeast corner of Coit Road and Plano Parkway, which is located within the City limits of Plano, Collin County, Texas; also being a 2.47 acre tract of land dedicated for Right-of-Way as recorded in Cabinet C, Page 697 in the Land Records of Collin County, Texas, quitclaiming all right, title and interest of the City in such Right-of-Way to the abutting property owner, The Dallas Morning News, Inc., to the extent of its interest; authorizing its execution by the City Manager, and providing an effective date. (Consent Agenda Item “V”)

Ordinance No. 2010-6-8: To adopt and enact Supplement Number 90 and Supplement Number 90 Addition 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 “W”)

END OF CONSENT

Resolution No. 2010-6-9(R): To approve the terms and conditions of a Management Services Agreement by and between the City of Plano and Steve Heidelberg to operate and manage Pecan Hollow Golf Course; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “P”)

Director of Parks and Recreation Fortenberry advised that the Pecan Hollow Golf Course is slated to close for major renovation beginning in November, 2010 and that the proposed agreement includes taking management of food/beverage service from Plano Centre and providing outreach to the community in preparation for reopening. She spoke to the current agreement in place until 2012, a renegotiation to reduce compensation during the period of closure and cost savings to be realized by Plano Centre.

Upon a motion made by Council Member LaRosiliere and seconded by Mayor Pro Tem Dunlap, the Council voted 7-0 to approve the terms and conditions of a Management Services Agreement between the City and Steve Heidelberg to operate and manage Pecan Hollow Golf Course; and further to adopt Resolution No. 2010-6-9(R).

Due to a possible conflict of interest, Mayor Pro Tem Dunlap stepped down from the bench on the following item.

Change Order: To Jim Bowman Construction Company, L.P., increasing the contract by \$112,730 for the 2008-2009 Residential Concrete Pavement Rehabilitation, Zone G7 & G8, Project No. 6008, Change Order No. 1. Original Bid No. 2009-171-B. (Consent Agenda Item “N”)

Upon a motion made by Council Member Callison and seconded by Deputy Mayor Pro Tem Miner, the Council voted 6-0 to approve a change order to Jim Bowman Construction Company, L.P., increasing the contract by \$112,730 for the 2008-2009 Residential Concrete Pavement Rehabilitation, Zone G7 & G8, Project No. 6008.

Mayor Pro Tem Dunlap resumed his place at the bench.

Presentation: Transmittal of Fiscal Year 2008/2009 Affirmative Action Report (Regular Agenda Item “1”)

Assistant City Manager/Human Resources Director Ross spoke to having a fair playing field and not focusing on creating opportunities at the expense of others. She reviewed the City’s labor force as it compares to Collin County, spoke to analysis of underutilization and concentration reflecting employment traditions, expansion of the applicant pool for the Police/Fire Departments, and the increase in applications through the online system.

Public Hearing and adoption of Resolution No. 2010-6-10(R) to approve the terms and conditions of an Interlocal Cooperation Agreement between the City of Plano, Texas, the City of Frisco, Texas, the City of McKinney, Texas and the County of Collin, Texas for the disbursement of the 2010 Byrne Justice Assistance Grant funds; authorizing its execution by the City Manager; and providing an effective date. (Regular Agenda Item “2”)

Resolution No. 2010-6-10(R) (cont')

Chief Rushin spoke to monies shared among entities with the City of Plano receiving \$50,139 that can be spent in several law enforcement areas. He advised that the recommended purpose is the funding of security cameras around the main police station.

Mayor Dyer opened the Public Hearing. No one spoke for or against the item. The Public Hearing was closed.

Upon a motion made by Mayor Pro Tem Dunlap and seconded by Deputy Mayor Pro Tem Miner, the Council voted 7-0 to approve the terms and conditions of an Interlocal Cooperation Agreement between the cities of Plano, Frisco, McKinney and Collin County, Texas for the disbursement of the 2010 Byrne Justice Assistance Grant funds; and further to adopt Resolution No. 2010-6-10(R).

Resolution No. 2010-6-11(R): To approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas, and Cirro Group, Inc., a Texas corporation; authorizing its execution by the City Manager; and providing an effective date. (Regular Agenda Item "3")

Director of Finance Tacke advised that Cirro Group, Inc. would occupy no less than 24,555 square feet of commercial/office space and transfer or create up to 91 full-time jobs by September 1, 2010. She advised that the value of taxable real property improvements is not less than \$625,000 and business personal property of \$600,000 and terms of the agreement are for ten years in an amount of up to \$54,600.

Upon a motion made by Council Member Callison and seconded by Council Member Harris, the Council voted 7-0 to approve the terms and conditions of an Economic Development Incentive Agreement by and between the City and Cirro Group, Inc.; and further to adopt Resolution No. 2010-6-11(R).

Resolution No. 2010-6-12(R): To approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas, and LifeCare Management Services LLC, a Louisiana limited liability company; authorizing its execution by the City Manager; and providing an effective date. (Regular Agenda Item "4")

Director of Finance Tacke advised that LifeCare Management Services LLC, would occupy no less than 35,900 square feet of existing commercial/office space and, transfer or create up to 98 full-time jobs by November 1, 2010. She advised that the company plans to construct over \$1 million on real property improvements and maintain \$1.5 million of business personal property investments and that the grant is for ten years in an amount of up to \$58,000.

Upon a motion made by Deputy Mayor Pro Tem Miner and seconded by Council Member Davidson, the Council voted 7-0 to approve the terms and conditions of an Economic Development Incentive Agreement by and between the City and LifeCare Management Services LLC; and further to adopt Resolution No. 2010-6-12(R).

Public Hearing and consideration of an Ordinance as requested in Zoning Case 2010-02 to amend an Ordinance of the City of Plano amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 62.3± acres out of the G.H. Pegues Survey, Abstract No. 700 and the M.R. Foster Survey, Abstract No. 332, bounded by Bradshaw Drive on the west, Plano's city limit line on the south, extending approximately 2,870± feet east of Bradshaw Drive, and bounded on the north by the Dallas Area Rapid Transit rail line in the City of Plano, Collin County, Texas, from Planned Development-202- Research/Technology Center to Single-Family Residence-6 and Single- Family Residence Attached; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, savings clause, a severability clause, a publication clause, and an effective date. Applicant: Industrial Developments International (Regular Agenda Item "5")

Director of Planning Jarrell advised that the applicant has requested the item be tabled until June 28.

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

Upon a motion made by Mayor Pro Tem Dunlap and seconded by Council Member Callison, the Council voted 7-0 to table consideration of an Ordinance as requested in Zoning Case 2010-02 to amend Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, so as to rezone 62.3± acres bounded by Bradshaw Drive on the west, Plano's city limit line on the south, extending approximately 2,870± feet east of Bradshaw Drive, and bounded on the north by the Dallas Area Rapid Transit rail line in the City of Plano, from Planned Development-202- Research/Technology Center to Single-Family Residence-6 and Single- Family Residence Attached until June 28, 2010 and continue the Public Hearing at that time.

There being no further discussion, Mayor Dyer adjourned the meeting at 7:48 p.m.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, City Secretary



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		6/28/2010		
Department:		Purchasing		
Department Head		Mike Ryan		
Agenda Coordinator (include phone #): Sharron Mason x7247				
CAPTION				
Rejection of all Bids for Bid No. 2010-76-B Best Value Bid for Two (2) Communications Shelters for the Public Safety Communications Department.				
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: This item has no fiscal impact.				
SUMMARY OF ITEM				
Rejection of all Bids for Bid No. 2010-76-B Best Value Bid for Two (2) Communications Shelters. A building requirement for an Automatic FM 200 Fire Suppression System was erroneously omitted in the original specifications of Bid No. 2010-76-B Best Value Bid for Two (2) Communications Shelters. Project will be re-bid with necessary specifications.				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Bid Rejection Memo				



Phil Dyer
Mayor

Lee Dunlap
Mayor Pro Tem

Pat Miner
Deputy Mayor Pro Tem

Ben Harris
Place 2

André Davidson
Place 3

Lissa Smith
Place 4

Harry LaRosiliere
Place 5

Jean Callison
Place 7

Thomas H. Muehlenbeck
City Manager

BID REJECTION MEMO

TO: PURCHASING DEPARTMENT
FROM: JIM RANEY – RADIO SYSTEMS COORDINATOR
THROUGH: RON TIMMONS – DIRECTOR PSC
DATE: 06/18/10
RE: REJECTION OF BID NO. 2010-76-B
BEST VALUE BID FOR TWO (2) COMMUNICATIONS SHELTERS

Public Safety Communications is requesting Council's rejection of all bids for Bid No. 2010-76-B Best Value Bid for Two (2) Communications Shelters. The building requirement was erroneously omitted in the original specifications. Project will be re-bid with necessary specifications.



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		6/28/2010		
Department:		Purchasing		
Department Head		Mike Ryan		
Agenda Coordinator (include phone #): Dianna Wike X5512				
CAPTION				
Rejection of all Bids for Bid No. 2010-132-B Fire Station No. 7 Replacement of Under Floor Piping.				
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: This item has no fiscal impact.				
SUMMARY OF ITEM				
Rejection of all Bids for Bid No. 2010-132-B Fire Station No. 7 Replacement of Under Floor Piping as all bids are significantly over budget. The drawings and specification will be revised reducing the scope of work to align the project with the budget and the project will be re-bid.				
List of Supporting Documents: Bid Rejection Memo			Other Departments, Boards, Commissions or Agencies	



Phil Dyer
Mayor

Lee Dunlap
Mayor Pro Tem

Pat Miner
Deputy Mayor Pro Tem

Ben Harris
Place 2

André Davidson
Place 3

Lissa Smith
Place 4

Harry LaRosiliere
Place 5

Jean Callison
Place 7

Thomas H. Muehlenbeck
City Manager

BID REJECTION MEMO

TO: Purchasing Department
FROM: Richard Medlen – Facilities Maintenance Superintendent
DATE: 06/18/10
RE: Rejection of Bid No. 2010-132-B
Fire Station #7 Replacement of Under Floor Piping

Facilities Maintenance is requesting Council's rejection of all bids for Bid No. 2010-132-B for Replacement of Under Floor Piping due to all of the bids being extremely over the budget that was established for the project. The project drawings and specifications will be revised, reducing the scope of work for the project to be within budget. Project will be re-bid with necessary specifications.

Please let me know if you have any questions.

Cc: Jim Razinha, Facilities Manager



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		6/28/10		
Department:		Purchasing		
Department Head		Mike Ryan		
Agenda Coordinator (include phone #): Sharron Mason x7247				
CAPTION				
CSP No. 2010-89-B for Radio System Infrastructure Replacement - School House and Communication Towers. Sabre Communication Corporation for supply and installation of two (2) Public Safety Communication Tower at 6825 Communications Parkway and 435 West Spring Creek Parkway in the amount of \$213,938; and authorizing the City Manager to execute all necessary documents.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR: 2009-10	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	722,859	15,777,141	7,500,000	24,000,000
Encumbered/Expended Amount	-722,859	-15,217,655	0	-15,940,514
This Item	0	-213,938	0	-213,938
BALANCE	0	345,548	7,500,000	7,845,548
FUND(s): TECHNOLOGY IMPROVEMENTS (CO'S/TAX NOTES)				
<p>COMMENTS: Funds are available from the 2008 and 2009 sale of Tax Notes and 2010 sale of Certificates of Obligation. This item, in the amount of \$213,938, will leave a current year allocation of \$345,548 for the Radio System Infrastructure Replacement project.</p> <p>STRATEGIC PLAN GOAL: Supply and installatoin of radio towers for the radio system infrastructure replacement project relates to the City's Goals of Financially Strong City with Service Excellence and Safe Large City.</p>				
SUMMARY OF ITEM				
Based on the CSP evaluation performed by PSC evaluation committee the Staff recommends the award of this CSP to Sabre Communications in the amount of \$213,938 (CSP No. 2010-89-B).				
List of Supporting Documents: Award Recommendation Memo, Combine Matrix and CSP Recap			Other Departments, Boards, Commissions or Agencies	

Memorandum

To: Sharron Mason
Sr. Buyer
Purchasing Division

From: Jim Raney
Public Safety Communications

Date: 6/17/2010

Re: Award Recommendation Memo

The City of Plano issued a Competitive Sealed Proposals for the purchase and turnkey installation of two (2) 250 feet radio Towers. The scope of work includes two (2) Rohn Products towers or equivalent, foundation, delivery to site, construction, permitting, erection, and grounding, and inspection of towers on City of Plano property at 435 West Spring Creek Parkway and 6825 Communication Parkway. The City of Plano has already received approval from the FAA for construction of 250' towers at these sites.

Based on the bid evaluation for 2010-89-B the Public Safety Communications Department has reviewed the bids received and Staff recommends the bid be awarded to **Sabre Communications** (Vendor) in the amount of **\$213,938.00**.

Jim Raney
Radio Systems Coordinator
Public Safety Communications

COMBINE MATRIX

BID NO.: 2010-89-B

TITLE: CSP for Two (2) Radio Towers

		SABRE COMMUNICATIONS			INDEPENDENCE BROADCAST			QUALITY TOWER SERVICES, LTD			CTS CONSOLIDATED TELECOM						
	Evaluation Criteria	Technical Score	Weight %	Overall Score	Technical Score	Weight %	Overall Score	Technical Score	Weight %	Overall Score	Technical Score	Weight %	Overall Score				
1	General business information referenced in Section XIV.ii [15%]	3	15%	0.45	3	15%	0.45	2	15%	0.3	2	15%	0.3				
2	Equipment inventory referenced in Section XIV.iii [15%]	2.5	15%	0.375	3.5	15%	0.525	2.5	15%	0.375	0	15%	0				
3	Work History referenced in Section XIV.iv [20%]	3	20%	0.6	3	20%	0.6	3	20%	0.6	3	20%	0.6				
4	Price proposal referenced in Section XIV.v [50%]	5	50%	2.5	4.16	50%	2.08	4.43	50%	2.215	3.59	50%	1.795				
				3.93					3.66					3.49			2.70

		LINK AMERICA, INC.			SCIENTAL WIRELESS			WESTOWER COMMUNICATIONS			DATA CELL SYSTEMS						
	Evaluation Criteria	Technical Score	Weight %	Overall Score	Technical Score	Weight %	Overall Score	Technical Score	Weight %	Overall Score	Technical Score	Weight %	Overall Score				
1	General business information referenced in Section XIV.ii [15%]	2	15%	0.3	1.5	15%	0.225	3	15%	0.45	1.5	15%	0.225				
2	Equipment inventory referenced in Section XIV.iii [15%]	0	15%	0	0	15%	0	2.5	15%	0.375	0	15%	0				
3	Work History referenced in Section XIV.iv [20%]	3	20%	0.6	3	20%	0.6	3.5	20%	0.7	3	20%	0.6				
4	Price proposal referenced in Section XIV.v [50%]	3.28	50%	1.64	3.45	50%	1.725	0.8	50%	0.4	1.86	50%	0.93				
				2.54					2.55					1.93			1.76



CSP No. 2010-89-B

CSP FOR TWO (2) RADIO TOWERS

RECAP

Bid Opening Date/Time: Friday, May 21, 2010 at 3:30 pm (CDT)

<u>Responses Received:</u>	<u>Total Weighted Score</u>	<u>Pricing</u>
Sabre Communications Corporation	3.93	\$213,938.00
Independence Broadcast Services, LLC	3.66	\$365,000.00
Quality Tower Services, Ltd.	3.49	\$241,293.00
CTS Consolidated Telecom Services	2.70	\$357,520.12
Scientel Wireless	2.55	\$310,000.00
Link America, Inc.	2.54	\$326,440.00
WesTower Communications	1.93	\$1,343,319.00
Data Cell Systems	1.76	\$690,415.00

Recommended Vendor:

Sabre Communications Corporation is the recommended vendor for this award with a Total Weighted Score of **3.93** and a total proposed cost of **\$213,938.00**.

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

Sharron Mason

Sharron Mason, Sr. Buyer

June 17, 2010

Date



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		6/28/10		
Department:		Public Works & Engineering		
Department Head		Alan L. Upchurch		
Agenda Coordinator (include phone #):		Irene Pegues (7198)		Project No. 5815
CAPTION				
CSP No. 2010-123-B for the construction of Plano Fire Station No. 13 to Crossland Construction Company, Inc., in the amount of \$3,250,000, and authorizing the City Manager to execute all necessary documents.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR: 2009-10	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	3,896	4,346,104	0	4,350,000
Encumbered/Expended Amount	-3,896	-220,319	0	-224,215
This Item	0	-3,250,000	0	-3,250,000
BALANCE	0	875,785	0	875,785
FUND(S): FIRE FACILITIES CIP				
<p>COMMENTS: Funds are included in the 2009-10 Fire Facilities CIP. This item, in the amount of \$3,250,000, will leave a current year balance of \$875,785 for the Fire Station No. 13 project.</p> <p>STRATEGIC PLAN GOAL: Fire facility construction relates to the City's Goals of Safe Large City and Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
Staff recommends the Competitive Sealed Proposal of Crossland Construction Company, Inc., in the amount of \$3,250,000.00 be accepted as the best value conditioned on the timely execution of necessary contract documents for the construction of Fire Station No. 13 (Project No. 5815).				
List of Supporting Documents: Memorandum dated June 15, 2010 Proposal Recap, Tabulation, Combined Matrix Location Map			Other Departments, Boards, Commissions or Agencies N/A	

MEMORANDUM

TO: Dianna Wike
FROM: Jim Razinha *Jaa*
DATE: 15 Jun 2010
SUBJECT: **FIRE STATION 13, Project No. 5815**

Per the weighted scoring of the six proposals received for the subject construction contract, I recommend award to Crossland Construction Co. Inc. in the amount of \$3,250,000. The CSP Number is 2010-123-B.

CITY OF PLANO

**CSP NO. 2010-123-B
FIRE STATION No. 13 – PROJECT NO. 5815
CSP RECAP**

CSP Opening Date/Time: May 10, 2010 @ 3:00PM

Number of Vendors Notified: 2390

Vendors Submitting “No Bids”: 0

<u>Number of Proposals Submitted:</u>	6	<u>Total Weighted Score</u>
Crossland Construction Co., Inc.		4.29
Core Construction Services of Texas, Inc.		4.20
EMJ Corporation		4.02
J. C. Commercial, Inc.		3.97
E. E. Reed Construction, L.P.		3.27
C. R. Reynolds, Inc.		2.83

Proposals Evaluated Non-Responsive to Specification: 0

Recommended Vendor(s):

Crossland Construction Co., Inc.

Dianna Wike

June, 15, 2010

Dianna Wike, Buyer Supervisor

Date

**CITY OF PLANO
PROPOSAL TABULATION
2010-123-B
CSP FOR FIRE STATION NO. 13 – PROJECT NO. 5815
5/10/2010 @ 3:00 P.M.**

PROPOSER:

IN ALPHABETICAL ORDER

**BASE PROPOSAL
AMOUNT**

EMJ CORPORATION	\$3,234,000.00
J. C. COMMERCIAL, INC.	\$3,245,777.00
CROSSLAND CONSTRUCTION CO., INC.	\$3,250,000.00
C. R. REYNOLDS, INC.	\$3,367,172.00
CORE CONSTRUCTION SERVICES OF TEXAS, INC.	\$3,503,000.00
E. E. REED CONSTRUCTION, L.P.	\$4,300,000.00

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

Dianna Wike

Dianna Wike, Buyer Supervisor

June 15, 2010

Date

“PROPOSAL TABULATION STATEMENT”

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

2010-123-B
 CSP FOR FIRE STATION NO 13 - PROJECT NO. 5815

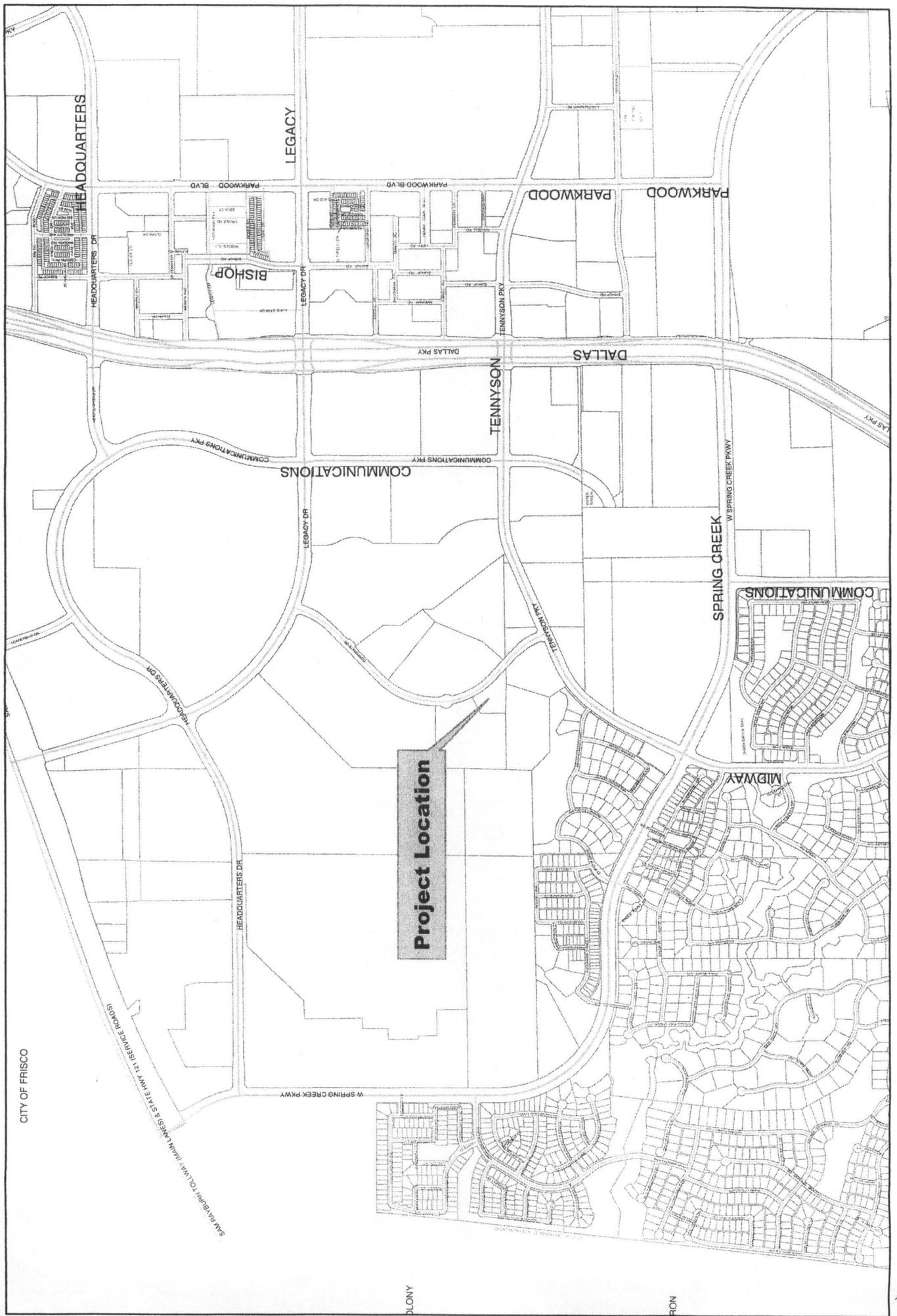
TECHNICAL MATRIX		AVERAGE SCORE	WEIGHTED SCORE	AVERAGE SCORE	WEIGHTED SCORE	AVERAGE SCORE	WEIGHTED SCORE	AVERAGE SCORE	WEIGHTED SCORE
Evaluation Criteria	Weighting	FOR CORE	FOR CORE	FOR CROSSLAND	FOR CROSSLAND	FOR CROSSLAND	FOR CROSSLAND	FOR CR REYNOLDS	FOR CR REYNOLDS
LEED Construction Experience	40%	4.00	1.60	3.75	1.50	0.50	0.20		
General Construction Experience	25%	4.25	1.06	4.25	1.06	2.50	0.63		
Staff LEED Experience	25%	3.25	0.81	3.25	0.81	1.25	0.31		
Time of Construction	10%	4.44	0.44	4.5	0.45	3.7	0.37		
TECHNICAL TOTAL	100%		3.92		3.83		1.51		

TECHNICAL MATRIX		AVERAGE SCORE	WEIGHTED SCORE						
Evaluation Criteria	Weighting	FOR EE REED	FOR EE REED	FOR EMJ CORP	FOR EMJ CORP	FOR JC COMM	FOR JC COMM	FOR JC COMM	FOR JC COMM
LEED Construction Experience	40%	3.75	1.50	4.00	1.60	3.50	1.40		
General Construction Experience	25%	3.50	0.88	3.00	0.75	3.25	0.81		
Staff LEED Experience	25%	1.75	0.44	2.25	0.56	2.75	0.69		
Time of Construction	10%	5	0.50	4.43	0.44	3.91	0.39		
TECHNICAL TOTAL	100%		3.31		3.36		3.29		

COMBINED MATRIX		TECH & PRICE POINTS	WEIGHTED SCORE	TECH & PRICE POINTS	WEIGHTED SCORE	TECH & PRICE POINTS	WEIGHTED SCORE
Evaluation Criteria		FOR CORE	FOR CORE	FOR CROSSLAND	FOR CROSSLAND	FOR CR REYNOLDS	FOR CR REYNOLDS
Technical Total	Weighting 60%	3.92	2.35	3.83	2.30	1.51	0.91
Price	40%	4.62	1.85	4.98	1.99	4.8	1.92
TOTAL	100%		4.20		4.29		2.83

COMBINED MATRIX		TECH & PRICE POINTS	WEIGHTED SCORE	TECH & PRICE POINTS	WEIGHTED SCORE	TECH & PRICE POINTS	WEIGHTED SCORE
Evaluation Criteria		FOR EE REED	FOR EE REED	FOR EMJ CORP	FOR EMJ CORP	FOR JC COMM	FOR JC COMM
Technical Total	Weighting 60%	2.94	1.76	3.36	2.02	3.29	1.97
Price	40%	3.76	1.50	5	2.00	4.98	1.99
TOTAL	100%		3.27		4.02		3.97

Fire Station # 13



Location Map



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY					
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory					
Council Meeting Date:		6/28/10			
Department:		Purchasing			
Department Head		Mike Ryan			
Agenda Coordinator (include phone #): Glenna Hayes x 7539					
CAPTION					
To approve a 48 month lease agreement for Copiers in an estimated amount of \$658,560 for City departments from OCE' North America through an existing contract with the State of Texas Department of Information Resources (DIR) and authorizing the City Manager to execute all necessary documents. (DIR-SDD-524)					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	2010-11, 2011-12, 2012-13, 2013-14	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	0	658,560	658,560
Encumbered/Expended Amount		0	0	0	0
This Item		0	0	-658,560	-658,560
BALANCE		0	0	0	0
FUND(S): VARIOUS FUNDS					
<p>COMMENTS: This item approves price quotes. Expenditures will be made in each department for managing their orders and paying expenses out of their individual budgets based on need within the approved budget appropriations for each year of the contract. The estimated total 48-month lease amount is \$658,560, which will be made within approved budget appropriations.</p> <p>STRATEGIC PLAN GOAL: The approved annual lease for City Copiers relates to the City's goal of a "Financially Strong City with Service Excellence."</p>					
SUMMARY OF ITEM					
<p>Staff recommends the leasing of copiers for City departments in an estimated amount of \$658,560 from OCE North America through an existing agreement with the Texas Department of Information Resources for a term of 48 months to commence 10/1/2010. Lease agreement will provide a 90 day termination notice and cancellation without penalty or consequence. 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 governments to seek competitive sealed bids for items.</p>					
List of Supporting Documents: Memo			Other Departments, Boards, Commissions or Agencies		

Memorandum

Date: June 16, 2010
To: Diane Palmer-Boeck, Purchasing Manager
From: Dana Conklin, Director of Public Information
Subject: City Copier Contract

On August 13, 2007 City Council approved a contract with renewals for convenience copiers through the State contract (#985-A6). We were notified in the summer of 2009 that no additional copiers could be added through this contract and the contract would be cancelled in August of 2010.

During the new contract research process it was brought to our attention that the hard drives on our current copiers do not have the capability to be automatically erased and this option was not included in the original rental agreement from 2007. The cost to erase the drives for the entire rental fleet was estimated at \$30,000. In light of this fact two options for fleet conversion were investigated:

Pay the \$25,748 unbudgeted fee to erase the hard drives as quoted by Oce, our current vendor, to include 85 of the 97 copiers in the fleet needing this attention. We would continue to rebid the contract as anticipated.

Or

Negotiate an option with Oce through the DIR contract to absorb the erasure fee if we enter into a 48 month lease agreement that can be terminated with a 90 day out clause or due to non-appropriation of funds. This scenario requires all copiers be replaced with new machines that will meet each department's requirements while providing newer equipment with the hard drive cleaning feature built in.

Due to the approaching cancellation of the state contract and the need to erase all existing machines, we moved ahead with the second option in order to meet the needs of our fleet in erasing hard drives now and into the future while averting the unbudgeted payment of \$25,748 to erase the existing machines.

Oce has offered a total cost reduction to the lease contract of \$34,620 which provides additional savings under the proposed new pricing structure. Internal savings will also be realized by terminating the 18% service charge previously assessed each machine by the Print Shop for coordinating the billing.

The purchasing department had communicated with various vendors about our original intention to competitively search available cooperatives. Utilizing Oce, our current vendor, may result in potential protests from these vendors.

We are confident in the decision to go with Oce, who has historically provided a good product as well as acceptable customer service. We can stand behind the business decision to save the \$25,748 cleanout fee as well as see the additional savings quoted over our current fee schedule.

The Purchasing Department has reviewed bid results for copiers for some of our surrounding cities and do not believe we would see enough savings to cover the absorption of the erasure fee. We also believe the fee schedule offered through the DIR contract is competitive and therefore reflective of the current marketplace.

It has also been brought to our attention that some companies are beginning to offer coverage of erasure fees for outgoing machines which are not theirs. While this just emerged as an option this week, we do not feel we can include this in any potential bid specification due to factors such as scheduling, coordination, and payment procedures which would add to the level of difficulty in changing vendors under the short time frame in which we are working.

At this time we recommend that the Purchasing Department should proceed in establishing a new contract with our existing vendor, Oce'.



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY					
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory					
Council Meeting Date:		06/28/10			
Department:		Telecommunications			
Department Head		David Stephens			
Agenda Coordinator (include phone #): Amy Powell X7342					
CAPTION					
To approve a contract for the purchase of PASS (Partner Assurance Support Services), in the amount of \$148,203 paid over three years at \$49,401 annually from Affiliated Communications, through an existing contract/agreement with Texas Department of Information Resources (DIR), and authorizing the City Manager to execute all necessary documents. (DIR-SDD-289).					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	2009-10, 2010-11, 2011-12, 2012-13	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	199,800	98,802	298,602
Encumbered/Expended Amount		0	-145,422	0	-145,422
This Item		0	-49,401	-98,802	-148,203
BALANCE		0	4,977	0	4,977
FUND(S): TECHNOLOGY SERVICES FUND					
COMMENTS: Funding for the first year of the PASS contract is available in the 2009-10 Telecommunications budget. This item approves a (3) year maintenance and support agreement with Affiliated Communications, at \$49,401 per contract year, for a total of \$148,203. Future funding is subject to budget appropriations in each fiscal year. This contract period overlaps fiscal years.					
STRATEGIC PLAN GOAL: Telephone system maintenance agreements and support services relate to the City's Goal of "Financially Strong City with Service Excellence".					
SUMMARY OF ITEM					
Staff recommends approval of the purchase of PASS (Partner Assurance Support Services) in the amount of \$49,401 annually for three years. Since the AVAYA purchase from Nortel, in order to receive 3 rd and 4 th level support for our telephone systems we are required to purchase PASS through our AVAYA partner Affiliated Communications. PASS includes support and software upgrades required to stay current and will provide the support necessary in order to receive help resolving issues with the Nortel telephone systems and to continue to receive upgrades and enhancements to the Nortel/AVAYA products. 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 governments to seek competitive bids for items. (DIR-SDD-289)					
List of Supporting Documents: Contract & Staff Memo			Other Departments, Boards, Commissions or Agencies		

Memorandum

Date: June 1, 2010
To: David Stephens, Technology Services Director
From: Edward Jenkins, Support Services Manager
Subject: Approval of PASS from Affiliated for AVAYA Support

We have been notified that with the AVAYA purchase of Nortel that in order to receive 3rd and 4th level support for our telephone systems that we are required to purchase PASS (Partner Assurance Support Services). PASS must be purchased through our AVAYA partner which is Affiliated Communications.

PASS would include support and all software upgrades required to stay current. As technology moves to a software centric solutions environment a need for a different type of support is required.

The best PASS pricing is for a period of 3 years for \$148,203 which will be payable in 3 annual payments of \$49,401.

Annual maintenance and support with AVAYA is necessary in order to receive help in resolving issues with the Nortel telephone systems and to continue to receive upgrades and enhancements to Nortel / AVAYA products.

**CONTRACT BY AND BETWEEN
CITY OF PLANO AND AFFILIATED COMMUNICATIONS
FOR PARTNER ASSURANCE SUPPORT SERVICES
FOR TELECOMMUNICATIONS SERVICES**

THIS CONTRACT is made and entered into by and between **AFFILIATED COMMUNICATIONS**, whose address is 730 Avenue F, Suite 210, Plano, Texas, hereinafter referred to as "Contractor," and the **CITY OF PLANO, TEXAS**, a home rule municipal corporation, hereinafter referred to as "City," to be effective upon execution of this Contract by the Plano City Manager or his duly authorized designee.

For and in consideration of the covenants and agreements contained herein, and for the mutual benefits to be obtained hereby, the parties agree as follows:

**I.
SCOPE OF SERVICES**

Contractor shall provide Partner Assurance Support Services for telecommunications services. These services shall be provided in accordance with this Contract and with The Department of Information Resources contract No. DIR-SDD-289, a copy of which is incorporated herein by reference in its entirety as if it were recited here verbatim and which is on file and available for inspection in the City of Plano Technology Services Department. This Contract consists of:

- (a) This Contract;
- (b) The Department of Information Resources contract No. DIR-SDD-289 on file with the City of Plano Technology Services Department;
- (c) Affiliated Communications' Statement of Work (Exhibit "A");
- (d) Affidavit of No Prohibited Interest (Exhibit "B").

In the event there is a conflict in interpretation or terms, the documents shall control in the order listed above. These documents shall be referred to collectively as "Contract Documents."

**II.
PAYMENT**

Payments hereunder shall be made to Contractor following City's acceptance of the work and within thirty (30) days of receiving Contractor's invoice for the products and services delivered. Total compensation under this contract shall not exceed the sum of **ONE HUNDRED FORTY-EIGHT THOUSAND TWO HUNDRED THREE AND 00/100 DOLLARS (\$148,203.00)** payable as set forth on Exhibit "A."

**III.
TERM**

Contractor recognizes that this Contract shall commence upon the effective date herein and continue in full force and effect until termination in accordance with its

provisions. Contractor and City herein recognize that the continuation of any contract after the close of any given fiscal year of the City of Plano, which fiscal year ends on September 30th of each year, shall be subject to Plano City Council approval. In the event that the Plano City Council does not approve the appropriation of funds for this Contract, the Contract shall terminate at the end of the fiscal year for which funds were appropriated and the parties shall have no further obligations hereunder.

IV. DESCRIPTION OF SERVICES

Contractor will provide the services described in the Contract Documents and Exhibit "A" attached hereto. At City's request, Contractor may also provide additional services under this Contract at Contractor's then-applicable rates for such services or goods under The Department of Information Resources contract No. DIR-SDD-289 or any additional contract addendums as executed by the Plano City Manager or his duly authorized designee.

V. CITY CONTACT

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

VI. PROTECTION AGAINST ACCIDENT TO EMPLOYEES AND THE PUBLIC

Contractor shall at all times exercise reasonable precautions for the safety of employees and others on or near the work and shall comply with all applicable provisions of Federal, State, and Municipal safety laws.

VII. TIME AND PLACE OF SERVICE

Service will be provided at the location specified in the Contract Documents. When Contractor performs service at City's location, City will provide Contractor, at no charge, a non-hazardous work environment with adequate shelter, heat, light, and power and with full and free access to the Equipment. City will provide all information pertaining to the hardware and software elements of any system with which the Equipment is interfacing so that Contractor may perform its Services. Unless otherwise stated in this Contract, the hours of Service will be 8:30 a.m. to 4:30 p.m., local time, excluding weekends and holidays.

**VIII.
COMPLIANCE WITH APPLICABLE LAWS**

Contractor shall at all times observe and comply with all directly applicable Federal, State and local laws, ordinances and regulations including all amendments and revisions thereto, which affect the work. If Contractor observes that the work is at variance therewith, Contractor shall promptly notify City in writing.

**IX.
INDEMNIFICATION AND HOLD HARMLESS**

THE CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY AND ITS RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE, INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS (INCLUDING PATENT, COPYRIGHT AND TRADEMARK INFRINGEMENT) OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY CONTRACTOR'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE CONTRACTOR IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF THE CITY, AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS. THE CITY DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY OR OTHER DEFENSES AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

CONTRACTOR AT ITS OWN EXPENSE IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS. 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 AGREEMENT. CONTRACTOR SHALL RETAIN DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF CONTRACTOR FAILS TO RETAIN COUNSEL WITHIN THE REQUIRED 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 THE CITY.

IN ADDITION TO CONTRACTOR'S INTELLECTUAL PROPERTY INFRINGEMENT INDEMNIFICATION AND DEFENSE REQUIREMENTS HEREIN, IF AN INFRINGEMENT CLAIM OCCURS, OR IN CONTRACTOR 'S OPINION IS LIKELY TO OCCUR, CONTRACTOR SHALL, AT ITS EXPENSE: (A) PROCURE FOR THE CITY THE RIGHT TO CONTINUE USING THE PRODUCT; (B) REPLACE OR MODIFY THE PRODUCT SO THAT IT BECOMES NON-INFRINGEMENT WHILE PROVIDING FUNCTIONALLY EQUIVALENT PERFORMANCE; OR (C) ACCEPT THE RETURN OF THE PRODUCT AND GRANT THE CITY A REIMBURSEMENT FOR THE PRODUCT. CONTRACTOR WILL PROCEED UNDER SUBSECTION (C) ABOVE ONLY IF SUBSECTIONS (A) AND (B) PROVE TO BE COMMERCIALY UNREASONABLE.

THE INTELLECTUAL PROPERTY INFRINGEMENT INDEMNIFICATION HEREIN APPLIES TO ALL PRODUCTS PROVIDED, SUPPLIED OR SOLD UNDER THIS AGREEMENT BY CONTRACTOR TO CITY WHETHER MANUFACTURED BY CONTRACTOR OR A THIRD PARTY. CONTRACTOR REPRESENTS THAT, TO THE BEST OF ITS KNOWLEDGE, THE CITY'S USE OF PRODUCTS THAT ARE PROVIDED SUPPLIED, OR SOLD BY CONTRACTOR TO CITY AS PART OF THIS AGREEMENT DOES NOT CONSTITUTE AN INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS AND THE CITY HAS THE LEGAL RIGHT TO USE SAID PRODUCTS. THE CITY ENTERS INTO THIS AGREEMENT RELYING ON THIS REPRESENTATION.

THE INDEMNIFICATION HEREIN SURVIVES THE TERMINATION OF THE CONTRACT AND/OR DISSOLUTION OF THIS AGREEMENT INCLUDING ANY INFRINGEMENT CURE PROVIDED BY THE CONTRACTOR PURSUANT TO PARAGRAPH 3 IN THE HEREIN INDEMNIFICATION SECTION.

**X.
VENUE**

The laws of the State of Texas shall govern the interpretation, validity, performance, and enforcement of this Contract. The parties agree that this Contract is performable in Collin County, Texas, and that exclusive venue shall lie in Collin County, Texas.

**XI.
ASSIGNMENT AND SUBLETTING**

Contractor agrees to retain control and to give full attention to the fulfillment of this Contract and that this Contract shall not be assigned without the prior written consent of City, except for assignments to a Contractor affiliate. An assignment of this Contract with the consent of the City or to an affiliate of Contractor is conditioned on the assignee agreeing to be bound by the terms of this Contract. Contractor may subcontract any portion of its performance under this Contract. Contractor further agrees that the subletting of any portion or feature of the work, or materials required in the performance

of this Contract, shall not relieve Contractor from its full obligations to City as provided by this Contract. In the event any additional or different subcontractors are required or requested by City, or in the event City rejects the use of a particular subcontractor, such rejection must be submitted in writing and be based on just and reasonable cause. Any resultant change in contract price and/or schedule shall be mutually agreed upon.

**XII.
INDEPENDENT CONTRACTOR**

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

**XIII.
FORCE MAJUERE**

Neither party is liable for delays or lack of performance resulting from any causes beyond the reasonable control of a party including acts of God or the public enemy, war, riot, civil commotion, insurrection, government or de facto governmental action (unless caused by the intentionally wrongful acts or omissions of the party), fires, explosions or floods, strikes, slowdowns or work stoppages any of which event(s) directly impact the Company's operations in the City.

**XIV.
AFFIDAVIT OF NO PROHIBITED INTEREST**

Contractor acknowledges and represents Contractor is aware of all applicable laws, City Charter, and City Code of Conduct regarding prohibited interests and that the existence of a prohibited interest at any time will render the Contract voidable. Contractor has executed the Affidavit of No Prohibited Interest, attached and incorporated herein as Exhibit "B."

**XV.
TERMINATION FOR CAUSE**

If either party defaults in the performance of this Contract, the other party will give to the non-performing party a written and detailed notice of the default. If City is the defaulting party, it will have thirty (30) days to provide a written plan to cure the default that is acceptable to Contractor and begin implementing the cure plan immediately after plan approval. If the non-performing party fails to provide or implement a cure plan, then

the injured party, in addition to any other rights available to it under law, may immediately terminate this Contract effective upon giving a written notice of termination to the defaulting party.

Any termination of this Contract will not relieve either party of obligations previously incurred pursuant to this Contract, including payments which may be due and owing at the time of termination. All sums owed and not in dispute by City will become due and payable immediately upon termination of this Contract. Upon the effective date of termination, Contractor will have no further obligation to provide Services.

XVI. SEVERABILITY

The provisions of this Contract are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Contract is for any reason held to be contrary to the law or contrary to any rule or regulation having the force and effect of the law, such decisions shall not affect the remaining portions of the Contract. However, upon the occurrence of such event, either party may terminate this Contract by giving the other party thirty (30) days written notice.

XVII. TERMINATION FOR CONVENIENCE

City may, at its option, with or without cause, and without penalty or prejudice to any other remedy it may be entitled to at law, or in equity or otherwise under this Contract, terminate further work under this Contract, in whole or in part by giving at least sixty (60) days prior written notice thereof to Contractor with the understanding that all services being terminated shall cease upon the expiration of the 60-day period.

If Contractor provides Services after the termination or expiration of this Contract, the terms and conditions in effect at the time of the termination or expiration will apply to those Services.

XVIII. PROPRIETARY INFORMATION; CONFIDENTIALITY; INTELLECTUAL PROPERTY RIGHTS

To the extent permitted by law, any information or data in the form of specifications, drawings, reprints, technical information or otherwise furnished to City under this Contract will remain Contractor's property, will be deemed proprietary, will be kept confidential, and will be promptly returned at Contractor's request. City may not disclose, without Contractor's written permission or as required by law, any such information, or data to any person, or use such information or data itself for any purpose other than performing its obligations under this Contract. The obligations set forth in this Section will survive the expiration or termination of this Contract.

**XIX.
MAILING OF NOTICES**

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

City of Plano
Technology Services
P.O. Box 860358
Plano, Texas 75086-0358
Attn: David Stephens

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

Affiliated Communications
730 Avenue F, Suite 210
Plano, Texas 75074
Attn: _____

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

**XX.
ENTIRE AGREEMENT**

This Contract and its attachments embody the entire agreement between the parties and may only be modified in writing if executed by both parties.

City agrees to reference this Contract and The Department of Information Resources contract No. DIR-SDD-289 on any purchase order issued in furtherance of this Contract, however, an omission of the reference to this Contract shall not affect its applicability. In no event shall either party be bound by any terms contained in a City purchase order, acknowledgement, or other writings unless: (i) such purchase order, acknowledgement, or other writings specifically refer to this Contract; (ii) clearly indicate the intention of both parties to override and modify this Contract; and (iii) such purchase order, acknowledgement, or other writings are signed by authorized representatives of both parties.

**XXI.
SUCCESSORS AND ASSIGNS**

This Contract shall be binding upon the parties hereto, their successors, heirs, personal representatives and assigns.

**XXII.
HEADINGS**

The headings of this Contract are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

IN WITNESS WHEREOF, the parties have executed this Contract by signing below.

AFFILIATED COMMUNICATIONS

Date: _____

By: _____
Name: _____
Title: _____

CITY OF PLANO, TEXAS

Date: _____

By: _____
Thomas H. Muehlenbeck
CITY MANAGER

APPROVED AS TO FORM

Diane C. Wetherbee, CITY ATTORNEY

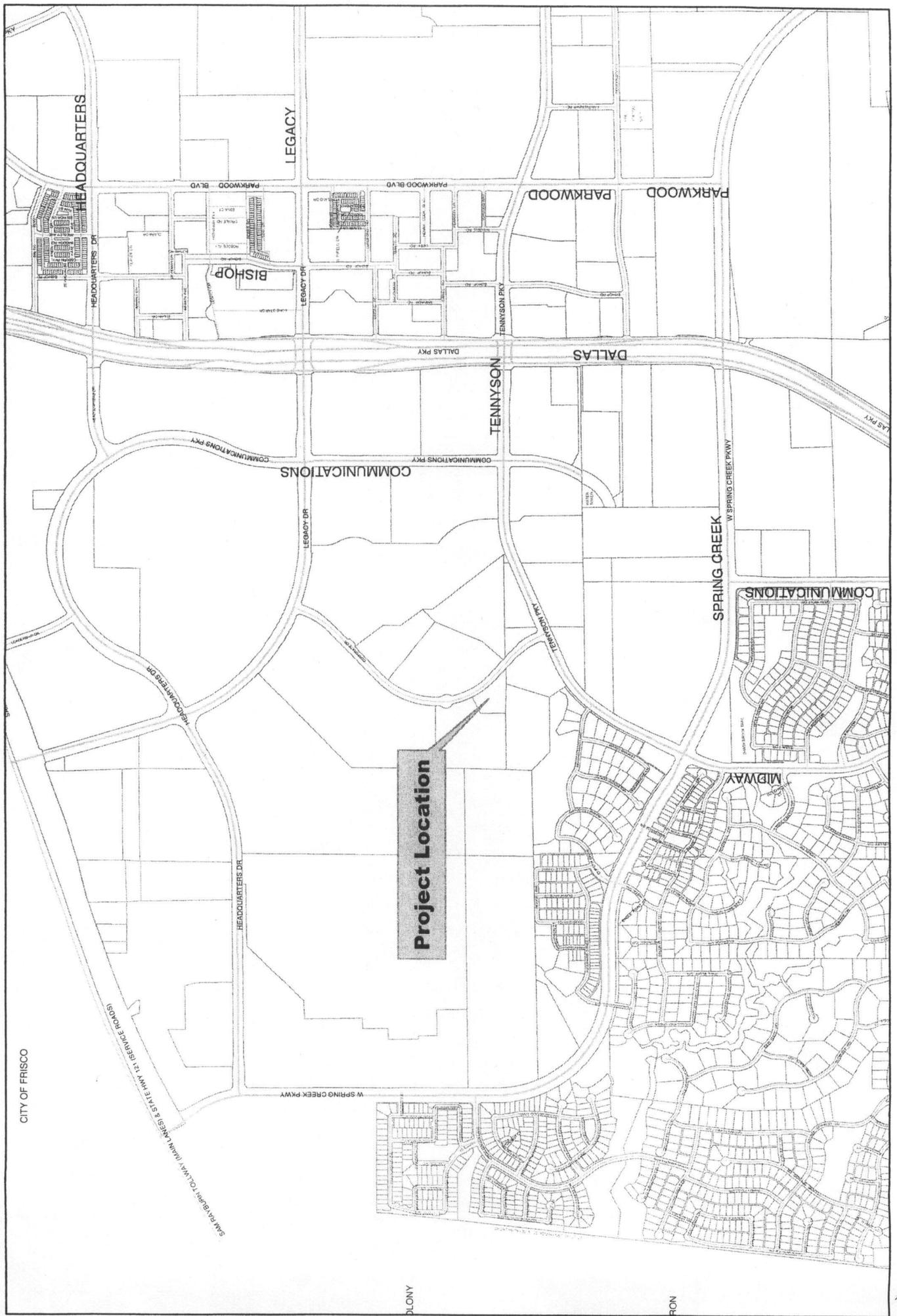
The full contract can be viewed in the City of Plano Technology Services Department.



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		6/28/10		
Department:		Public Works & Engineering		
Department Head		Alan L. Upchurch		
Agenda Coordinator (include phone #):				Irene Pegues (7198)
				Project No. 5815
CAPTION				
To approve an agreement with Oncor Electric Delivery to provide electrical service to Fire Station 13 for the amount of \$60,005; and authorizing the City Manager or his authorized designee to execute all necessary documents.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR: 2009-10	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	3,896	4,346,104	0	4,350,000
Encumbered/Expended Amount	-3,896	-220,319	0	-224,215
This Item	0	-60,005	0	-60,005
BALANCE	0	4,065,780	0	4,065,780
FUND(S): FIRE FACILITIES CIP				
COMMENTS: Funds are included in the 2009-10 Fire Facilities CIP. This item, in the amount of \$60,005, will leave a current year balance of \$4,065,780 for the Fire Station No. 13 project. STRATEGIC PLAN GOAL: Electrical services for fire facilities relate to the City's Goals of Safe Large City and Financially Strong City with Service Excellence.				
SUMMARY OF ITEM				
Oncor will provide electrical service to Fire Station 13, located at 6901 Corporate Drive. The cost of \$60,004.94 is identified in the attached agreement.				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Oncor Agreement			N/A	
Location Map				

Fire Station # 13



Location Map



June 4, 2010

The City of Plano
Attn: Paul Glenn
Plano Engineering Department
Plano, Texas

RE: Plano Fire Station# 13 located on Corporate Drive in Plano, Texas

Dear: Paul

The City of Plano has requested that Oncor Electric Delivery Company LLC, a Delaware limited liability company ('Company'), install underground electric facilities to serve a 65 kW, 120/208 three phase electric load, at the above referenced location.

Pursuant to company's Tariff for Retail Delivery Service, Customer is responsible for \$ 60,004.94 as payment for the Customer's portion of the cost of installation of Company's additional electric delivery facilities, such payment to be and remain the property of the Company. Customer's payment in full is due at the time this agreement is returned to Company.

Company at all times shall have title to and complete ownership and control over said facilities.

Customer is responsible for providing, without cost to the Company: (1) equipment clearances, and right-of-way easement on Customer's premises for the installation of the facilities; and (2) site grading to final grade along the route of the facilities and clearing the area of all obstructions.

In order to offset additional payment to Company, the Customer has elected to provide, without cost to the Company, all civil construction necessary to install Oncor Electric Delivery facilities per Company specifications.

This agreement supersedes all previous agreements or representation, either written or oral, between Company and Customer made with respect to the matters herein contained, and when duly executed constitutes the agreement between the parties hereto and is not binding upon Company unless and until signed by one of its duly authorized representatives.

This agreement, if not accepted within 45 days of the date of this letter, will be of no force and effect. Acceptance shall consist of delivery of an executed copy of this agreement to Company.

Please be aware that the start date of this project will be no earlier than four weeks following the execution of this agreement along with any payment that may be required pursuant to Company's Tariff for Retail Delivery Service. A more definitive installation schedule will be provided upon your delivery of this agreement and payment to assist in your planning for this project.

Sincerely,

Rodger Kennedy

NCM Manager

If The City of Plano agrees to the conditions set forth in this agreement, please execute two original copies and return one executed copy to the address shown on the attached statement along with your remittance in the amount of \$ 60,004.94. The additional copy is for your files.

Signature

Date

Printed Name

Title

ELECTRIC CONSTRUCTION PRINT

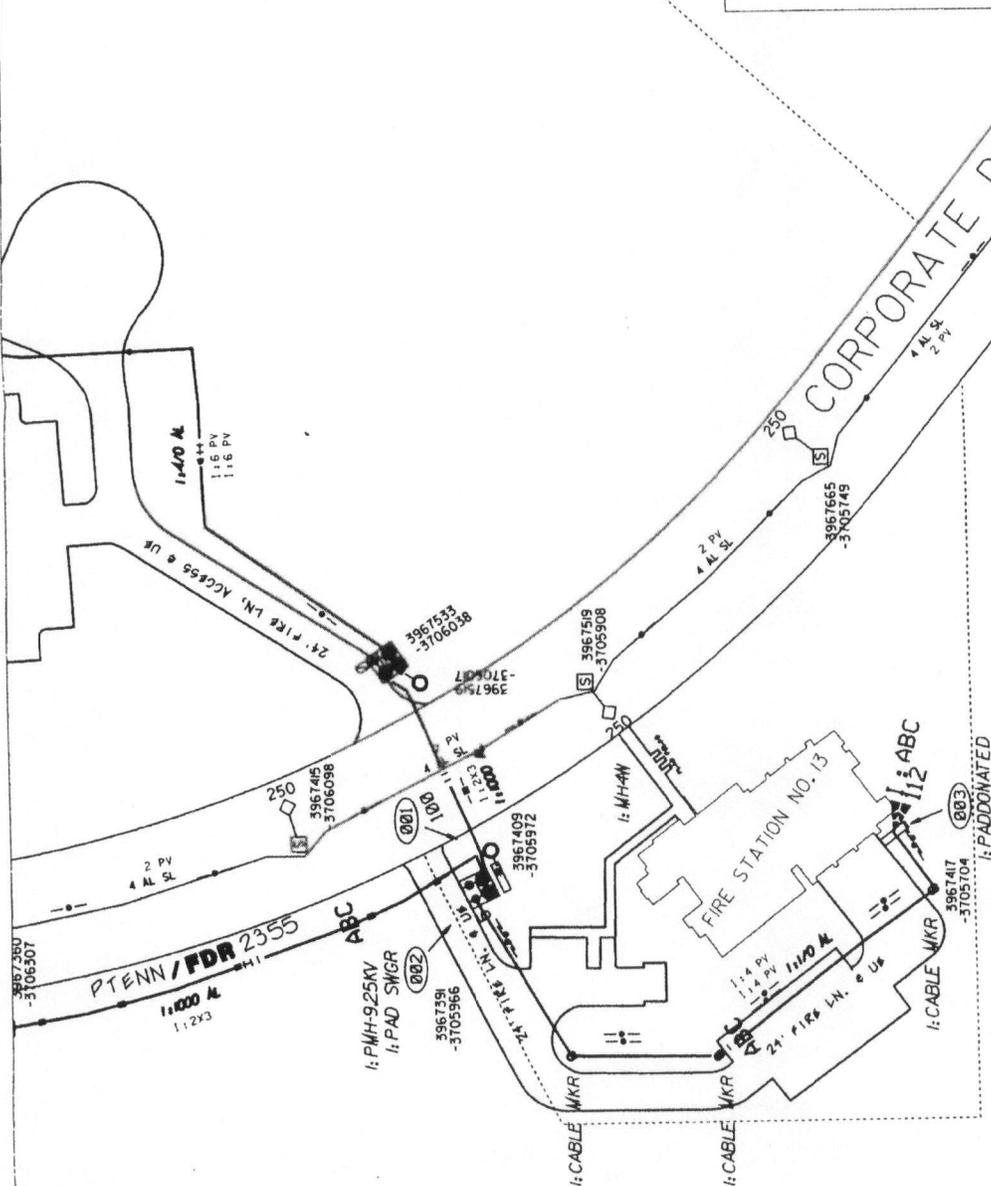
WR NO. 3967610
 SHEET 1 OF 1
 DATE 06-02-2010
 SCALE 8/8
 SERVICE CENTER MCK
 OFFICE 281
 MAPSCO 555 T



USERID DESIGNER FAUBION, JACK RANDALL
 PHONE PROJECT MANAGER 19729589-6312
 PHONE MANAGER KENNEDY, RODGER RYAN
 PHONE 19729589-6323

© 2008 OnCor Electric Delivery. OnCor Electric Delivery is a registered provider of the electrical services of OnCor Electric Delivery. OnCor Electric Delivery will make good faith efforts to provide products that are free from error, but does not warrant the accuracy or reliability of the information provided. OnCor Electric Delivery is not responsible for any errors or omissions in the information provided. OnCor Electric Delivery is not responsible for any damage or injury to property or persons, or for any loss of data, arising from the use of the products or services provided by OnCor Electric Delivery. OnCor Electric Delivery is not responsible for any damage or injury to property or persons, or for any loss of data, arising from the use of the products or services provided by OnCor Electric Delivery. OnCor Electric Delivery is not responsible for any damage or injury to property or persons, or for any loss of data, arising from the use of the products or services provided by OnCor Electric Delivery.

WR NAME PLAI FIRE DEPARTMENT
 CUSTOMER PLAI FIRE DEPARTMENT
 ADDRESS 6981 CORPORATE DRIVE
 LOCATION 6981 CORPORATE DRIVE



W/S 003
 TRANSFORMER INFO:
 112.5 KVA DF RADIAL
 120/208V SECONDARY
 14.4/24.9 KV PRIMARY
 TSN: 425651
 INSTALL METER ON TRANSFORMER

CUSTOMER TO PROVIDE
 AND INSTALL ALL CIVIL
 WORK EXCEPT AT W/S 002.
 ONCOR TO INSTALL
 SWITCHGEAR PAD AT W/S 002.



**CITY OF PLANO
COUNCIL AGENDA ITEM**

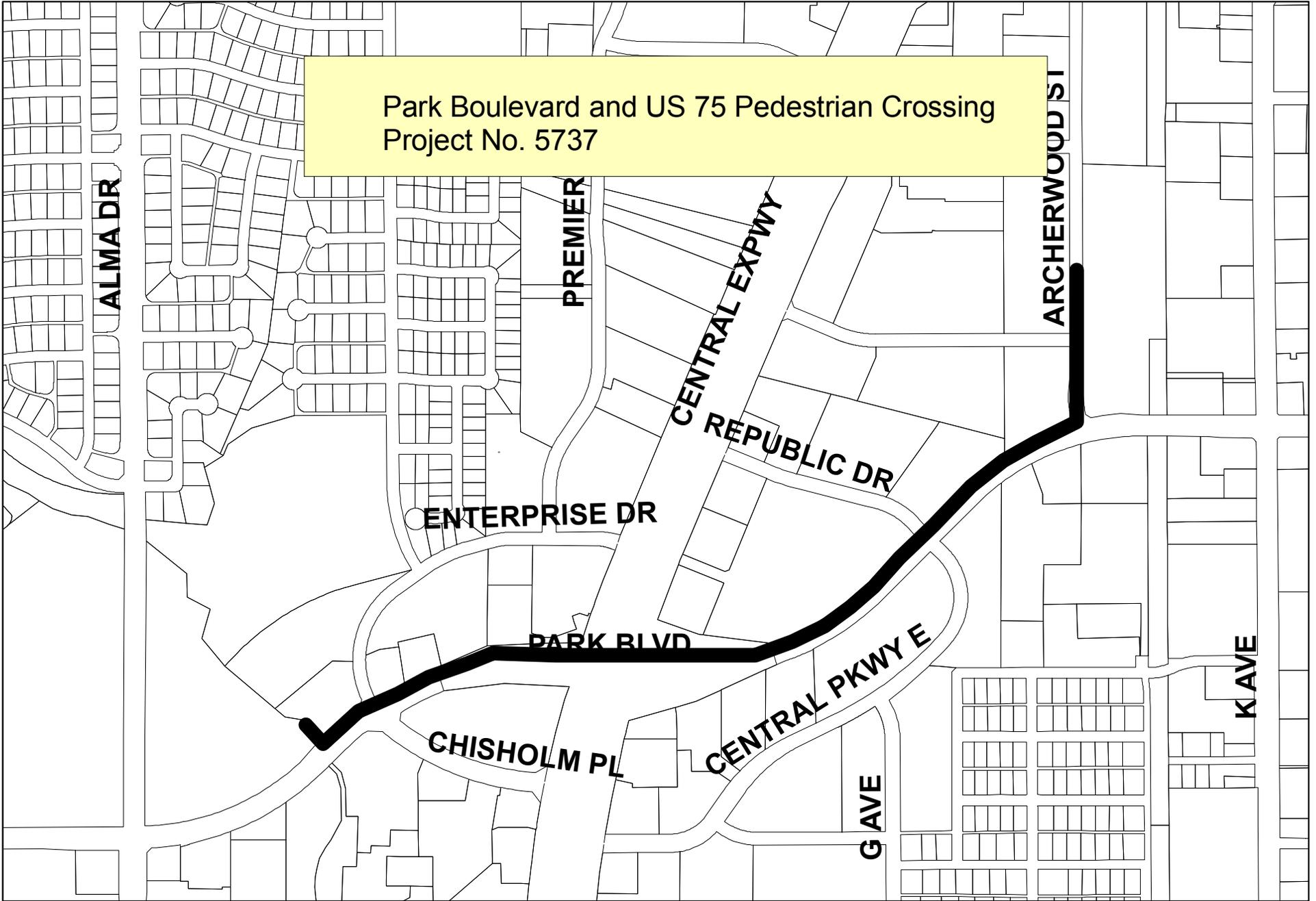
CITY SECRETARY'S USE ONLY																		
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory																		
Council Meeting Date:		6/28/10																
Department:		Public Works & Engineering																
Department Head:		Alan L. Upchurch																
Agenda Coordinator (include phone #): Irene Pegues (7198)				Project No. 5737														
CAPTION																		
To approve a engineering contract by and between the City of Plano and Freese and Nichols, Inc. in the amount of \$180,000 for the Park Boulevard and US 75 Pedestrian Crossing project and authorizing the City Manager to execute all necessary documents.																		
FINANCIAL SUMMARY																		
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP																		
FISCAL YEAR: 2009-10	Prior Year (CIP Only)	Current Year	Future Years	TOTALS														
Budget	0	555,000	996,000	1,551,000														
Encumbered/Expended Amount	0	0	0	0														
This Item	0	-180,000	0	-180,000														
BALANCE	0	375,000	996,000	1,371,000														
FUND(S): STREET IMPROVEMENT CIP																		
COMMENTS: Funds are included in the 2009-10 Street Improvement CIP. This item, in the amount of \$180,000 will leave a current year balance of \$375,000 for the Park Blvd/US 75 Pedestrian Crossing project. STRATEGIC PLAN GOAL: Engineering design services associated with hike and bike path relate to the City's Goals of Financially Strong City with Service Excellence and Great Neighborhoods – 1 st Choice to Live.																		
SUMMARY OF ITEM																		
This agreement with Freese and Nichols, Inc. is for the engineering design of the Park Boulevard and US 75 Pedestrian Crossing project which will create a 12 foot wide concrete hike and bike path to be constructed from the existing bike path in Chisholm Trail Park eastward along the north side of Park Boulevard, over US 75, to Archerwood Drive, where the path will become 8 feet in width on both sides of Archerwood Drive, and terminate at the Parker Road DART rail station.																		
The contract fee is \$180,000 and is detailed as follows:																		
<table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:80%;">1. Research and Data, including Geotechnical Report</td> <td align="right">\$14,000</td> </tr> <tr> <td>2. Design Survey/Construction Control Survey</td> <td align="right">\$33,000</td> </tr> <tr> <td>3. Preliminary Design</td> <td align="right">\$52,000</td> </tr> <tr> <td>4. Final Design</td> <td align="right">\$60,400</td> </tr> <tr> <td>5. Bid Phase</td> <td align="right">\$ 9,600</td> </tr> <tr> <td>6. Construction Administration</td> <td align="right">\$ 4,500</td> </tr> <tr> <td>Total Basic Services Fee</td> <td align="right">\$173,500</td> </tr> </table>					1. Research and Data, including Geotechnical Report	\$14,000	2. Design Survey/Construction Control Survey	\$33,000	3. Preliminary Design	\$52,000	4. Final Design	\$60,400	5. Bid Phase	\$ 9,600	6. Construction Administration	\$ 4,500	Total Basic Services Fee	\$173,500
1. Research and Data, including Geotechnical Report	\$14,000																	
2. Design Survey/Construction Control Survey	\$33,000																	
3. Preliminary Design	\$52,000																	
4. Final Design	\$60,400																	
5. Bid Phase	\$ 9,600																	
6. Construction Administration	\$ 4,500																	
Total Basic Services Fee	\$173,500																	



**CITY OF PLANO
COUNCIL AGENDA ITEM**

Special Services	
a. ROW edge definition and Temp. Construction Esmt. <u>Descriptions and Drawings (assuming 5 easements)</u>	<u>\$6,500</u>
Total Special Services	\$6,500
 Total Fee	 \$180,000
<p>Funding is available from the 2009-10 Community Investment Program and \$1,018,325 from NCTCOG. Staff feels the fee is reasonable for this project estimated to cost \$1,700,000.</p>	
List of Supporting Documents: Location Map; Engineering Services Agreement	Other Departments, Boards, Commissions or Agencies N/A

Park Boulevard and US 75 Pedestrian Crossing
Project No. 5737



ALMA DR

PREMIER

CENTRAL EXPWY

ARCHERWOOD ST

ENTERPRISE DR

REPUBLIC DR

PARK BLVD

CHISHOLM PL

CENTRAL PKWY E

GAVE

KAVE

PARK BOULEVARD AND US 75 PEDESTRIAN CROSSING

PROJECT NO. 5737

ENGINEERING SERVICES AGREEMENT

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

WITNESSETH:

WHEREAS, the City desires to engage the services of the Engineer to prepare construction plans, specifications, details and special provisions and to perform other related engineering services in connection with the **PARK BOULEVARD AND US 75 PEDESTRIAN CROSSING** project located in the City of Plano, Collin County, Texas, hereinafter referred to as the "Project"; and

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

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

I. Employment of the Engineer

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

II. Scope of Services

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

III. Schedule of Work

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

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

IV. Compensation and Method of Payment

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

V. Information to be Provided by the City

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

VI. Insurance

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

Engineer agrees to notify the City of any changes in insurance policy coverage, including but not limited to changes in limits and cancellation. The Engineer shall notify the City in writing of any changes within forty-eight (48) hours of the change. The Engineer's notice shall include a description of the changes and how those changes vary from the insurance requirements of the contract/agreement.

VII. INDEMNITY

THE ENGINEER AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY AND ITS RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY ENGINEER'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE ENGINEER, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR

ENTITIES FOR WHICH THE ENGINEER IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF THE CITY, AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE ENGINEERS. THE CITY DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY OR OTHER DEFENSES AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

ENGINEER AT ITS OWN EXPENSE IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE CONSTRUED AS A WAIVER OF ENGINEER'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF ENGINEER'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. ENGINEER SHALL RETAIN DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF ENGINEER FAILS TO RETAIN COUNSEL WITHIN THE REQUIRED TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF AND ENGINEER SHALL BE LIABLE FOR ALL COSTS INCURRED BY THE CITY.

VIII. Independent Contractor

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

IX. Assignment and Subletting

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

X. Audits and Records/Prohibited Interest

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

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

XI. Contract Termination

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

XII. Engineer's Opinion of Probable Construction Costs

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

XIII. Ownership of Documents

Original drawings and specifications are the property of the Engineer; however, the Project is the property of the City and Engineer may not use the drawings and specifications therefor for any purpose not relating to the Project without City's consent. City shall be furnished with such reproductions of drawings and specifications as City may reasonably require. Upon completion of the work or any earlier termination of this

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

XIV. Complete Contract

This Agreement, including the Exhibits lettered "A" through "E", constitute the entire agreement by and between the parties regarding the subject matter hereof and supersedes all prior or contemporaneous written or oral understandings. This Agreement may only be amended, supplemented, modified or canceled by a duly executed written instrument.

XV. Mailing of Notices

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

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

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

Freese and Nichols, Inc.
1701 North Market Street, Suite 500 LB 51
Dallas, TX 75202
Attn: Kevin R. Johnson

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

XVI. Miscellaneous

A. Paragraph Headings:

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

B. Contract Interpretation:

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

C. Venue/Governing Law:

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

D. Successors and Assigns:

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

E. Severability:

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

CONTINUED ON NEXT PAGE

F. Effective Date:

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

SIGNED on the date indicated below.

FREESE AND NICHOLS, INC.
A **TEXAS** Corporation

DATE: _____

BY: _____
Tricia H. Hatley, P.E.
PRINCIPAL

CITY OF PLANO, TEXAS

DATE: _____

BY: _____
Thomas H. Muehlenbeck
CITY MANAGER

APPROVED AS TO FORM:

Diane C. Wetherbee
CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS §
§
COUNTY OF DALLAS §

This instrument was acknowledged before me on the _____ day of _____, 2010, by **TRICIA H. HATLEY, P.E., PRINCIPAL**, of **FREESE AND NICHOLS, INC.**, a **TEXAS** corporation, on behalf of said corporation.

Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2010, by **THOMAS H. MUEHLENBECK, CITY MANAGER**, of the **CITY OF PLANO, TEXAS**, a Home-Rule Municipal Corporation, on behalf of said municipal corporation.

Notary Public, State of Texas

**EXHIBIT A
SCOPE OF SERVICES**

PARK BOULEVARD AT US 75 – PEDESTRIAN CROSSING

PROJECT NO. 5737

PROJECT DESCRIPTION:

This project includes preliminary and final design related professional engineering services for a concrete pedestrian trail of varying width from 8 feet to 12 feet, to run from the Parker Road DART station, south along both sides of Archerwood Street, west along Park Boulevard, crossing US 75 to a connection to the existing Chisholm Bike Trail on Spring Creek, approximately 4,900 linear feet total. Design will include shifting the driving lanes and reducing the median in Park Boulevard at the US 75 crossing.

Special Design Considerations

BASIC SERVICES:

A. Design Standards

1. This project shall be designed in accordance with the following:
 - Geodetic Monumentation Manual
 - Manual for Right-of-Way Management
 - Storm Drainage Design Manual
 - Erosion & Sediment Control Manual
 - Thorough Fare Standards Rules & Regulations
 - Manual for the Design of Water & Sanitary Sewer Lines
 - Standard Construction Details
 - Barrier Free Ramp Details
 - NCTCOG Standard Specifications for Public Works Construction
 - Special Provisions to NCTCOG Standard Specifications for Public Works Construction
 - Sample Plan Set
2. All plans submitted to the City for final acceptance shall be signed and sealed by a Texas registered professional in accordance with state law.

B. Research and Data Collection

1. Meet with City of Plano engineering staff and obtain design criteria, pertinent utility plans, street plans, plats and right-of-way maps, existing easement information, and other information available for the project area.
2. Meet with the City of Plano project manager and conduct an on-site review and walk through.

C. Geotechnical Investigations

1. Provide a geotechnical report for the areas of retaining wall construction.

D. Design Survey

1. Establish a horizontal and vertical control network and project control baseline for the project areas. The network and baseline are to be tied into the existing City of Plano control network.
2. Establish horizontal and vertical project control monumentation.
3. Tie right-of-way lines and corners, property lines and corners, buildings, fence lines, trees -4 inches in diameter and larger, edges of pavements and all other visible features to the project control baseline. Existing utility structures shall be located and referenced by utility name (i.e. TXU Elec., Verizon Telephone, Atmos Gas, Etc.)
4. Vertical topographic information tying pavement, drives, walls, manholes (top and inverts), storm drain inlets (top and inverts), and other improvements as needed within the project areas for the design.
5. Provide trail cross sections of an adequate length (30 – 50 feet) to show existing surface elevations required for proposed grade design, at fifty-foot (50') intervals relative to the project baseline and at all drives, street intersections, drainage channels or other areas of significance. Provide street cross sections along the portion of Park Blvd where the median will be shifted, at 50' intervals and areas of design importance. Cross sections are for project design review and quantity takeoffs and will be a part of the final construction plan set.
6. When underground utilities are exposed, tie to project control baseline.
7. Identify the street address and legal description (lot, block, addition) of all adjacent properties to the proposed construction and show on the drawings.
8. Survey and elevation work and information shown on plans shall extend an adequate distance to provide data for design.
9. City shall coordinate with all franchise utilities in the area to obtain their records relating to the location of their facilities in the project area.

E. Preliminary Design

1. Prepare preliminary construction plans. Prepare the following sheets (22" x 34" size) at the engineering scale indicated:
 - Cover sheet.
 - Project layout control sheet(s). Scale 1" = 100'. Quantity sheet (sheet by sheet breakdown of all quantities)
 - Typical sections and detail sheets.
 - Paving plan & profile sheets for trail and street improvements. Note that all drives, sidewalk and barrier free ramps must be ADA compliant. Scale 1" = 20': H; 1" = 5': V.
 - Grading/retaining wall plans 1"=10'. Cross sections of the retaining walls at appropriate intervals and areas of design importance
 - Construction phasing and temporary traffic control sheets. Scale 1" = 40'.
 - SWPPP sheets meeting EPA and City of Plano requirements. Scale 1" = 40'. Plan view portion can be included in the paving plans. A separate plan sheet for details is required. Surface curb inlet protection shall not be used for existing curb inlets on existing thoroughfare pavement areas. Use "Depressed Back of Curb Sediment Trap" instead of silt fence to prevent silt onto roadway. Use "Pavement Replacement Sediment Trap" for areas where pavement will be removed for pavement widening. Use "Organic Filter Tube" instead of silt fence to prevent silt onto private

property. Use City Word file form for "City of Plano CIP Projects – SWPPP Operator Requirements" as part of SWPPP. A separate plan sheet is required for this item.

- Landscape and irrigation plan sheets. Scale 1" = 20'.
 - Street Lighting Plans. Scale 1" = 40'. Plans will show existing and proposed street light locations, pull boxes and conduits. Contractor will install new foundations, pull boxes and conduit.
 - Cross-sections. Scale 1" = 20':H; 1" = 2':V.
2. The City shall coordinate with affected utilities such as water, gas, telephone, cable TV and electric to verify the location of their facilities located in the design survey.
 3. Prepare outline of any special technical specifications needed for the project (if any).
 4. Prepare an estimate of construction quantities and develop the preliminary statement of probable construction cost.
 5. Submit six (6) sets of preliminary plans and one (1) set of an outline of special technical specifications and preliminary statement of probable construction cost to the City for review.
 - Engineering
 - Public Works
 - Inspectors
 - Transportation
 - Parks
 - File
 6. Meet with City staff to discuss City comments on preliminary plans, specifications and cost estimates.
 7. City shall distribute the preliminary plans and proposed schedule for bidding and start of construction to local utility companies to obtain information regarding impacts to their facilities.
 8. Incorporate TxDOT design standards into the plans for the area crossing US 75. Revise plans as required to address comments by TxDOT. The City engineering dept will make the submittals to and retrieve comments from TxDOT.

F. Final Design

1. Revise preliminary plans incorporating comments from the City.
2. Incorporate comments from the utility companies.
3. Finalize construction plans for proposed improvements.
4. Finalize special technical specifications and special conditions (if any).
5. Incorporate standard details (those not included in "City of Plano Standard Construction Details") into the construction plans and prepare additional details as required.
6. Take off final construction quantities and prepare final construction cost estimates.
7. Submit four (4) sets of pre-final plans and one (1) set of special technical specifications, draft bid schedule and final statement of probable construction cost to the City for review.
8. Incorporate City final comments into the plans and bid documents.

9. Submit three (3) sets of final black line prints, three (3) bound copies of the bid documents and one (1) single-sided unbound original bid document set to the City.
10. Attend a utility coordination meeting to start relocation process with affected franchise utilities. The City shall distribute copy of final plans and proposed schedule for bid letting and construction to all affected franchise utilities. The City shall coordinate relocation of franchise utilities impacted by the project.

G. Bid Phase Services

1. Assist the City staff in advertising for bids.
2. Furnish plans and specifications for bidding. Cost for these to be recouped by non-refundable deposit from contractors. Maintain a list of plan holders.
3. Furnish plans and bid documents for up to four (4) plan review rooms to be determined by the City. These documents are to be furnished at no cost to the plan review rooms.
4. Prepare and distribute addenda to bid documents as necessary.
5. Assist City staff as required in bid opening. Submit list of plan holders to the City, 48-hours prior to the bid letting.
6. Submit a CD-ROM disk of the bid set plans in a PDF format.
7. Provide bid tabulation to the City within four (4) working days of the bid letting.
8. Evaluate the low and second low bidders. Prepare letter of recommendation to the City for awarding a contract to the lowest responsible bidder within four (4) working days of the bid letting.
9. Assist City staff in a pre-construction conference.
10. Furnish eleven (11) sets of full-size and four (4) sets of half-size final construction plans and seven (7) sets of the contract documents manual to the City for construction.

H. Construction Administration

1. Provide written responses to requests for information or clarifications during construction.
2. Prepare plan and quantity revisions as required for change orders. The City will prepare the actual change order form and get it executed by the contractor.
3. Assist the City staff in conducting the final inspection.
4. Recommend final acceptance of work when acceptable.
5. Prepare construction "Record Drawings" based upon mark-ups and information provided by the construction contractor(s). Submit one black line set to the City and two (2) CD-ROM disks containing scanned images of the 22" x 34" final "as constructed" black line drawings (with "record drawing stamps" bearing the signature of the Engineer and the date). The drawings shall be scanned 1 to 1 as Group 4 TIF files at a minimum resolution of 200 dots per inch and a maximum resolution of 400 dots per inch. The TIF files shall be legible and shall include any post processing that may be required to enhance image quality (e.g., de-speckling, de-shading, de-skewing, etc). Each file shall be named in numeric order.
6. In performing these services, Engineer will endeavor to protect City in providing these services however, it is understood that Engineer does not guarantee the Contractor's performance, nor is Engineer responsible for supervision of the Contractor's operation and employees. Engineer shall not

be responsible for the means, methods, techniques, sequences or procedures of construction selected by the Contractor, or any safety precautions and programs relating in any way to the condition of the premises, the work of the Contractor or any Subcontractor. Engineer shall not be responsible for the acts or omissions of any person (except its own employees or agents) at the Project site or otherwise performing any of the work of the Project.

I. Construction Control Survey

1. Set vertical and horizontal control stakes for construction at 500' intervals, and a minimum of one at each end of the project.

SPECIAL SERVICES:

A. Right-of-way Definition

1. Establish the ROW location adjacent to the proposed location of the trail. No ROW acquisition is proposed for this project.

B. Easement Surveying

1. Prepare a metes and bounds description and an 8-1/2" x 11" exhibit for five (5) parcels of Temporary Construction Easements on a per tract basis. Deliver three (3) reviewed and approved originals to the City.
2. Prepared exhibits with the field notes first and drawings second. Each parcel shall have its own separate numbers.
3. The City shall perform all coordination with property owners and tenants.

**EXHIBIT B
COMPLETION SCHEDULE**

PARK BLVD PEDESTRIAN CROSSING

PROJECT NO. 5737

	Activity	Completion Time (Working Days)	Cumulative Time (Working Days)
1.	Notice to Proceed	3	3
2.	Research and Data Collection	15	18
3.	Design Survey	20	38
4.	Preliminary Design	20	58
5.	City Review	10	68
6.	Final Design (Pre-Final Submittal) / ROW & Easement Documents	20	88
7.	City Review	10	98
8.	Final Design / Documents for Bidding	20	118
9.	City Review	10	128
10.	Advertise for Bids	15	143
11.	Receive Bids	1	144
12.	Recommendation	3	147
13.	Prepare Council Agenda	5	152
14.	Council Award	5	157
15.	Prepare / Execute Contract	20	177
16.	Schedule Preconstruction	10	187
17.	Notice to Proceed	5	192
18.	Construction	200	392

Engineer completion times are based on working days (Monday through Friday, excluding City holidays) starting at Notice to Proceed or receipt of City reviews.

**EXHIBIT C
PAYMENT SCHEDULE**

PARK BLVD PEDESTRIAN CROSSING

PROJECT NO. 5737

- A. **Not to Exceed:** The total fee for Basic Services in Exhibit A shall be computed on the basis of the Schedule of Charges but shall not exceed One Hundred Eighty Thousand Dollars (\$180,000).

<u>WORK STAGE SUBMITTAL OR COMPLETION</u>	<u>TOTAL</u>
1. Research and Data, including Geotechnical Report	\$14,000
2. Design Survey/Construction Control Survey	\$33,000
3. Preliminary Design	\$52,000
4. Final Design	\$60,400
5. Bid Phase	\$ 9,600
6. Construction Administration	\$ 4,500
Total Basic Services Fee	\$173,500

Special Services

a. ROW edge definition and Temp. Construction Esmt. Descriptions and Drawings (assuming 5 easements)	\$6,500
Total Special Services	\$6,500

Total Fee **\$180,000**

Note: Construction Control Survey is included in Design Survey total.

If FNI sees the Scope of Services changing so that Additional Services are needed, FNI will notify OWNER for OWNER's approval before proceeding. Additional services shall be computed based on the Schedule of Charges.

- B. **Schedule of Charges for Additional Work:**

<u>POSITION</u>	<u>MIN</u>	<u>MAX</u>
PRINCIPAL	225	285
GROUP MANAGER	205	285
SENIOR ENGINEER	150	245
ENGINEER (PE)	115	170
ENGINEER (EIT)	85	130
HYDROLOGIST	65	150
ELECTRICAL ENGINEER	85	200
MECHANICAL ENGINEER	85	200
SENIOR ENVIRONMENTAL SCIENTIST	115	220
ENVIRONMENTAL SCIENTIST	60	130
ARCHITECT (AIA)	105	245
ARCHITECT INTERN	60	120
LANDSCAPE ARCHITECT	115	145
SENIOR URBAN PLANNER	125	200
URBAN PLANNER	70	120

SR. CONSTRUCTION CONTRACT ADMINISTRATOR	110	195
CONSTRUCTION CONTRACT ADMINISTRATOR	75	150
GIS COORDINATOR	90	130
GIS ANALYST	60	130
DESIGNER	90	145
TECHNICIAN	65	120
OPERATIONS ANALYST / ACCOUNTING SPECIALIST	80	140
CONTRACT / REGIONAL ADMINISTRATOR	75	115
WORD PROCESSING/SECRETARIAL	55	90
CO-OP / INTERN	45	75

The ranges and individual salaries will be adjusted annually.

EXPENSES

Plotting

Bond	\$2.50 per plot copy
Color	\$5.75 per plot copy
Other	\$5.00 per plot

Printing

Offset and Xerox Copies/Prints	\$0.10 per side
Color Copies/Prints	\$0.50 per side
Binding	\$5.75 per book

Travel

50¢ per mile

Computer

Computer Usage \$10.00/hour

OTHER DIRECT EXPENSES

Other direct expenses are reimbursed at actual cost times multiplier of 1.15. They include outside printing and reproduction expense, communication expense, travel, transportation and subsistence away from the FNI office, and other miscellaneous expenses directly related to the work, including costs of laboratory analysis, tests, and other work required to be done by independent persons other than staff members.

EXHIBIT "D"
ENGINEERING
INSURANCE

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

1. General Insurance Requirements:

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

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

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

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

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

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

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

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

3.0 Engineer's Insurance – Claims Made

Professional Errors and Omissions

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

Professional Errors and Omissions, Limit \$1,000,000
per claim and aggregate of \$2,000,000

ENGINEERING

City of Plano - Insurance Checklist

("X" means the coverage is required.)

Coverages Required

Limits (Figures Denote Minimums)

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

EXHIBIT "E"

AFFIDAVIT OF NO PROHIBITED INTEREST

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

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

Name of Consultant

By: _____
Signature

Print Name

Title

Date

STATE OF TEXAS §
§
COUNTY OF DALLAS §

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2010.

Notary Public, State of Texas



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		06/28/10		
Department:		Technology Services		
Department Head		David Stephens		
Agenda Coordinator (include phone #): Amy Powell X7342				
CAPTION				
To approve and authorize Contract Modification No. 1 for the purchase of an upgrade to our existing Microsoft Enterprise Agreement, in the amount of \$95,688 from Dell Marketing, LP. This modification will provide for the addition of Microsoft Business Productivity Online Standard Suite hosted by Microsoft and authorizing the City Manager to execute all necessary documents.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input checked="" 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	95,688	378,765	474,453
Encumbered/Expended Amount	0	0	0	0
This Item	0	-95,688	-378,765	-474,453
BALANCE	0	0	0	0
FUND(S): TECHNOLOGY SERVICES FUND				
<p>COMMENTS: Funding of \$95,688 to add the Business Productivity Online Standard Suite hosted by Microsoft for the remaining six months of the current Microsoft Enterprise annual agreement is available within the 2009-10 Technology Services Budget. Future Hosted Exchange (email) costs will be added to the annual Microsoft Enterprise contract renewal pricing for the remaining two years of the enterprise agreement, for an additional contract cost of \$189,382.50 per year. Future funding is subject to budget appropriations in each fiscal year.</p> <p>Strategic PLAN GOAL: Vendor hosting of email storage and archiving, video conferencing and other business productivity applications relates to the City's Goal of "Financially Strong City with Service Excellence".</p>				
SUMMARY OF ITEM				
<p>Staff recommends approval of this contract modification, in the amount of \$95,688 for the remaining six months of the contract year with our enterprise agreement with Dell Marketing, LP, to upgrade our current enterprise agreement to include Hosted Exchange. This new service will be rolled into our next annual contract for the remaining two (2) years of our enterprise agreement. This offering from Dell Marketing, LP, will provide the City with a scalable, cost-effective solution for Exchange (email), video conferencing and other business productivity applications. Staff has identified \$897,379 over the next three years of email related costs the City will avoid by hosting our email at Microsoft. 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 items. (DIR-SDD-1014).</p>				



**CITY OF PLANO
COUNCIL AGENDA ITEM**

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
Contract Modification No. 1 and Staff Memo	

Interoffice Memo

Date: 06/14/2010

To: David Stephens, Director Technology Services

Cc:

From: Chester M. Helt, Infrastructure Manager

RE: Upgrade our Microsoft Enterprise Agreement to include Hosted Exchange

We are recommending to Council that we add the Microsoft Business Productivity Online Standard Suite hosted by Microsoft to our existing enterprise agreement with Microsoft. This offering from Microsoft will provide us with a scalable, cost-effective solution for Exchange (email), video conferencing and other business productivity applications. We have identified \$897,379 over the next three years of email related costs the city will avoid by hosting our email at Microsoft. Some of the avoided costs are related to future storage requirements for our email and the associated archive copies of the email. Further cost avoidance will be realized by reducing our backup costs for the email and archive data.

The additional cost for the first year will be \$95,688.00 for the remaining six months of this contract year with our enterprise agreement. This new service will be rolled into our next annual contract date for the enterprise agreement for the remaining two years of our enterprise agreement. This upgrade is to be purchased from Dell Marketing LP, a Texas DIR vendor with the DIR contract number DIR-SDD-1014.

THE STATE OF TEXAS § **First Modification of Contract**
 § **By and Between City of Plano and**
 § **Dell Marketing LP, a Subsidiary of**
COUNTY OF _____ § **Dell Inc.**

THIS FIRST MODIFICATION OF Contract (hereinafter "First Modification") is made and entered into on this the _____ day of _____, 20____, by and between **DELL MARKETING, LP, A SUBSIDIARY OF DELL, 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, City and Contractor entered into an Agreement on March 25, 2010 (hereinafter "Agreement") for Software Licensing (hereinafter "Services"); and

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

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

I.

Beginning on the effective date of this Modification and continuing through the remaining term of the Agreement, Section I. Scope of Services is hereby modified to include the service as further described in the attached Exhibit "A-1."

II.

Beginning on the effective date of this Modification and continuing through the remaining term of the Agreement, Section III. Payment is hereby modified to increase the amount of the contract by **NINETY-FIVE THOUSAND SIX**

HUNDRED EIGHTY-EIGHT AND 00/100 DOLLARS (\$95,688.00) to provide for the additional service as described in the attached Exhibit "A-1."

IN WITNESS WHEREOF, the parties enter into this First Modification on the date first written above.

**DELL MARKETING LP, A
SUBSIDIARY OF DELL INC.**

By: _____
Name: _____
Title: _____

CITY OF PLANO, TEXAS

By: _____
Thomas H. Muehlenbeck
CITY MANAGER

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 20____ by _____, _____ of **DELL MARKETING LP, A SUBSIDIARY OF DELL INC.**, a limited partnership, on behalf of said limited partnership.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 20____ 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



Texas Price

DIR-SDD-1014

Agency Name: City of Plano

Contact:

Email/ Fax:

Date: 6-15-2010

Quote Expires: 30 Days After Quote Date

YEAR 1

Product Description

BPOStdSte ShrdSvr ALNG SubsVL MVL PerUsr FromEntCALSA
ExchgHstdArchv ALNG SubsVL MVL PerUsr

Manufacturer Part No.

Qty.

ERP

Unit Price

Ext. Price

T6A-00003

2500

\$

27.00

\$

21.53

\$ 53,824.50

74P-00002

2500

\$

21.00

\$

16.75

\$ 41,863.50

Total: \$ 95,688.00

Brad Hickey

Sr. Account Exec

Dell | ASAP Software

850 Asbury Drive

Buffalo Grove, IL 60089

Email: bradley_hickey@dell.com

9

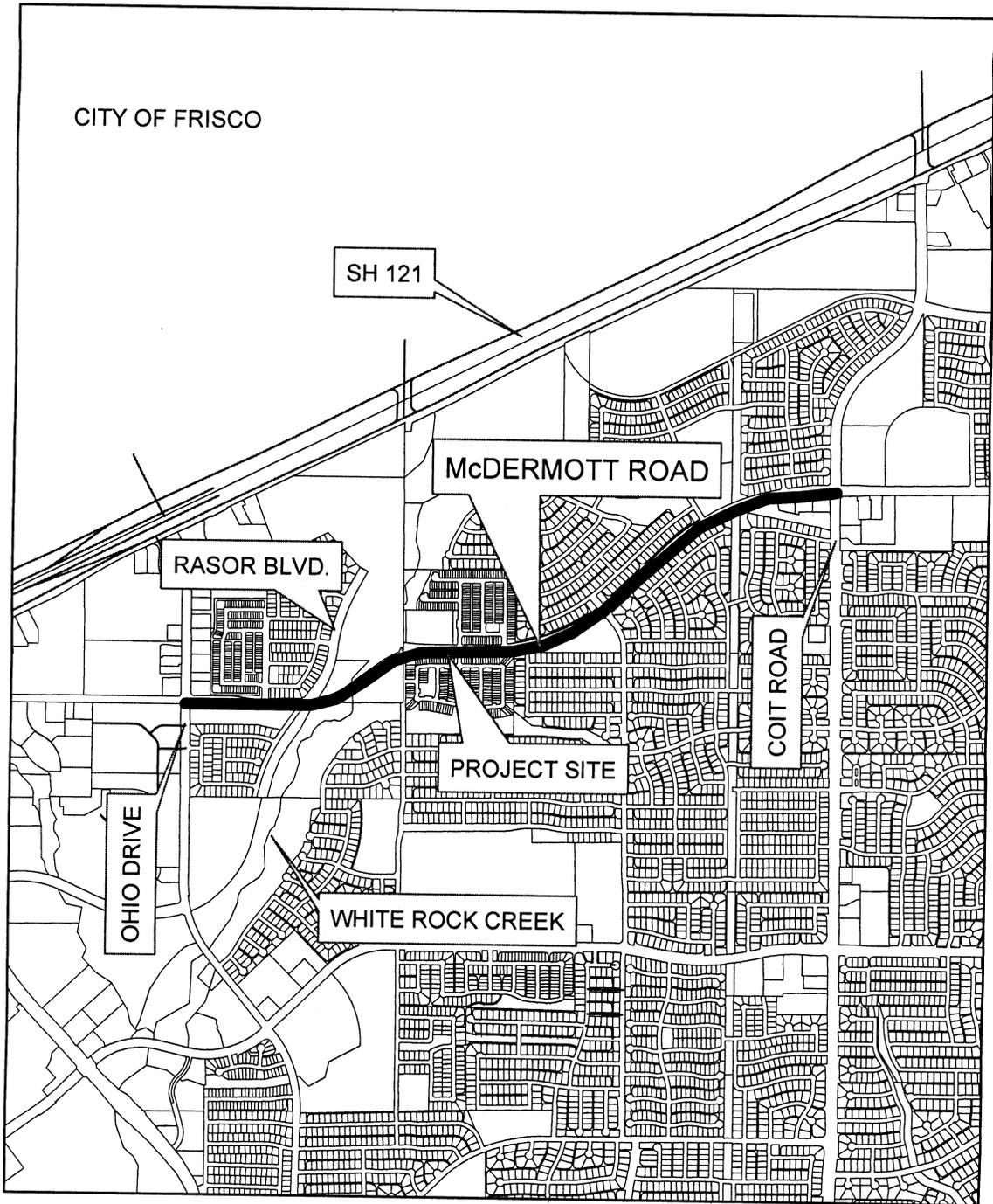


**CITY OF PLANO
COUNCIL AGENDA ITEM**

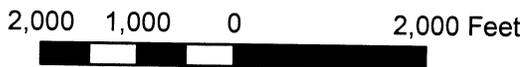
CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		06/28/10		
Department:		Public Works & Engineering		
Department Head:		Alan L. Upchurch		
Agenda Coordinator (include phone #):		Irene Pegues (7198)		Project No. 5387
CAPTION				
To Tiseo Paving Company, increasing the contract by \$55,790 for McDermott Road from Ohio Drive to Coit Road, Change Order No. 2. Original Bid No. 2009-143-B.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR: 2009-10	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	34,513	3,140,487	0	3,175,000
Encumbered/Expended Amount	-34,513	-2,255,452	0	-2,289,965
This Item	0	-55,790	0	-55,790
BALANCE	0	829,245	0	829,245
FUND(S): STREET IMPROVEMENT CIP				
COMMENTS: Funds are included in the 2009-10 Street Improvement CIP. This item, in the amount of \$55,790, will leave a current year balance of \$829,245 for the McDermott – Coit to Ohio project. STRATEGIC PLAN GOAL: Contract modifications associated with street construction relate to the City's Goal of Financially Strong City with Service Excellence.				
SUMMARY OF ITEM				
This change order, in the amount of \$55,789.86, is for the adjustment in pay quantities to the amount actually installed, for issuing of revised construction plans for street lighting facilities and for the adjustment in pay items for the revised street lighting plans. The street light plans were required to be revised to avoid conflicts with the electrical transmission lines in the road median. Staff recommends approval of Change Order No. 2. The contract total will be \$2,224,614.21, which includes change orders of 4.33% of the original contract amount of \$2,132,270.05.				
List of Supporting Documents: Location Map; Change Order No. 2			Other Departments, Boards, Commissions or Agencies N/A	

McDERMOTT ROAD WIDENING FROM OHIO DRIVE TO COIT ROAD

PROJECT No. 5387



CITY OF PLANO
PUBLIC WORKS & ENGINEERING DEPT.



1 inch = 2,000 feet



CHANGE ORDER NO. 2

**MCDERMOTT ROAD FROM OHIO DRIVE TO COIT ROAD
PROJECT NO. 5387 (CSJ 0918-24-119)
PURCHASE ORDER NO. 103768
CIP NO. 31397
BID NO. 2009-143-B**

A. INTENT OF CHANGE ORDER

The intent of this change order is to modify the provisions of the contract entered into by the **CITY OF PLANO, TEXAS**, and **TISEO PAVING COMPANY** for the **MCDERMOTT ROAD OHIO DRIVE TO COIT ROAD PROJECT**, dated December 14, 2009.

B. DESCRIPTION OF CHANGE

The change order is for the adjustment of pay quantities to cover what is actually installed for the project, for the issuing of revised illumination conduit plans and the adjustment in pay items and quantities for the revised illumination plans.

C. EFFECT OF CHANGE

This change order will have the following effect on the cost of this project:

<i>ITEM NO.</i>	<i>ITEM DESCRIPTION</i>	<i>CURRENT QUANTITY</i>	<i>REVISED QUANTITY</i>	<i>UNIT</i>	<i>UNIT PRICE</i>	<i>AMOUNT OF CHANGE</i>
	FEDERAL PARTICIPATION					
23	Drill Shaft (30")	440	505.29	L.F.	\$124.00	\$8,095.96
60	Conc. Med. Mono Nose	22	67	S.Y.	\$75.00	\$3,375.00
91	Diodgrd Eros. Ctrl. Logs (12" Dia.)	2,976	3,276	L.F.	\$2.40	\$720.00
	SUB-TOTAL:					\$12,190.96
	CITY OF PLANO					
92	Condt (PVC)(SCHD 40)(2")	6,990	6,115	L.F.	\$4.30	-\$3,762.50
93	Condt (PVC)(SCHD 40)(2")(BORE)	845	1,181	L.F.	\$14.65	\$4,922.40
100	8" PVC DR-18 C900 Pipe	56	57	L.F.	\$75.00	\$75.00
101	6" PVC DR-14 C900 Pipe	24	26	L.F.	\$71.00	\$142.00
102	Adust Exist MH to Prop Grade	2	4	EA.	\$1,000.00	\$2,000.00
108	Condt (PVC)(SCHD 80)(2")	0	120	L.F.	\$6.85	\$822.00
109	Street Lt Base (OnCor)	0	18	EA.	\$1,200.00	\$21,600.00
110	Street Lt Base (CoServe)	0	8	EA.	\$1,400.00	\$11,200.00
111	Elect Pull Box (OnCor)	0	11	EA.	\$600.00	\$6,600.00
	SUB-TOTAL:					\$43,598.90
	TOTAL:					\$55,789.86

Original Contract Amount	<u>\$ 2,132,270.05</u>
Contract Amount (Including Previous Change Orders)	<u>\$ 2,168,824.35</u>
Amount, Change Order No. 2	<u>\$ 55,789.86</u>
Revised Contract Amount	<u>\$ 2,224,614.21</u>
Total Percent Increase Including Previous Change Orders	<u>4.33%</u>

D. EFFECT OF CHANGE ON CONTRACT TIME

The work required under this change order will add **20** day(s) to this project:

Original Contract Time	<u>200 working days</u>
Amount (Including Previous Change Orders)	<u>240 working days</u>
Amount, Change Order No. 2	<u>20 working days</u>
Revised Contract Time	<u>260 working days</u>
Total Percent Increase Including Previous Change Orders	<u>30.00%</u>

CONTINUED ON NEXT PAGE

E. AGREEMENT

By the signatures below, duly authorized agents of the **CITY OF PLANO, TEXAS**, and **TISEO PAVING COMPANY**, do hereby agree to append this Change Order No. 2 to the original contract between themselves, dated December 14, 2009.

**OWNER:
CITY OF PLANO**

**CONTRACTOR:
TISEO PAVING COMPANY**

By: _____
(signature)

By: _____
(signature)

Print
Name: Thomas H. Muehlenbeck

Print
Name: Robert Caudill

Print
Title: City Manager

Print
Title: Vice President

Date: _____

Date: _____

APPROVED AS TO FORM:

By: _____
Diane C. Wetherbee, City Attorney

ACKNOWLEDGMENTS

STATE OF TEXAS §
§
COUNTY OF DALLAS §

This instrument was acknowledged before me on the _____ day of _____, 2010, by **ROBERT CAUDILL, VICE PRESIDENT** of **TISEO PAVING COMPANY** a **TEXAS** corporation, on behalf of said corporation.

Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2010, by **THOMAS H. MUEHLENBECK, CITY MANAGER** of the **CITY OF PLANO, TEXAS**, a Home-Rule Municipal Corporation, on behalf of said municipal corporation.

Notary Public, State of Texas



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		06/28/10		
Department:		Purchasing		
Department Head		Mike Ryan		
Agenda Coordinator (include phone #): Sharron Mason x7247				
CAPTION				
<p>A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an agreement by and between the City of Plano, Texas and Alcatel-Lucent USA, Inc., a sole source provider, to purchase services and products related to microwave radio systems for 3 additional tower sites that will interface with the existing Alcatel-Lucent Digital Microwave Loop in the amount of \$472,826; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.</p>				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR: 2009-10	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	722,859	15,777,141	7,500,000	24,000,000
Encumbered/Expended Amount	-722,859	-15,210,029	0	-15,932,888
This Item	0	-472,826	0	-472,826
BALANCE	0	94,286	7,500,000	7,594,286
FUND(S): TECHNOLOGY IMPROVEMENTS (CO'S/TAX NOTES)				
<p>COMMENTS: Funds are available from the 2008 and 2009 sale of Tax Notes and 2010 sale of Certificates of Obligation. This item, in the amount of \$472,826, will leave a current year allocation of \$94,286 for the Radio System Infrastructure Replacement project.</p> <p>STRATEGIC PLAN GOAL: Additional equipment for the upgrade and replacement of the existing microwave system for the radio system infrastructure replacement project relates to the City's Goals of Financially Strong City with Service Excellence and Safe Large City.</p>				
SUMMARY OF ITEM				
<p>Staff requests Council approval of an agreement between the City of Plano, Texas and Alcatel-Lucent USA, Inc. to purchase services and products related to microwave radio systems for 3 additional tower sites (School House, Communication Parkway and Radio Shop) that will interface with the existing Alcatel-Lucent Digital Microwave Loop for the City of Plano in the amount not to exceed \$472,826.00. City of Plano assigned Contract No. 2009-187-C.</p>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Resolution and Contract				

A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an agreement by and between the City of Plano, Texas and Alcatel-Lucent USA, Inc., a sole source provider, to purchase services and products related to microwave radio systems for 3 additional tower sites that will interface with the existing Alcatel-Lucent Digital Microwave Loop in the amount of \$472,826.00; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.

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

WHEREAS, The City Council has been presented a proposed Interlocal Cooperation Agreement for three tower sites that will interface with the existing Alcatel-Lucent Digital Microwave Loop for Municipal Services by and between the City of Plano, Texas, a substantial copy of which is attached hereto as **Exhibit "A"** and incorporated herein by reference (hereinafter called "Agreement"); and

WHEREAS, upon full review and consideration of the Agreement, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions of the Agreement should be approved, and that the City Manager or his authorized designee execute the Agreement on behalf of the City of Plano;

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

Section I. The terms and conditions of the Agreement, having been reviewed by the City Council of the City of Plano, are hereby in all things approved.

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

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

DULY PASSED AND APPROVED this the 28th day of June, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

**CONTRACT BY AND BETWEEN CITY OF PLANO, TEXAS AND
ALCATEL-LUCENT USA INC.
2009-187-C**

THIS CONTRACT is made and entered by and between **ALCATEL-LUCENT USA INC.**, a Delaware corporation, whose address is 660 Data Drive, Plano, Texas 75075, hereinafter referred to as "Contractor" and the **CITY OF PLANO, TEXAS**, a Home-Rule Municipal Corporation, hereinafter referred to as "City", to be effective upon approval of the Plano City Council and subsequent execution of this Contract by the Plano City Manager or his duly authorized designee.

Alcatel-Lucent USA Inc. is the sole source provider of services and products to be provided for a microwave radio system and this purchase is exempt from competitive bid as provided for in V. T.C.A., *Local Government Code, Section 252.022(a)(7)*.

For and in consideration of the covenants and agreements contained herein, and for the mutual benefits to be obtained hereby, the parties agree as follows:

**I.
SCOPE OF SERVICES**

The parties agree that Contractor shall perform such services as are further described in the Statement of Work attached hereto and incorporated herein as **Exhibit "A"**. The parties understand and agree that deviations or modifications in the Statement of Work may be authorized from time to time by City, but said authorization must be made in writing and signed by all parties.

The Contract consists of this written agreement and the following items which are attached hereto and incorporated herein by reference:

- (a) Statement of Work (**Exhibit "A"**); and
- (b) Tentative Timeline and Milestone Payment Information (**Exhibit "B"**); and
- (c) Pricing Summary (**Exhibit "C"**); and
- (d) Insurance Requirements (**Exhibit "D"**); and
- (e) Insurance Certificate (**Exhibit "E"**); and
- (f) Affidavit of No Prohibited Interest (**Exhibit "F"**); and
- (g) Payment and Performance Bonds (**Exhibit "G"**).

These documents make up the Contract documents and what is called for by one shall be as binding as if called for by all. In the event of an inconsistency or conflict in any of the provisions of the Contract documents, the inconsistency or conflict shall be resolved by giving precedence first to the written agreement then to the contract

documents in the order in which they are listed above. These documents shall be referred to collectively as "Contract Documents."

II. TIME OF COMPLETION

Contractor agrees and covenants that all work hereunder shall be completed in accordance with the terms set out in the Tentative Timeline and Milestone Payment Information document attached hereto as **Exhibit "B"** and made a part hereof.

III. WARRANTY

Alcatel-Lucent warrants to City that, for the applicable warranty period set forth herein, (a) Equipment and Software media purchased hereunder and manufactured by Alcatel-Lucent (including those manufactured for Alcatel-Lucent by a contract manufacturer and based on Alcatel-Lucent's specification), under normal use and service, will be free from defects in material and workmanship; (b) Equipment and Software will materially conform to Alcatel-Lucent's specifications in effect on the date of acceptance; and (c) Services will be performed in a professional and workmanlike manner. However, Alcatel-Lucent makes no warranty that any Software will operate uninterrupted or error free. With respect to Products or partial assembly of Products furnished by Alcatel-Lucent but not manufactured by Alcatel-Lucent, Alcatel-Lucent hereby assigns, to the extent permitted, the warranties given to Alcatel-Lucent by its vendors of such items.

The warranty periods applicable to Alcatel-Lucent Equipment and Software are 12 months and 90 days, respectively, other than the Digital Microwave Equipment that has a 36 month warranty. The warranty period for Equipment and Software begins on the date of shipment except if Alcatel-Lucent performs installation Services for any Equipment or Software, in which case the warranty period begins on the date of Acceptance. The warranty period for Services is 30 days from the date of completion.

If any Equipment is not as warranted in this Article, then (a) City shall obtain from Alcatel-Lucent a return authorization number, and return the Equipment at its expense, together with the authorization number and a detailed description of the problem, to Alcatel-Lucent's designated repair facility; and (b) Alcatel-Lucent shall repair or replace the Equipment and return it at Alcatel-Lucent's expense to City's point of shipment. Alcatel-Lucent shall assume the risk of loss or damage to any Equipment returned to Alcatel-Lucent for repair or replacement from receipt thereof until delivery to City's point of shipment. If any Software is not as warranted in this Article, then, upon notice from City, Alcatel-Lucent shall correct the Software by (c) electronic means or (d) delivery to City of suitable media chosen solely by Alcatel-Lucent. If Alcatel-Lucent ascertains that Equipment is not readily returnable for repair, then at its option, Alcatel-Lucent may elect to repair or replace the Equipment at City's site. In such instances, City, at its

expense, shall make the Equipment accessible for repair or replacement and shall restore the site after Alcatel-Lucent has completed its repair or replacement. If, Alcatel-Lucent determines that it cannot, in a commercially reasonable manner, (i) repair or replace any Equipment, (ii) correct any Software, or (iii) correct any Services, then Alcatel-Lucent may, in its sole discretion, refund to City the Price of the Product or Services, less a reasonable adjustment for beneficial use. In repairing or replacing any Equipment, part of Equipment, or Software medium under this warranty, Alcatel-Lucent may use new, remanufactured, reconditioned, refurbished, or functionally equivalent Equipment, parts of Equipment, or Software medium. For any Equipment or parts thereof repaired, replaced or corrected under this Article, the warranty period applicable to the Equipment will continue for the longer of (iv) the remainder of the original warranty period or (v) 90 days after the date of shipment of the repaired or replaced Equipment. The warranty period for the corrected Software via fixes and/or patches will be the remaining period of the original warranty period.

Notwithstanding any provision of this Agreement to the contrary, Alcatel-Lucent has no obligation to repair or replace any Equipment, correct any Software, or correct any Services if (a) the Product or any Software has been modified, repaired or reworked by anyone other than Alcatel-Lucent; or (b) the defect is the result of (i) any improper storage, handling or use by anyone other than Alcatel-Lucent, (ii) failure to provide a suitable climatic environment, (iii) operator error, (iv) improper installation of Equipment by anyone other than Alcatel-Lucent, (v) use in a manner not in accordance with the Documentation, (vi) failure to implement any new releases or update to the Software, (vii) any use of the Product in conjunction with another non-Alcatel-Lucent product (except to the extent provided in the Documentation), (viii) consumable items, including fuses, light bulbs, motor brushes and the like, (ix) Products which have had their serial numbers or month and year of manufacture removed, altered, defaced, or deleted, or (x) any damage by power failure, fire, explosion or any act of God or other cause beyond Alcatel-Lucent's control. The warranties set forth in this Article are nontransferable.

Warranty does not include: Alcatel-Lucent assisting in diagnostic efforts; access to Alcatel-Lucent's technical support web sites, databases, or tools; Product integration; on-site assistance; or Documentation updates. These Services are available during and after the warranty period at Alcatel-Lucent's published prices.

EXCEPT AS PROVIDED OTHERWISE HEREIN, THE LIMITED WARRANTY SET FORTH IN THIS ARTICLE FOR PRODUCTS AND SERVICES IS THE EXCLUSIVE WARRANTY. ALCATEL-LUCENT DISCLAIMS ALL OTHER WARRANTIES IMPLIED OR STATUTORY INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. THE REMEDY PROVIDED UNDER THIS SECTION THIS IS CITY'S EXCLUSIVE REMEDY FOR FAILURE OF PRODUCTS OR SERVICES TO CONFORM TO THE WARRANTY.

**IV.
PAYMENT**

Total compensation for Contractor's work on the Project shall be in an amount not to exceed the sum of **FOUR HUNDRED SEVENTY TWO THOUSAND EIGHT HUNDRED TWENTY SIX AND NO/100 DOLLARS (\$472,826.00)** as set out in **Exhibit "C"**.

All payments for goods and services will be processed within 30 days after the goods are provided, the services completed, or a correct invoice is received, whichever is later, in accordance with the Texas "prompt payment law".

Contractor recognizes that this Contract shall commence upon the effective date herein and continue in full force and effect until termination in accordance with its provisions. Contractor and City herein recognize that the continuation of any contract after the close of any given fiscal year of the City of Plano, which fiscal year ends on September 30th of each year, shall be subject to Plano City Council approval. In the event that the Plano City Council does not approve the appropriation of funds for this contract, the Contract shall terminate at the end of the fiscal year for which funds were appropriated and the parties shall have no further obligations hereunder.

**V.
PAYMENT AND PERFORMANCE BOND**

In the event this Contract amount exceeds \$25,000.00, a Payment bond in the amount of not less than one hundred percent (100%) of the Contract amount, conditioned upon the payment of all persons supplying labor or furnishing materials pursuant to the contract is required upon a form provided by City. In the event this Contract amount exceeds \$100,000.00, a Performance Bond in the amount of not less than one hundred and fifteen percent (115%) of the Contract amount, conditioned upon the faithful performance of the Contract, is required upon a form provided by City. The bonds are attached hereto and incorporated herein as **Exhibit "G"**.

**VI.
PROTECTION AGAINST ACCIDENT TO EMPLOYEES AND THE PUBLIC**

Contractor shall at all times exercise reasonable precautions for the safety of employees and others on or near the work and shall comply with all applicable provisions of Federal, State, and Municipal safety laws. The safety precautions actually taken and the adequacy thereof shall be the sole responsibility of the Contractor. Contractor shall indemnify City for any and all losses arising out of or related to a breach of this duty by Contractor pursuant to section **VIII. INDEMNIFICATION** and section **XV. COMPLIANCE WITH APPLICABLE LAWS** set forth herein.

**VII
LOSSES FROM NATURAL CAUSES**

Unless otherwise specified, all loss or damage to Contractor arising out of the nature of the work to be done, or from the action of the elements, or from any unforeseen circumstances in the prosecution of the same, or from unusual obstructions or difficulties which may be encountered in the prosecution of the work, shall be sustained and borne by the Contractor at its own cost and expense.

**VIII.
INDEMNIFICATION**

THE CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY AND ITS RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE, INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS (INCLUDING PATENT, COPYRIGHT AND TRADEMARK INFRINGEMENT) OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY CONTRACTOR'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE CONTRACTOR IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF CITY, AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS. CITY DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY OR OTHER DEFENSES AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

CONTRACTOR AT ITS OWN EXPENSE IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS. 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 AGREEMENT. CONTRACTOR SHALL RETAIN DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF CONTRACTOR FAILS TO RETAIN COUNSEL WITHIN THE REQUIRED 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.

IN ADDITION TO CONTRACTOR'S INTELLECTUAL PROPERTY INFRINGEMENT INDEMNIFICATION AND DEFENSE REQUIREMENTS HEREIN, IF AN INFRINGEMENT CLAIM OCCURS, OR IN CONTRACTOR'S OPINION IS LIKELY TO OCCUR, CONTRACTOR SHALL, AT ITS EXPENSE: (A) PROCURE FOR CITY THE RIGHT TO CONTINUE USING THE PRODUCT; (B) REPLACE OR MODIFY THE PRODUCT SO THAT IT BECOMES NON-INFRINGEMENT WHILE PROVIDING FUNCTIONALLY EQUIVALENT PERFORMANCE; OR (C) ACCEPT THE RETURN OF THE PRODUCT AND GRANT CITY A REIMBURSEMENT FOR THE PRODUCT. CONTRACTOR WILL PROCEED UNDER SUBSECTION (C) ABOVE ONLY IF SUBSECTIONS (A) AND (B) PROVE TO BE COMMERCIALY UNREASONABLE.

THE INTELLECTUAL PROPERTY INFRINGEMENT INDEMNIFICATION HEREIN APPLIES TO ALL PRODUCTS PROVIDED, SUPPLIED OR SOLD UNDER THIS AGREEMENT BY CONTRACTOR TO CITY WHETHER MANUFACTURED BY CONTRACTOR OR A THIRD PARTY. CONTRACTOR REPRESENTS THAT, TO THE BEST OF ITS KNOWLEDGE, CITY'S USE OF PRODUCTS THAT ARE PROVIDED SUPPLIED, OR SOLD BY CONTRACTOR TO CITY AS PART OF THIS AGREEMENT DOES NOT CONSTITUTE AN INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS AND CITY HAS THE LEGAL RIGHT TO USE SAID PRODUCTS. CITY ENTERS INTO THIS AGREEMENT RELYING ON THIS REPRESENTATION.

THE INDEMNIFICATION HEREIN SURVIVES THE TERMINATION OF THE CONTRACT AND/OR DISSOLUTION OF THIS AGREEMENT INCLUDING ANY INFRINGEMENT CURE PROVIDED BY THE CONTRACTOR PURSUANT TO PARAGRAPH 3 IN THE HEREIN INDEMNIFICATION SECTION.

IX. LIMITATION OF LIABILITY

Alcatel-Lucent and City acknowledge that they have negotiated the Price (among other things) in consideration of their agreement to limit certain of Alcatel-Lucent's liabilities. In no event is Alcatel-Lucent or any of its suppliers or licensors liable for any indirect, special, exemplary, consequential or incidental damages (including lost profits, lost revenues and other economic losses),

however caused and regardless of whether such damages are foreseeable or whether Alcatel-Lucent has been advised of their possibility.

Except for a claim for personal injury, loss of life and/or property damage caused in whole or in part, directly or indirectly by Alcatel-Lucent, Alcatel-Lucent's liability will be limited to actual damages. **ALCATEL-LUCENT'S CUMULATIVE LIABILITY FOR ALL CLAIMS, LOSSES, DAMAGES AND EXPENSES, EXCEPT FOR CLAIMS FOR PERSONAL INJURY, LOSS OF LIFE AND/OR PROPERTY DAMAGE, OF CITY ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL NOT EXCEED THREE TIMES THE CONTRACT VALUE.**

X. INSTALLATION, VERIFICATION AND ACCEPTANCE

If Alcatel-Lucent performs installation Services for any Product, then, upon completion of the installation, Alcatel-Lucent shall perform its acceptance tests for the Product in accordance with the Project Specific Statement of Work, Articles 7.5 HOP Acceptance and 8.0 Acceptance Plan. City may witness these verification tests. When Alcatel-Lucent has completed all of its verification tests for any Product to the satisfaction of Alcatel-Lucent and City, then Alcatel-Lucent shall deliver to City an Equipment and Software Verification certificate. Upon receipt of this certificate, (a) the Product shall be deemed to have been accepted by City, and (b) any failure by Alcatel-Lucent to perform the related installation Services in accordance with this Agreement shall be deemed to have been waived. If City undertakes any commercially beneficial use of any Product prior to the completion of Alcatel-Lucent's verification tests, then (a) the Product shall be deemed to have been accepted by City, and (b) the failure by Alcatel-Lucent to perform the related installation Services in accordance with this Agreement shall be deemed to have been waived.

If Alcatel-Lucent does not perform installation Services for any Product, then the Product shall be deemed to have been accepted by City when the related risk of loss or damage passes to City under this Agreement.

Documentation shall be deemed to have been accepted by City when the related risk of loss or damage passes to City under this Agreement.

XI. SOFTWARE

Upon delivery of any Software, Alcatel-Lucent grants to City, and City accepts, a nonexclusive, nontransferable license to use the portions of the Software (including any methods or concepts utilized therein) for which activation has been authorized by Alcatel-Lucent, solely on or with a single unit or arrangement of Equipment for which the Software was delivered. City may make one copy of any Software for backup and

archival purposes if the copy contains all of the Alcatel-Lucent proprietary notices contained in the original Software. All copies of all Software shall be Confidential Information. If Alcatel-Lucent modifies, updates or replaces any Software, or if City discontinues the use of any Product, then, within 30 days thereafter, City shall deliver to Alcatel-Lucent, or certify in writing to Alcatel-Lucent the destruction of, all Software superseded or discontinued as a result thereof.

XII. CONFIDENTIAL INFORMATION

Notwithstanding anything provisions contained in this section, City may disclose Confidential Information in accordance with applicable law.

If Alcatel-Lucent delivers to City any information or data marked or identified as confidential or proprietary ("Confidential Information") including software, then City shall not (a) disclose or otherwise make available the Confidential Information to any third party (except that City may disclose the Confidential Information to Alcatel-Lucent to the extent that they have a need to know the Confidential Information in connection with the operation and/or maintenance of any Product for City, provided, however, that prior to the disclosure, the Alcatel-Lucent has agreed in writing to treat the Confidential Information as confidential in accordance with the terms and conditions City' herein), (b) modify, copy, transmit, alter, merge, decompile, disassemble, reverse engineer or adapt any portion of the Confidential Information (except to the extent otherwise expressly permitted by this Agreement) or (c) use the Confidential Information for any purpose except to operate and maintain any Product.

Subject to notification requirements specified in applicable Public Records or Public Meetings laws, City further agrees that Alcatel-Lucent will be provided with Notice, in the event that release of this Agreement or any Confidential Information has been requested. If a public disclosure of Confidential Information is requested. City shall notify Alcatel-Lucent in writing of such request. Alcatel-Lucent may seek a protective order, at its own expense and in a court of competent jurisdiction. City will reasonably cooperate with Alcatel in such action, but is under no obligation to obtain or seek any court protection.

The rights and obligations of City under this Article shall survive the expiration of the term or sooner termination of this Agreement.

XIII. EXPORT CONTROL

The parties agree that each shall not export, re-export or release technology, including confidential information, software object and/or source code, (collectively, "Controlled Technology") which may be subject to either the U.S. Export Administration Regulations (the "EAR") or the Canadian Export and Import Permits Act ("CEIPA"), either directly or indirectly, unless the exporting or re-exporting party has first obtained any required licenses which may be required under the EAR and/or the CEIPA. The parties further agree that each shall not export or re-export either directly or indirectly Controlled Technology under the license exception "TSR" as defined in Part 740 of the EAR to third parties or nationals shown in Supplement 1 of Part 740 who are members of or associated with either Country Group D:1 or Country Group E:2, as amended. Each party shall be solely responsible for obtaining the appropriate licenses required under the EAR and/or the CEIPA.

XIV. DELIVERY AND RISK OF LOSS

Care, custody and control of and risk of loss with respect to the project including responsibility for products and services associated with the scope of work shall remain solely with the Contractor until final acceptance of the project by City.

XV. COMPLIANCE WITH APPLICABLE LAWS

Contractor shall at all times observe and comply with all Federal, State and local laws, ordinances and regulations including all amendments and revisions thereto, which in any manner affect Contractor or the work, and **shall indemnify and save harmless City against any claim related to or arising from the violation of any such laws, ordinances and regulations whether by Contractor, its employees, officers, agents, subcontractors, or representatives.** If Contractor observes that the work is at variance therewith, Contractor shall promptly notify City in writing.

XVI. ASSIGNMENT AND SUBLETTING

Contractor agrees to retain control and to give full attention to the fulfillment of this Contract, that this Contract shall not be assigned or sublet without the prior written consent of City, and that no part or feature of the work will be sublet to anyone objectionable to City. Contractor further agrees that the subletting of any portion or feature of the work, or materials required in the performance of this Contract, shall not relieve Contractor from its full obligations to City as provided by this Contract.

XVII.
INDEPENDENT CONTRACTOR

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

XVIII.
INSURANCE AND CERTIFICATES OF INSURANCE

Contractor shall procure and maintain for the duration of the contract for the benefit of each of City (naming each City and its officers, agents and employees as additional insureds) insurance coverage as set forth in the Insurance Requirements marked **Exhibit "D"** attached hereto and incorporated herein by reference. Contractor shall provide a signed insurance certificate for City verifying that the Contractor has obtained the required insurance coverage for City prior to the effective date of this Contract. Insurance Certificates for City are attached as **Exhibit "E"**.

XIX.
HINDRANCES AND DELAYS

No claims shall be made by Contractor for damages resulting from hindrances or delays from any cause during the progress of any portion of the work embraced in this Contract.

XX.
AFFIDAVIT OF NO PROHIBITED INTEREST

Contractor acknowledges and represents it is aware of all applicable laws, each City's Charter, and each City's Code of Conduct regarding prohibited interests and that the existence of a prohibited interest at any time will render the Contract voidable. Contractor has executed the Affidavit of No Prohibited Interest required by City of Plano, as attached and incorporated herein as **Exhibit "F"**.

**XXI.
SEVERABILITY**

The provisions of this Contract are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Contract is for any reason held to be contrary to the law or contrary to any rule or regulation having the force and effect of the law, such decisions shall not affect the remaining portions of the Contract. However, upon the occurrence of such event, either party may terminate this Contract by giving the other party thirty (30) days written notice.

**XXII.
TERMINATION**

City may, at its option, with or without cause, and without penalty or prejudice to any other remedy it may be entitled to at law, or in equity or otherwise under this Contract, terminate further work under this contract, in whole or in part by giving at least thirty (30) days prior written notice thereof to Contractor with the understanding that all services being terminated shall cease upon the date such notice is received.

**XXIII.
ENTIRE AGREEMENT**

This Contract and its attachments embody the entire agreement between the parties and may only be modified in writing if executed by both parties.

**XXIV.
CONTRACT INTERPRETATION**

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

**XXV.
SUCCESSORS AND ASSIGNS**

This Contract shall be binding upon the parties hereto, their successors, heirs, personal representatives and assigns.

**XXVI.
NOTICES**

Unless notified otherwise in writing, all notices, including notice of disputes, claims and controversies, are required to be given to the parties in writing and delivered

in person or sent via certified mail to the other parties at the following respective addresses:

Plano Representative:
CITY OF PLANO
Director of Public Safety Communications
1520 K Avenue, Suite 010
Plano Texas 75074
(972) 941-7930

XXVII. IMMUNITY

In the execution of this Agreement, City waives, nor shall be deemed hereby to have waived any immunity or any legal or equitable defense otherwise available against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the parties do not create any obligations, express or implied, other than those set forth herein, and this Agreement does not create any rights in parties who are not signatories to this Agreement.

XXVIII. DISPUTE RESOLUTION

In the event of a dispute regarding any aspect of this Agreement, the parties shall refer the dispute to outside non-binding mediation for resolution prior to engaging in litigation. All parties shall share equally in the cost of a certified mediator and each party shall be responsible for their own attorney fees.

XXIX. HEADINGS

The headings of this Contract are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

XXX. GOVERNING LAW

This Agreement shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be in the State District Court of Collin County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said Court.

**XXXI.
COUNTERPARTS**

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

**XXXII.
EXHIBITS**

Any exhibits to this Agreement are incorporated herein by reference for the purposes wherever reference is made to the same.

**XXXIII.
SURVIVAL OF COVENANTS**

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

IN WITNESS WHEREOF, the parties have executed this Contract by signing below.

**ALCATEL-LUCENT USA INC., a
Delaware corporation**

DATE: _____

By: _____
Name: _____
Title: _____
Address: _____

CITY OF PLANO, TEXAS

DATE: _____

By: _____

Thomas H. Muehlenbeck
CITY MANAGER
Address: P. O. Box 860358
Plano, TX 75086-0358

APPROVED AS TO FORM:

Diane C. Wetherbee, City Attorney

ACKNOWLEDGMENTS

STATE OF _____ §

COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 20____, by _____, _____ of **ALCATEL-LUCENT USA INC.**, a Delaware corporation, on behalf of said corporation.

Notary Public, State of _____

STATE OF TEXAS §

COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 20____, by **THOMAS H. MUEHLENBECK**, City Manager, of the **CITY OF PLANO, TEXAS**, a Home-Rule Municipal Corporation, on behalf of said municipal corporation.

Notary Public, State of Texas

Statement of Work is available for review in the City's Radio Shop



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		6/28/10		
Department:		Finance		
Department Head		Denise Tacke		
Agenda Coordinator (include phone #): Katherine Crumbley - 7479				
CAPTION				
A Resolution of the City Council of the City of Plano, Texas designating authorized representatives and investment officers of the City of Plano to transact business with TexPool/TexPool Prime, public funds investment pool; 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:	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: This item has no fiscal impact.				
SUMMARY OF ITEM				
This resolution approves the City of Plano's participation in TexPool, a public funds investment pool.				
List of Supporting Documents: Resolution			Other Departments, Boards, Commissions or Agencies	

A Resolution of the City Council of the City of Plano, Texas designating authorized representatives and investment officers of the City of Plano to transact business with TexPool/TexPool Prime, public funds investment pool; and providing an effective date.

WHEREAS, the City of Plano, Texas, ("Participant") is a local government of the State of Texas which has delegated to TexPool/TexPool Prime, public funds investment pool, the authority to invest funds and to act as custodian of investments purchased with local investment funds; and

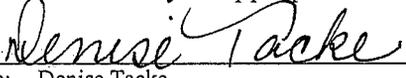
WHEREAS, it is necessary to designate, by Resolution, the Authorized Representatives of the Participant who are authorized to transmit funds for investment in TexPool/TexPool Prime and who are authorized to withdraw funds from time to time, to issue letters of instruction, and to take other actions deemed necessary or appropriate for the investment of local funds.

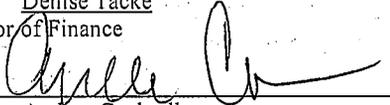
NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

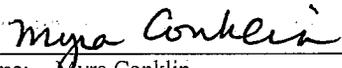
Section I. The individuals, whose signatures appear in this Resolution, are Authorized Representatives of the Participant and are each hereby authorized to transmit funds for investment in TexPool/TexPool Prime and are each further authorized to withdraw funds from time to time, to issue letters of instruction, and to take all other actions deemed necessary or appropriate for the investment of local funds

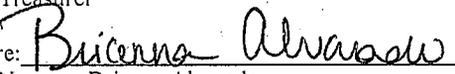
Section II. An Authorized Representative of the Participant may be deleted by a written instrument signed by all remaining Authorized Representatives provided that the deleted Authorized Representative (1) is assigned job duties that no longer require access to the Participant's TexPool/TexPool Prime account or (2) is no longer employed by the Participant.

Section III. The following officers, officials or employees of the City of Plano are hereby designated as "Authorized Representatives" with full power and authority to transmit funds for investment in TexPool/TexPool Prime, deposit money and withdraw money from the City of Plano's TexPool/TexPool Prime account from time to time, to issue letters of instruction, and to take all other actions deemed necessary or appropriate for the investment of local funds of the City of Plano.

Signature: 
Printed Name: Denise Tacke
Title: Director of Finance

Signature: 
Printed Name: Andrea Cockrell
Title: Controller

Signature: 
Printed Name: Myra Conklin
Title: Treasurer

Signature: 
Printed Name: Brianna Alvarado
Title: Treasury Analyst

In accordance with TexPool/TexPool Prime procedures, an Authorized Representative shall promptly notify TexPool/TexPool Prime in writing of any changes in who is serving as Authorized Representatives.

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

DULY PASSED AND APPROVED this the 28th day of June, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		6/28/10		
Department:		Finance		
Department Head		Denise Tacke		
Agenda Coordinator (include phone #): Katherine Crumbley - 7479				
CAPTION				
A Resolution of the City Council of the City of Plano, Texas designating authorized representatives and investment officers of the City of Plano to transact business with TexasTERM and TexasDAILY, public funds investment pools; 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:	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: This item has no fiscal impact.				
SUMMARY OF ITEM				
This resolution authorizes the investment of public funds in the TexasTerm or TexasDaily reinvestment pool by authorized City of Plano representatives.				
List of Supporting Documents: Resolution			Other Departments, Boards, Commissions or Agencies	

A Resolution of the City Council of the City of Plano, Texas designating authorized representatives and investment officers of the City of Plano to transact business with TexasTERM and TexasDAILY, public funds investment pools; and providing an effective date.

WHEREAS, the City of Plano, Texas, ("Participant") is a local government of the State of Texas which has delegated to TexasTERM and TexasDAILY, public funds investment pools, the authority to invest funds and to act as custodian of investments purchased with local investment funds; and

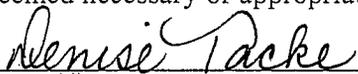
WHEREAS, it is necessary to designate, by Resolution, the Authorized Representatives of the Participant who are authorized to transmit funds for investment in TexasTERM and TexasDAILY and who are authorized to withdraw funds from time to time, to issue letters of instruction, and to take other actions deemed necessary or appropriate for the investment of local funds.

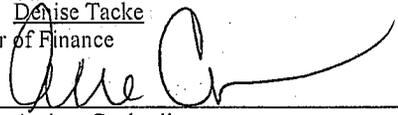
NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

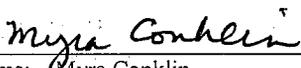
Section I. The individuals, whose signatures appear in this Resolution, are Authorized Representatives of the Participant and are each hereby authorized to transmit funds for investment in TexasTERM and TexasDAILY and are each further authorized to withdraw funds from time to time, to issue letters of instruction, and to take all other actions deemed necessary or appropriate for the investment of local funds

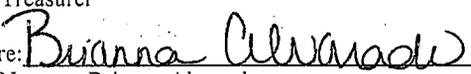
Section II. An Authorized Representative of the Participant may be deleted by a written instrument signed by all remaining Authorized Representatives provided that the deleted Authorized Representative (1) is assigned job duties that no longer require access to the Participant's TexasTERM or TexasDAILY account or (2) is no longer employed by the Participant.

Section III. The following officers, officials or employees of the City of Plano are hereby designated as "Authorized Representatives" with full power and authority to transmit funds for investment in TexasTERM and TexasDAILY, deposit money and withdraw money from the City of Plano's TexasTerm or TexasDaily account from time to time, to issue letters of instruction, and to take all other actions deemed necessary or appropriate for the investment of local funds of the City of Plano.

Signature: 
Printed Name: Denise Tacke
Title: Director of Finance

Signature: 
Printed Name: Andrea Cockrell
Title: Controller

Signature: 
Printed Name: Myra Conklin
Title: Treasurer

Signature: 
Printed Name: Brianna Alvarado
Title: Treasury Analyst

In accordance with TexasTERM and TexasDAILY procedures, an Authorized Representative shall promptly notify TexasTERM or TexasDAILY in writing of any changes in who is serving as Authorized Representatives.

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

DULY PASSED AND APPROVED this the 28th day of June, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY	
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory	
Council Meeting Date:	6/28/2010
Department:	Public Works & Engineering
Department Head:	Alan L. Upchurch
Agenda Coordinator (include phone #): Irene Pegues Project No.5737	

CAPTION

A resolution of the City Council of The City of Plano, approving the revised terms and conditions of an Interlocal Cooperative agreement between the North Central Texas Council of Governments (NCTCOG) and the City of Plano, for a Local Air Quality Bicycle/Pedestrian Regional Connection Project, and authorizing it's execution by the City Manager or his authorized designee, and providing an effective date.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2009-10	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): STREET IMPROVEMENT CIP

Comments: This item allows the City to enter into an interlocal agreement with North Central Texas Council of Governments (NCTCOG) for the Park Blvd/US 75 Pedestrian Crossing project. If this request is approved, the City of Plano will remit to NCTCOG \$304,175 as the retained local match and North Central Texas Council of Governments will reimburse \$1,322,500 to the City (\$1,018,325 is the NCTCOG portion) for Park Blvd Bicycle/Pedestrian Connections.

STRATEGIC PLAN GOAL: Interlocal agreements for bicycle and pedestrian connections relate to the City's Goals of Financially Strong City with Service Excellence and Great Neighborhoods – 1st Choice to Live.

SUMMARY OF ITEM

The attached resolution will authorize the City Manager to execute the Interlocal Cooperative Agreement with NCTCOG to provide funding for the construction of a pedestrian/bicycle trail, which will vary between 8 feet and 12 feet in width, to run from the existing Chisholm Trail on Spring Creek, along the north side of Park Boulevard, over US 75 to the Parker Road DART Rail station on Archerwood Street.

The agreement and funding was previously approved by the Council on September 28, 2009 through Resolution Number 2009-9-23-(R) but was never executed and the scope of work for the project has since been revised. The department is seeking approval of the revised terms of the agreement.

The total cost of this project is \$1,322,500.00. NCTCOG will provide up to 77% or \$1,018,325.00 of the cost of this project. The City will commit to 23% or \$304,175.00 of the estimated total cost of the project. The City will make two separate payments to NCTCOG. The first payment of \$30,417.00 is to be made before design starts.

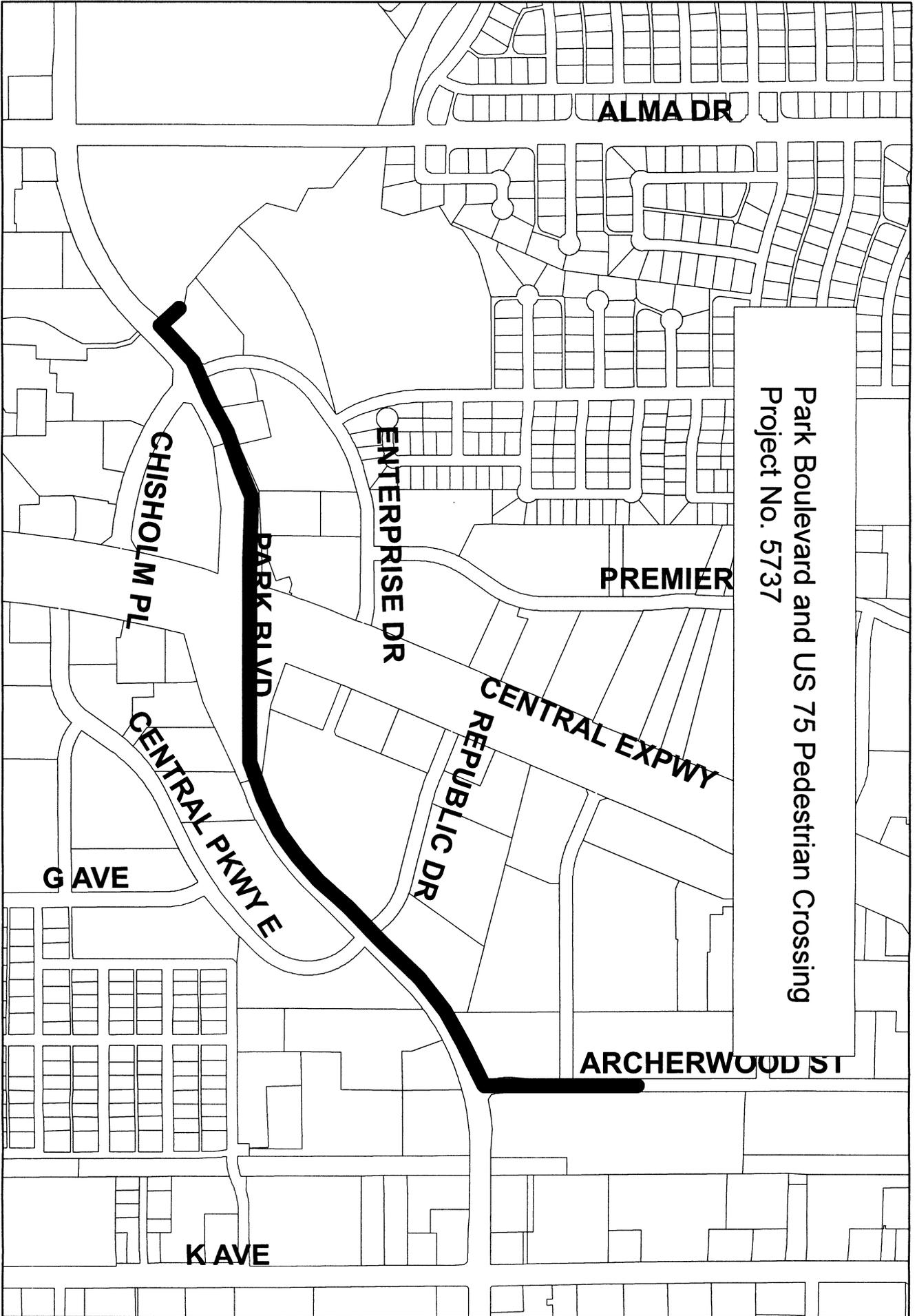


**CITY OF PLANO
COUNCIL AGENDA ITEM**

The second payment of \$273,758.00 is to be made before construction starts.

List of Supporting Documents:
Location Map; Resolution

Other Departments, Boards, Commissions or Agencies
N/A



Park Boulevard and US 75 Pedestrian Crossing
Project No. 5737

A Resolution of The City Council of The City Of Plano, Texas, approving the revised terms and conditions of an Interlocal Cooperative Agreement with the North Central Texas Council Of Governments (NCTCOG); Authorizing its execution by the City Manager or his authorized designee; and providing an effective date.

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

WHEREAS, an Interlocal agreement was approved by the City Council on September 28, 2009 through Resolution Number 2009-9-23-(R) for this project but was never executed. The scope of work for the project has changed and requires approval of a revised agreement.

WHEREAS, the City Council has been presented a revised proposed Interlocal Cooperative Agreement, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and

WHEREAS, the project to be funded in the agreement is a pedestrian/bicycle trail to run from the existing Chisholm Trail on Spring Creek to the Parker Road DART Rail station on Archerwood Street; and

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

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

Section I. The terms and conditions of the revised Interlocal Agreement with the North Central Texas Council of Governments (NCTCOG) for a pedestrian/bike trail project, have been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interest of the City of Plano and its citizens, and are hereby in all things approved.

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

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

DULY PASSED AND APPROVED the 28th day of June, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

LOCAL AIR QUALITY BICYCLE/PEDESTRIAN REGIONAL CONNECTION PROJECT

City of Plano Park Boulevard Bicycle and Pedestrian Regional Connection Project

AGREEMENT COVER SHEET

TYPE OF AGREEMENT: Implementation of Local Air Quality Project by the City of Plano.

AGREEMENT PERIOD: Signature date through closeout.

AGREEMENT AMOUNT: See Appendix A

Awarding Party

North Central Texas Council of Governments
616 Six Flags Drive, Suite 200, Center Point Two
P. O. Box 5888
Arlington, Texas 76011

Contact Person

Karla Weaver, AICP
Principal Transportation Planner
(817) 608-2376
kweaver@nctcog.org

Public Sector Sponsor

City of Plano
1520 K Avenue, Suite 250
Plano, TX 75074

Contact Person:

Mr. Gerald Cosgrove
Chief Engineer
(972) 941-7152
GeraldC@plano.gov

INTERLOCAL COOPERATIVE AGREEMENT
Between
THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS
and
CITY OF PLANO
for a
LOCAL AIR QUALITY BICYCLE/PEDESTRIAN REGIONAL CONNECTION PROJECT

WHEREAS, the North Central Texas Council of Governments (NCTCOG) has been designated as the Metropolitan Planning Organization for the Dallas-Fort Worth Metropolitan Area by the Governor of Texas in accordance with federal law; and,

WHEREAS, the Regional Transportation Council (RTC), comprised primarily of local elected officials, is the regional transportation policy body associated with NCTCOG and has been and continues to be a forum for cooperative decisions on transportation; and,

WHEREAS, it is the goal of the RTC to encourage the implementation of projects to reduce vehicle emissions that create ozone; and,

WHEREAS, on April 14, 2005, the RTC approved funding for implementation of a Local Air Quality Program in the Dallas-Fort Worth Metropolitan Area for the implementation of projects and programs that address the federal 8-hour ozone standard; and,

WHEREAS, on September 14, 2006, the RTC awarded funds to the City of Plano Bicycle/Pedestrian Regional Connection projects; and,

WHEREAS, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code provides authority for the North Central Texas Council of Governments, and the City of Plano to enter into this Agreement for the provision of governmental functions and services of mutual interest;

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. Parties

- 1.1. This Interlocal Agreement, hereinafter referred to as the "Agreement", is made and entered into by and between the North Central Texas Council of Governments, hereinafter referred to as "NCTCOG", and the Public Sector Sponsor, the City of Plano, hereinafter referred to as the "SPONSOR". NCTCOG and the SPONSOR may each be referred to as a "Party", and may be collectively referred to as "Parties" to this Agreement.

2. Terms of Agreement

- 2.1. **Scope of Service.** The SPONSOR covenants and represents to the NCTCOG that the SPONSOR shall implement Local Air Quality Bicycle/Pedestrian

Regional Connection projects as provided for in Appendix A hereinafter referred to as the “**SCOPE**”.

- 2.2. Changes to the SCOPE must be agreed to by both parties, in writing.
- 2.3. SPONSOR agrees that emissions reductions provided by each Scope Activity may be used by NCTCOG to meet air quality requirements and goals.
- 2.4. **Notice to Proceed.** A Notice to Proceed shall be issued for each Scope Activity upon receipt of Local Match payment and completion of Notice to Proceed Prerequisites as identified in the SCOPE. A Notice to Proceed shall not be issued for any Scope Activity prior to the Funding Year as identified in the SCOPE.
- 2.5. **Time of Performance.** The SPONSOR shall not commence performance of any Scope Activity, nor incur any costs or obligations associated with those services, until the SPONSOR has received a written Notice to Proceed from NCTCOG for the Scope Activity. All work and services required by this Agreement shall be completed in a reasonable period of time in accordance with RTC policies.
- 2.6. **Termination.** Either party reserves the right to terminate this Agreement in whole or in part. Notice of termination must be provided in writing, shall set forth the reasons for termination, and shall provide for a minimum of 30 days to cure the defect. Termination is effective only in the event the party fails to cure the defect within the period stated in the termination notice including any written extensions. If the Agreement is terminated, NCTCOG shall only be liable for payment for services rendered before the effective date of termination, plus reasonable contract closeout costs, as mutually agreed upon.

The Parties may terminate this Agreement at any time by mutual written concurrence. Parties also agree that should a necessitated switch from local funds to federal funds occur for any Scope Activities, this Agreement will be terminated with respect to those Scope Activities.
- 2.7. **Unused Local Match.** Upon completion of any Scope Activity or termination of the Agreement, any remaining Local Match funds provided by the SPONSOR may be returned to the SPONSOR or may be used as a Local Match payment for another project or Scope Activity awarded funds by RTC, at the discretion of the SPONSOR.
- 2.8. **Closeouts.** Closeouts shall occur upon completion of each Scope Activity including completion of Scope Activity Closeout Requirements identified in the SCOPE, complete receipt of payment, and submittal of final closeout reports. Closeout of this Agreement does not invalidate any continuing obligations imposed by this Agreement.

3. Amendments

- 3.1. **Agreement.** This Agreement embodies all of the agreements of the parties relating to its subject matter, supersedes all prior understandings and agreements regarding such subject matter.
- 3.2. **Severability.** In the event any one or more of the provisions contained in this Agreement shall be for any reason held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision(s) hereof, and this Agreement shall be revised so as to cure such invalid, illegal, or unenforceable provision(s) to carry out as near as possible the original intent of the Parties.
- 3.3. **Changed Circumstances.** If future federal, State, or local statute, ordinance, regulation, rule, or action render this Agreement, in whole or in part, illegal, invalid, unenforceable, or impractical, the parties agree to delete and/or to modify such portions of the Agreement as are necessary to render it valid, enforceable, and/or practical. Each section, paragraph, or provision of this Agreement shall be considered severable, and if, for any reason, any section, paragraph, or provision herein is determined to be invalid under current or future law, regulation, or rule, such invalidity shall not impair the operation of or otherwise affect the valid portions of this instrument.
- 3.4. **Modifications.** Modifications to this Agreement must be agreed to in writing.
- 3.5. **Other Funding Awards.** In the event that a Scope Activity is awarded funding under another federal or state program, that Scope Activity may no longer be eligible to receive reimbursement under this Agreement and the SCOPE shall be modified to reflect this change.

4. Budget

- 4.1. **Funding.** NCTCOG shall reimburse the eligible and allowable expenses of each Scope Activity in an amount not to exceed the awarded funds identified in Appendix A. Funds may not be available for reimbursement prior to the fiscal year (October 1st through September 30th) as identified in the SCOPE. Each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.
- 4.2. **Match.** The SPONSOR shall provide the required local match for each Scope Activity as outlined in Appendix A. The SPONSOR shall provide a check payable to the North Central Texas Council of Governments in the amount specified in Appendix A. A Notice to Proceed for each Scope Activity will not be issued unless or until the local match for that Scope Activity has been received. If the local match amount for any Scope Activity has not been received within two (2) years of the date this Agreement is executed, NCTCOG reserves the right to reprogram funding.
- 4.3. **Cost Overruns.** The SPONSOR is responsible for any cost overruns.

- 4.4. Unused Funds.** In the event that a Scope Activity is completed for less than the total awarded funding as identified in the SCOPE, any unused local funds shall be returned to the SPONSOR, except as directed by the SPONSOR under paragraph 2.7, and the remaining RTC/Local funds shall be reprogrammed by the RTC.

5. Payments

- 5.1. Reimbursement.** Invoices shall be submitted at regular intervals following the first costs incurred for each Scope Activity. Additionally, an invoice shall be submitted by October 15th of each year for each Scope Activity for work performed but not invoiced during the previous fiscal year. Reimbursement shall be made at the end of the NCTCOG fiscal year (October 1st through September 30th) and upon closeout of each Scope Activity.
- 5.2. Required Documentation.** Requests for reimbursement shall include an itemized list of expenses for which reimbursement is requested, as well as supporting documentation. Expenses should be grouped according to the Scope Activity for which the expense was incurred and a Scope Activity Number should be indicated for each expense.
- 5.3. Eligible Expenses.** Costs must be determined by NCTCOG to be the reasonable, necessary, actual, and eligible costs of conducting the Scope Activity. Expenses related to utility relocation will not be eligible for reimbursement. Engineering cost will be limited to 10% of the overall budget.
- 5.4. Availability of Funds.** This Agreement and all claims, suits, or obligations arising under or related to this Agreement are subject to and limited to the receipt and availability of RTC/Local funds. If RTC/Local funds are not available due to a default of local funds being paid to NCTCOG, the SCOPE shall be modified to reflect the reduced availability of funds.

6. Rights

- 6.1. Authority.** The SPONSOR shall have no authority to act for or on behalf of the NCTCOG except as expressly provided for in this Agreement; no other authority, power, use, or joint enterprise is granted or implied. The SPONSOR may not incur any debts, obligations, expenses, or liabilities of any kind on behalf of NCTCOG
- 6.2. Assignment.** Without the prior written consent of the NCTCOG, the SPONSOR may not transfer or assign any rights or responsibilities under or any interest in this Agreement.

7. Miscellaneous Provisions

- 7.1. Release and Hold Harmless.** Each party does hereby agree to waive all claims against, release, and hold harmless the other party and its respective officials,

officers, agents, employees, in both their public and private capacities, from any and all liability, claims, suits, demands, losses, damages, attorney's fees, including all expenses of litigation or settlement, or cause of action which may arise by reason of injury to or death of any person or for loss of, damage to, or loss of use of any property arising out of or in connection with Agreement.

- 7.2. Force Majeure.** It is expressly understood and agreed by the parties to this Agreement that, if the performance of any provision of this Agreement is delayed by force majeure, defined as reason of war, civil commotion, act of God, governmental restriction, regulation or interference, fire, explosion, hurricane, flood, failure of transportation, court injunction, or any circumstances which are reasonably beyond the control of the party obligated or permitted under the terms of this Agreement to do or perform the same, regardless of whether any such circumstance is similar to any of those enumerated herein, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the period of time applicable to such requirement shall be extended for a period of time equal to the period of time such party was delayed. Each party must inform the other in writing within reasonable time of the existence of such force majeure.
- 7.3. Contractual Relationship.** It is understood and agreed that the relationship described in this Agreement between the parties is contractual in nature and is not to be construed to create a partnership of joint venture or agency relationship between the parties. Nor shall any party be liable for any debts incurred by the other party in the conduct of such other party's business or functions.
- 7.4. Guidelines and Procedures.** The SPONSOR agrees to implement and manage all Scope Activities in accordance with operating standards and procedures established by SPONSOR's governing body.
- 7.5. Insurance.** The SPONSOR shall comply with the insurance requirements imposed by State and local laws, regulations, and ordinances.
- 7.6. Captions.** The captions, headings, and arrangements used in this Agreement are for convenience only and shall not in any way affect, limit, amplify, or modify its terms and provisions.
- 7.7. Disputes and Remedies.** The SPONSOR and NCTCOG shall negotiate in good faith toward resolving any disputes that arise under this Agreement.
- 7.8. Public Comment Process.** Public meeting and public hearing notices regarding this project shall be provided to NCTCOG within five (5) days of publication. Meeting minutes, summaries of communication, and copies of written responses to public comments and questions shall be transmitted to the NCTCOG Contact Person as identified on the Agreement Cover Sheet within thirty (30) days following the meeting
- 7.9. Notice.** Notices to either party by the other party required under this Agreement shall be in writing and delivered to the addresses shown below. A copy shall concurrently be provided to the Contact Person, provided on the Agreement Cover Sheet, of the party receiving notice.

NCTCOG

Mailing Address:

Michael Morris, P.E., Transportation Director
North Central Texas Council of Governments
Transportation Department
P.O. Box 5888
Arlington, Texas 76005-5888

Telephone No.: (817) 695-9240

Facsimile No.: (817) 640-3028

SPONSOR

Mailing Address:

Gerald Cosgrove
Chief Engineer
City of Plano
P.O. Box 860358
Plano, Texas 75086-0358

Telephone No.: (972) 941-7152

Facsimile No.: (972) 941- 7397

Physical Address:

Michael Morris, P.E., Transportation Director
North Central Texas Council of Governments
Transportation Department
616 Six Flags Drive
Arlington, Texas 76011

Physical Address:

Gerald Cosgrove
Chief Engineer
City of Plano
1520 K Avenue, Suite 250
Plano, Texas 75086-0358

The above contact information, or the contact information provided on the Agreement Cover Sheet, may be modified without requiring an amendment to the Agreement.

8. Subcontracting

- 8.1. All work and services required hereunder will be performed by the SPONSOR, or under its supervision, and SPONSOR shall ensure that all personnel engaged in the performance of work or services shall be fully qualified and properly authorized or licensed under the applicable federal, state and local law, statutes, and ordinances to perform such work or services.
- 8.2. The SPONSOR shall ensure that the services performed under all subcontracts comply with all terms and conditions of this Agreement as if the SPONSOR performed such services. Where the SPONSOR contracts with another entity or individual, including a subgrantee or recipient (Subcontractor), to perform any or all of the SCOPE, the SPONSOR will enter written contractual agreements requiring the Subcontractor to comply with the provisions of this Agreement.
- 8.3. The SPONSOR shall comply with their Agency set standards and practices when soliciting and acquiring all subcontractors for Scope Activities.

9. Design Standards/Certification.

- 9.1. **Design Guidelines.** SPONSOR agrees to design, build, and maintain equipment and facilities described in the SCOPE in compliance with standards and procedures established by SPONSOR'S governing body.

- 9.2. **Inspections.** SPONSOR agrees to perform field inspections at appropriate intervals to be determined by SPONSOR to ensure project compliance with the standards and procedures established by SPONSOR'S governing body. Copies of such reports shall be provided to NCTCOG upon request.
- 9.3. **Blueprints/Designs.** The SPONSOR shall provide the NCTCOG with copies and recent updates of any final designs or schematics pertaining to the Scope Activities upon request.
- 9.4. The SPONSOR shall ensure that all required documents of the Scope Activities, including but not limited to insurance certificates, performance or payment bonds, and required licenses and permits of a SPONSOR or the SPONSOR'S subcontractors be kept on file, current, and available to the NCTCOG upon request. Additionally, any relevant performance documents pertaining to the Scope Activities, such as correspondence, evaluations, reports submitted by the subcontractor and/or the SPONSOR'S contract administration team, payment requests, and copies of invoices shall be provided to the NCTCOG upon request.

10. Accessibility and Maintenance of Records

- 10.1. The SPONSOR shall maintain a record keeping system for all of its activities, including program records and financial management records, which support and document all expenditures of funds made under this Agreement, in accordance with federal regulations, state rules, and the Interlocal Cooperative Agreement. This section shall not be interpreted to require maintenance of multiple exact duplicate copies of any record or document.
- 10.2. All records must be maintained for a minimum of three (3) years after SCOPE closeout. In the event that any litigation or claim is still pending before the expiration of the three-year period, these records shall be retained until resolution of the litigation or claim. NCTCOG and their duly authorized agents shall have access to all records that are directly applicable to this Agreement for the purpose of making audit(s) examinations.

11. Audits or Evaluations

- 11.1. The SPONSOR shall provide NCTCOG, for its review, a copy of any audit received as a result of SPONSOR policy or audits of federal and state governments relating to the expenditure of reimbursement funds under this Agreement. Such audits shall include or be accompanied by any applicable audit management letter issued and applicable responses to the auditor's findings and recommendations. All audits shall be submitted to NCTCOG within thirty (30) days of receipt of each issued report.
- 11.2. NCTCOG reserves the right to conduct financial and program monitoring of all awards to the SPONSOR and to perform an audit of all records, related to this Agreement. An audit by NCTCOG may encompass an examination of all financial transactions, all accounts and reports, as well as an evaluation of compliance with the terms and conditions of this Agreement.

12. Reports

- 12.1. Annually and as indicated in the SCOPE, the SPONSOR shall provide to NCTCOG written progress reports for work completed on Scope Activities. At a minimum, progress reports should include the information required by the SCOPE.
- 12.2. Upon request from NCTCOG, the SPONSOR shall provide reports on the status of the Scope Activities.

13. Assurances

- 13.1. **Equal Employment Opportunity.** The SPONSOR shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. The SPONSOR shall take affirmative actions to ensure that applicants are employed, and that employees are treated, during their employment, without regard to their race, religion, color, sex, or national origin. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- 13.2. **Nondiscrimination on the Basis of Disability.** The SPONSOR agrees that no otherwise qualified disabled person shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under the project. The SPONSOR shall insure that all fixed facility construction or alteration and all new equipment included in the project comply with applicable regulations regarding Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance, set forth in 49 CFR, Part 27 and any amendments thereto.
- 13.3. **Interest of Public Officials.** No member, officer, or employee of the public body or of a local public body during his tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.
- 13.4. **Noncollusion.** The SPONSOR warrants that it has not employed or retained any company or person, other than a bona fide employee or agent working for it, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee or agent, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. If the SPONSOR breaches or violates this warranty, NCTCOG shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover the full amount of such fee, commission, brokerage fee, gift, or contingent fee.
- 13.5. **Gratuities.** Any person doing business with or who, reasonably speaking, may do business with NCTCOG under this Agreement may not make any offer of

benefits, gifts or favors to employees of NCTCOG. Failure on the part of the SPONSOR to adhere to this policy may result in termination of this Agreement.

- 13.6. Debarment/Suspension.** The SPONSOR is prohibited from making any award or permitting any award at any tier to any party which is debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, Debarment and Suspension. The SPONSOR and its subcontractors shall comply with Federal and State regulations regarding Debarment and Suspension. The SPONSOR shall include a statement of compliance with Federal and State Debarment and Suspension regulations in Third-Party contracts.
- 13.7. Restrictions on Lobbying.** The SPONSOR is prohibited from using funds awarded under this Agreement for lobbying purposes. The SPONSOR shall include a statement of compliance with this provision in applicable procurement solicitations and Third-Party contracts.
- 13.8. Disadvantaged Business Enterprise.** The SPONSOR shall comply with SPONSOR'S policies and procedures regarding Disadvantage Business Enterprise (DBE) participation in carrying out this Agreement. Upon request, SPONSOR shall report DBE participation.
- 13.9. Compliance with Regulations.** During the performance of this Agreement, the SPONSOR, for itself, its assignees, and successors agrees to comply with all applicable local, state, and federal regulations.
- 13.10. Copyrights.** To the extent permitted by law, except as otherwise provided in the terms and conditions of the Agreement, NCTCOG is free to copyright any City of Plano books, publications, or other copyrightable materials developed in the course of this Agreement. Except as otherwise provided in the terms and conditions of the Agreement, the NCTCOG shall reserve a royalty-free nonexclusive and irrevocable right to produce, publish, or otherwise use, and to authorize others to use, the City of Plano work for government purposes.
- 13.11. Constitutional Prohibition.** The SPONSOR shall not use funds under this Agreement for the acquisition, construction, reconstruction, rehabilitation, or operation of structures used for religious purposes.

Appendices

The following appendices are attached and made part of this Agreement.

Appendix A Scope of Services

The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of Texas. The parties agree that it is performable in Collin County, Texas and that exclusive venue shall be in Collin County, Texas.

IN WITNESS HEREOF, the parties have executed this Agreement in duplicate original at Arlington, Tarrant County, Texas, the _____ day of _____, 20____.

PUBLIC SECTOR SPONSOR

**NORTH CENTRAL TEXAS COUNCIL
OF GOVERNMENTS**

Signature

R. Michael Eastland
Executive Director

Printed Name

APPROVED AS TO FORM:

Title

General Counsel

ATTEST:

The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of Texas. The parties agree that it is performable in Collin County, Texas and that exclusive venue shall be in Collin County, Texas.

IN WITNESS HEREOF, the parties have executed this Agreement in duplicate original at Arlington, Tarrant County, Texas, the _____ day of _____, 20____.

PUBLIC SECTOR SPONSOR

**NORTH CENTRAL TEXAS COUNCIL
OF GOVERNMENTS**

Signature

R. Michael Eastland
Executive Director

Printed Name

APPROVED AS TO FORM:

Title

General Counsel

ATTEST:

The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of Texas. The parties agree that it is performable in Collin County, Texas and that exclusive venue shall be in Collin County, Texas.

IN WITNESS HEREOF, the parties have executed this Agreement in duplicate original at Arlington, Tarrant County, Texas, the _____ day of _____, 20____.

PUBLIC SECTOR SPONSOR

**NORTH CENTRAL TEXAS COUNCIL
OF GOVERNMENTS**

Signature

R. Michael Eastland
Executive Director

Printed Name

APPROVED AS TO FORM:

Title

General Counsel

ATTEST:

Appendix A
Scope of Services

Bicycle / Pedestrian Connection Scope Activities for Plano

Scope Activity*	Park Blvd Pedestrian Bridge/Trail - Phase 1
118481	<i>Park Blvd from east of Chisholm Place to Parker Rd DART Station (See attached map)</i>

Scope

Engineering and Design work for construction of the Park Boulevard Pedestrian and Bicycle Bridge/Trail, not to exceed 10% of the total project budget.

Notice to Proceed Prerequisites

Submittal of ten (10) photos of project site from different vantage points to NCTCOG.
Remittance of required 23% Local Match (\$30,417.00) to NCTCOG

Progress Report Requirements

Status reports shall be submitted by the first of each month following issuance of a Notice to Proceed for each month until completion of the Scope Activity and at the end of each fiscal year in which costs are incurred for this Scope Activity. Reports shall include the scope activity name, the date that the report is submitted, a list of activities carried out during the previous month, an indication of how far along the project is, and estimated/actual start & completion dates for environmental review, engineering, and construction phases of the project.

Scope Activity Closeout Requirements

Submittal of ten (10) photos of project to NCTCOG at the same locations as the photos taken prior to beginning work on the project.

Budget Information**

Funding Year 2010

Total Reimbursable Costs:	\$ 132,250.00	Share
RTC/Local Funds:	\$ 101,833.00	77%
Local Match:	\$ 30,417.00	23%

* A Scope Activity Number should be indicated for all expenses when requesting reimbursement.

** Funding Year refers to the NCTCOG Fiscal Year which runs from October 1 through September 30.

Bicycle / Pedestrian Connection Scope Activities for Plano

Scope Activity*	Park Blvd Pedestrian Bridge/Trail - Phase 2
118482	<i>Park Blvd from east of Chisholm Place to Parker Rd DART Station (See attached map)</i>

Scope

Construction of a 12-ft wide trail facility along Park Boulevard from the existing Chisholm Park Trail (200' west of Enterprise Drive) on the west, to Archerwood Street on the east (4,049 linear feet), and construction of 8-ft wide sidewalks on the east and west sides of Archerwood Street from Park Blvd. to the main entrance of the Parker Road DART Rail Station (1,675 linear feet); a total of approximately 5,724 linear feet. The existing bridge over US-75 will be utilized for the trail. The median will be removed from the bridge and the westbound travel lanes will be shifted south to allow the trail to run along the north side of the existing bridge; relocation of street lights in the median will be needed. Earthwork and retaining walls will be necessary along the trail to match existing grades. A barrier will be installed between oncoming traffic to separate the trail from motor vehicles. The enhancement of bus stops, pedestrian crossing locations, landscaping including, but not limited to, the addition of grass and trees, and traffic safety pavement markings along the trail will also be included.

Notice to Proceed Prerequisites

Submittal of ten (10) photos of project site from different vantage points to NCTCOG.
Remittance of required 23% Local Match (\$273,758.00) to NCTCOG

Progress Report Requirements

Status reports shall be submitted by the first of each month following issuance of a Notice to Proceed for each month until completion of the Scope Activity and at the end of each fiscal year in which costs are incurred for this Scope Activity. Reports shall include the scope activity name, the date that the report is submitted, a list of activities carried out during the previous month, an indication of how far along the project is, and estimated/actual start & completion dates for environmental review, engineering, and construction phases of the project.

Scope Activity Closeout Requirements

Submittal of ten (10) photos of project to NCTCOG at the same locations as the photos taken prior to beginning work on the project.

Budget Information**

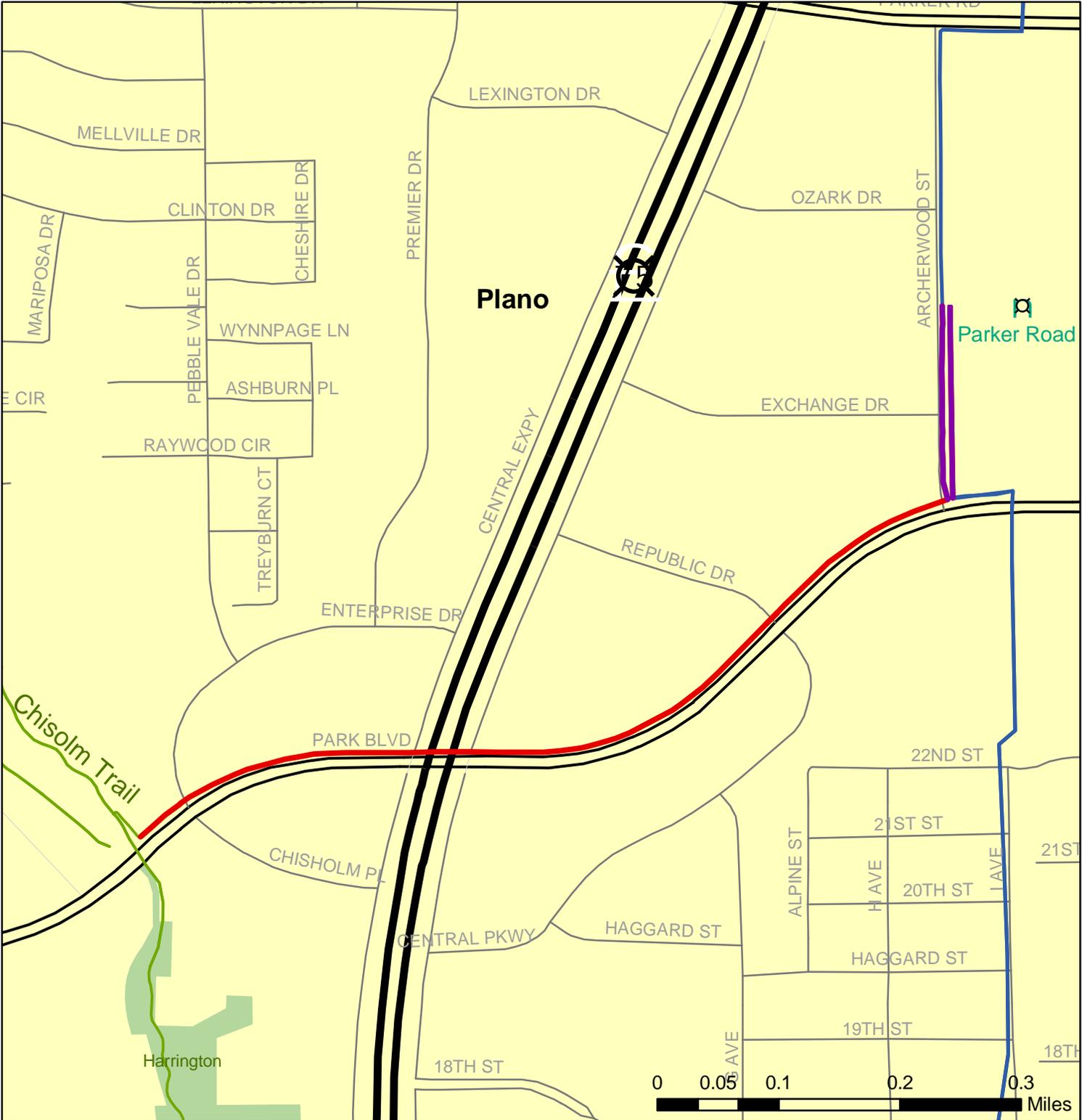
Funding Year 2010		
Total Reimbursable Costs:	\$ 1,190,250.00	Share
RTC/Local Funds:	\$ 916,492.00	77%
Local Match:	\$ 273,758.00	23%

* A Scope Activity Number should be indicated for all expenses when requesting reimbursement.

** Funding Year refers to the NCTCOG Fiscal Year which runs from October 1 through September 30.

Park Boulevard Pedestrian and Bicycle Bridge/Trail 2006 NCTCOG Local Air Quality Program Selection

-  Local Air Quality Program Funded
Park Blvd. 12' Wide Trail
-  Local Air Quality Program Funded
Park Blvd. 8' Wide Sidewalks
-  Planned, Regional Veloweb
-  Existing Trail, Off-Street
-  Freeway
-  Major Arterial
-  Park
-  Rail Station

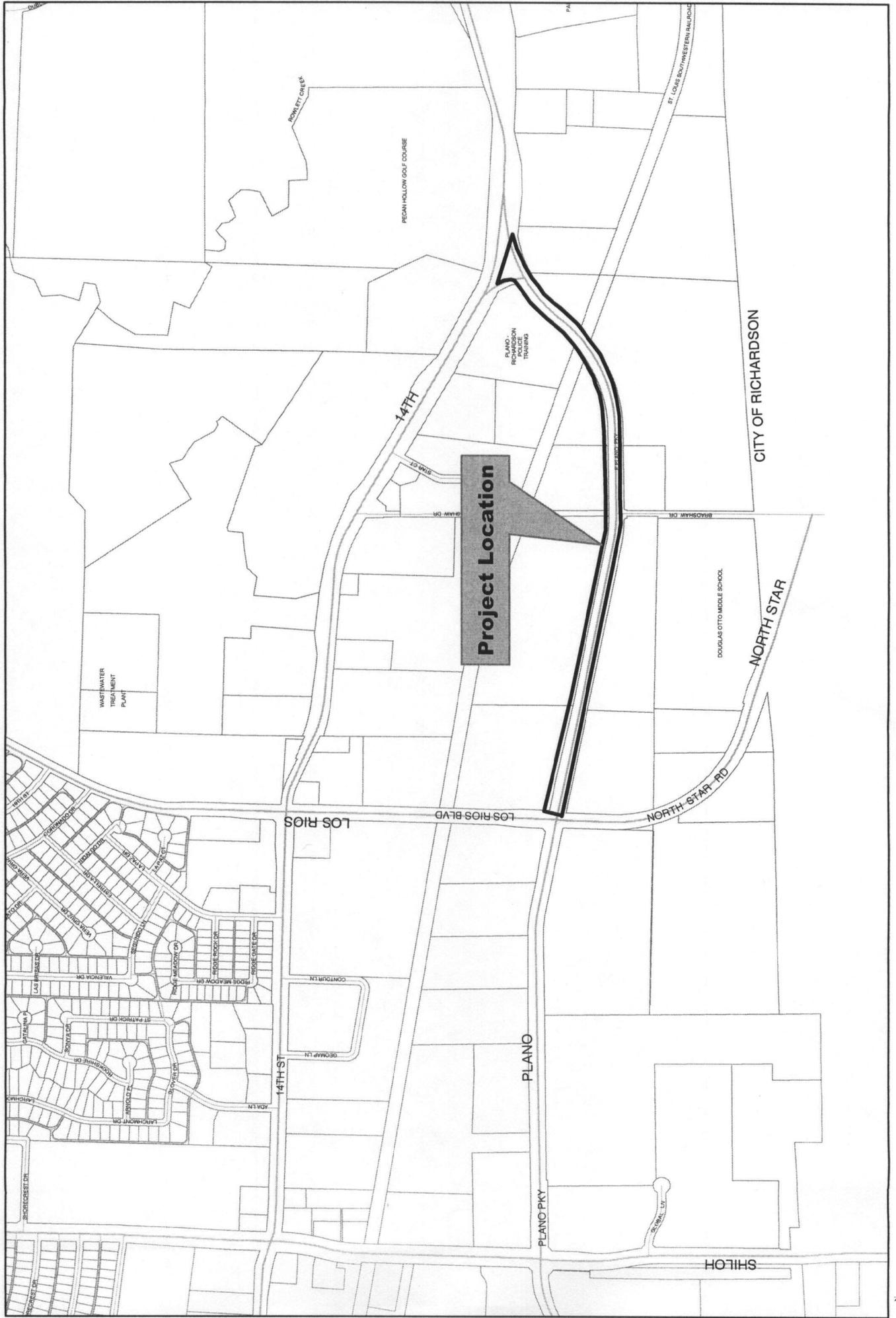




**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		6/28/10		
Department:		Public Works & Engineering		
Department Head:		Alan L. Upchurch		
Agenda Coordinator (include phone #): Irene Pegues (7198)				Project No. 5280
CAPTION				
<p>A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an Amended Interlocal Cooperation Agreement by and between the City of Plano and Collin County, Texas, concerning the construction of Plano Parkway from east of Los Rios to 14th Street; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.</p>				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input checked="" type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR: 2009-2010	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	1,666,104	0	1,666,104
BALANCE	0	1,666,104	0	1,666,104
FUND(S): STREET IMPROVEMENT CIP				
<p>COMMENTS: This item allows the City to enter into an amended interlocal agreement with Collin County for the Plano Parkway – Los Rios to 14th project. If this request is approved, Collin County will remit to the City \$1,666,104, 50% of the project cost for construction on Plano Parkway – Los Rios to 14th. This amended interlocal agreement also authorizes the reallocation of other remaining funds from the US 75 Ramp Improvement Project.</p> <p>STRATEGIC PLAN GOAL: Interlocal agreements for street construction relate to the City's Goal of Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
<p>The original Interlocal Agreement for Plano Parkway provides for fifty percent (50%) Collin County participation in the project up to the amount of \$1,400,000.00. The final total cost of the project is \$3,332,208.11. This Amended Interlocal Agreement would provide for the County to reallocate \$266,104.05 from the remaining funds for the US 75 Ramp Improvement Project to Plano Parkway for a total allocation of \$1,666,104.05. It also provides for the remaining funds for the US 75 Ramp Improvement Project, \$1,024,259.03, to be reallocated to another mutually acceptable project.</p>				
List of Supporting Documents: Location Map			Other Departments, Boards, Commissions or Agencies N/A	

Plano Parkway - East of Los Rios to 14th Street Project Number 5280



A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an Amended Interlocal Cooperation Agreement by and between the City of Plano and Collin County, Texas, concerning the construction of Plano Parkway from east of Los Rios to 14th Street; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.

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

WHEREAS, the City Council has been presented a proposed Amended Interlocal Cooperation Agreement by and between the City of Plano, Texas, and Collin County, Texas, providing terms and conditions concerning the construction of Plano Parkway from east of Los Rios to 14th Street, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and

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

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

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

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

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

DULY PASSED AND APPROVED the 28th day of June, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

**AMENDED INTERLOCAL AGREEMENT
BETWEEN COLLIN COUNTY AND THE CITY OF PLANO
CONCERNING THE CONSTRUCTION OF PLANO PARKWAY
FROM EAST OF LOS RIOS TO 14th STREET**

2003 BOND PROJECT #03-048

WHEREAS, the County of Collin, Texas (“County”), and the City of Plano, Texas (“City”), entered into an Interlocal Agreement for construction of Plano Parkway from east of Los Rios to 14th Street (the “Project”) in Plano, Collin County, Texas, dated July 26, 2005, court order # 2005-539-07-26 (“Agreement”) with the County’s fifty percent (50%) participation limited to \$1,400,000.00. This Amended Interlocal Agreement will supersede and will repeal the Interlocal Agreement approved on July 26, 2005; and

WHEREAS, the Project is now complete, and the actual cost for the Project increased to a total of \$3,332,208.11; and

WHEREAS, County has agreed to their fifty percent (50%) share of the Project cost, bringing their participation to \$1,666,104.05, an increase of \$266,104.05; and

WHEREAS, the County and City desire to modify the Agreement to account for an increase in Project cost for the Project for a total County participation of \$1,666,104.05; and

WHEREAS, the US 75 Ramp Improvement Project, 2003 Bond Project #03-045, is completed and has \$1,290,363.08 of funding remaining, of which the City proposes to reallocate \$266,104.05 to the Plano Parkway Project; and

WHEREAS, the County is in agreement to reallocate \$266,104.05 from the US 75 Ramp Improvement Project to the Plano Parkway Project for a total allocation of \$1,666,104.05, leaving an unallocated balance of \$1,024,259.03 in the US 75 Ramp Improvement Project to be reallocated to another mutually acceptable project; and

WHEREAS, the Interlocal Cooperation Act (Texas Government Code Chapter 791) authorizes any local government to contract with one or more local governments to perform governmental functions and services under the terms of the Act.

NOW, THEREFORE, this Amended Interlocal Agreement is made and entered into by the County and the City upon and for the mutual consideration stated herein.

WITNESSETH:

ARTICLE I.

The final cost of the Project is \$3,332,208.11. The County and City will each pay fifty percent (50%) of this amount, or \$1,666,104.05. County will pay this amount to the City within thirty (30) days following County's receipt of the City's written request for payment.

ARTICLE II.

The County and City agree that there is a total of \$1,024,259.03 remaining in the US 75 Ramp Improvement Project out of the \$4,000,000 that was allocated to the Project in the 2003 Collin County Bond Program. County and City agree that the remaining funds, \$1,024,259.03, will be reallocated to a mutually agreed upon project.

ARTICLE III.

The City shall prepare for the County an itemized statement specifying Project costs that have been incurred to date and submit detailed Project costs and progress reports every thirty (30) days until Project completion. Following completion of the Project, the City shall provide a final accounting of expenditures for the Project. If the actual cost to construct the Project is less than the estimated amount set forth herein, the City shall remit the County fifty percent (50%) of the difference between the estimated cost and the actual cost. The Commissioners' Court may revise this payment schedule based on the progress of the Project.

ARTICLE IV.

The City and County agree that the party paying for the performance of governmental functions or services shall make those payments only from current revenues legally available to the paying party.

ARTICLE V.

INDEMNIFICATION. TO THE EXTENT ALLOWED BY LAW, EACH PARTY AGREES TO RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE OTHER (AND ITS OFFICERS, AGENTS, AND EMPLOYEES) FROM AND AGAINST ALL CLAIMS OR CAUSES OF ACTION FOR INJURIES (INCLUDING DEATH), PROPERTY DAMAGES (INCLUDING LOSS OF USE), AND ANY OTHER LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES, IN ANY WAY ARISING OUT OF, RELATED TO, OR RESULTING FROM ITS PERFORMANCE UNDER THIS AGREEMENT, OR CAUSED BY ITS NEGLIGENT ACTS OR OMISSIONS (OR THOSE OF ITS RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, OR ANY OTHER THIRD

PARTIES FOR WHOM IT IS LEGALLY RESPONSIBLE) IN CONNECTION WITH PERFORMING THIS AGREEMENT.

ARTICLE VI.

VENUE. The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this agreement. The parties agree that this agreement is performable in Collin County, Texas, and that exclusive venue shall lie in Collin County, Texas.

ARTICLE VII.

SEVERABILITY. The provisions of this agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this agreement is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation having the force and effect of the law, the remaining portions of the agreement shall be enforced as if the invalid provision had never been included.

ARTICLE VIII.

ENTIRE AGREEMENT. This agreement embodies the entire agreement between the parties and may only be modified in writing executed by both parties.

ARTICLE IX.

SUCCESSORS AND ASSIGNS. This agreement shall be binding upon the parties hereto, their successors, heirs, personal representatives and assigns. Neither party will assign or transfer an interest in this agreement without the written consent of the other party.

ARTICLE X.

IMMUNITY. It is expressly understood and agreed that, in the execution of this agreement, neither party waives, nor shall be deemed hereby to have waived, any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this agreement, the parties do not create any obligations, express or implied, other than those set forth herein, and this agreement shall not create any rights in parties not signatories hereto.

ARTICLE XI.

TERM. This agreement shall be effective upon execution by both parties and shall continue in effect annually until final acceptance of the Project. This agreement shall automatically renew annually during this period.

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

APPROVED AS TO FORM:

COUNTY OF COLLIN, TEXAS

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: Keith Self
Title: County Judge
Date: _____

Executed on this _____ date of _____, 2010, by the County of Collin, pursuant to Commissioners' Court Order No. _____

ATTEST:

CITY OF PLANO, TEXAS

By: _____
Name: Diane Zucco
Title: City Secretary
Date: _____

By: _____
Name: Thomas H. Muehlenbeck
Title: City Manager
Date: _____

Executed on behalf of the City of Plano pursuant to City Council Resolution No. _____

APPROVED AS TO FORM:

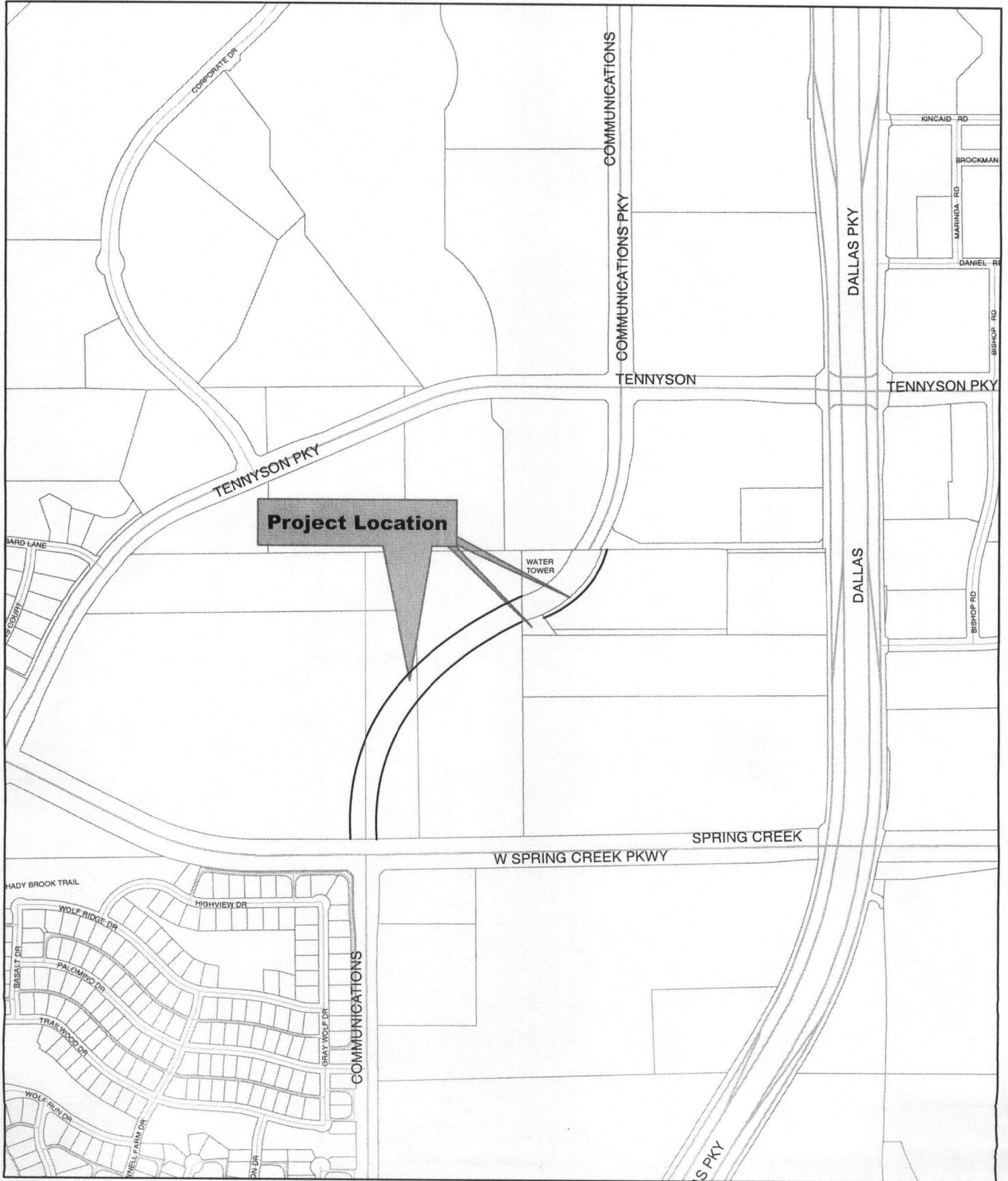
By: _____
Name: Diane Wetherbee
Title: City Attorney
Date: _____



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		6/28/10		
Department:		Public Works & Engineering		
Department Head:		Alan L. Upchurch		
Agenda Coordinator (include phone #):		Irene Pegues (7198)		Project No. 5625
CAPTION				
<p>A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of a Real Estate Contract between the City of Plano and Earlane Baccus Croom and Croom Interests, Ltd., for the purchase of 89,627 sq. ft. of land and 206,651 sq. ft. of temporary construction easement for Communications Parkway north of Spring Creek Parkway, situated in the H.B. Miller Survey, Abstract 614; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.</p>				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR: 2009-10	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	34,264	3,537,736	0	3,572,000
Encumbered/Expended Amount	-34,264	-80,625	0	-114,889
This Item	0	-664,128	0	-664,128
BALANCE	0	2,792,983	0	2,792,983
FUND(S): STREET IMPROVEMENT CIP				
<p>COMMENTS: Funds are included in the 2009-10 Street Improvement CIP. This item, in the amount of \$664,128, will leave a current year balance of \$2,792,983 for the Communications - Spring Creek to Tennyson project.</p> <p>STRATEGIC PLAN GOAL: Purchase of right of way for street improvements relate to the City's Goal of Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
<p>Staff has been negotiating with Earlane Baccus Croom for several years concerning design issues and right-of-way costs for the needed right of way for Communications Parkway north of Spring Creek Parkway. The attached resolution and contract approve the acquisition. The City will pay \$664,128 for 89,627 sq. ft. of right of way and 206,651 sq. ft. of temporary construction easement.</p>				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Location Map		N/A		

Communications Pky North of Spring Creek Pky Project # 5625



Location Map

A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of a Real Estate Contract between the City of Plano and Earlane Baccus Croom and Croom Interests, Ltd., for the purchase of 89,627 sq. ft. of land and 206,651 sq. ft. of temporary construction easement for Communications Parkway north of Spring Creek Parkway, situated in the H.B. Miller Survey, Abstract 614; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.

WHEREAS, the City Council has been presented a proposed Real Estate Contract by and between the City of Plano, Texas, and Earlane Baccus Croom and Croom Interests, Ltd., 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 authorized designee should be authorized to execute it on behalf of the City of Plano.

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

Section I. The terms and conditions of the 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 authorized 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 immediately upon its passage.

DULY PASSED AND APPROVED the 28th day of June, 2010.

Phil Dyer, 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 **EARLANE BACCUS CROOM**, Individually, and **CROOM INTERESTS, LTD.**, a Texas limited partnership, (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 to Purchaser a 88,778 square feet tract of land (Parcel 1), a 34 square feet tract of land (Parcel 3), and a 815 square feet tract of land (Parcel 4) in fee simple for right-of-way purposes as more particularly described in Exhibit "A" attached hereto (the "Property"); a 13,235 square feet tract of land (Parcel 1TCE1), a 30,673 square feet tract of land (Parcel 1TCE2), a 21,989 square feet tract of land (Parcel 1TCE3), a 144,291 square feet tract of land (Parcel 1TCE4), a 1,985 square feet tract of land (Parcel 3TCE), and a 4,850 square feet tract of land (Parcel 4TCE), for Temporary Construction Easements, as more particularly described in Exhibit "B" (the "Easements"). Exhibits "A" and "B" are made a part hereof by reference.

WHEREAS, Seller and Purchaser have entered into this Contract to provide for the terms and conditions of the sale and purchase of the Property and the Easements.

NOW, THEREFORE, in consideration of the premises and for the further consideration of the terms, provisions, and condition 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 the Easements and Purchaser has agreed and does hereby agree to purchase the Property and the Easements from the Seller. The 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 "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 and the Easements shall be **SIX HUNDRED SIXTY FOUR THOUSAND, ONE HUNDRED TWENTY EIGHT AND NO/100 DOLLARS (\$664,128.00)**.

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 the Easements and issued by a title company (the "Title Company") selected by Purchaser, and Purchaser will deliver a copy of same to Seller.

4. Representations and Warranties of Seller

(a) At Closing, Seller shall have good and indefeasible title to the Easements and fee simple title to the Property, free and clear of all mortgages, liens, covenants, conditions, restrictions, rights-of-way, easements, judgments or other matters affecting title except easements, licenses or rights-of-way for public or private utilities or gas lines noted in the Permitted Exceptions or in the Title Commitment.

(b) To the best knowledge and belief of Seller, at Closing there will be no parties in possession of any portion of the Property or the Easements 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) To the best knowledge and belief of Seller, there is no litigation or similar proceeding pending against the Property or the Easements and no litigation or similar proceeding is threatened or contemplated that would affect the Property or the Easements or any portion thereof.

(d) At Closing, no person, firm, partnership, corporation or other entity shall have any right or option to purchase, lease, occupy or use the Property or the Easements or any part thereof.

(e) At Closing, the consummation of the transactions contemplated herein will not violate or constitute a default under any provision of any contract, agreement, regulation, court order, judgment, decree, law or other document or instrument to which Seller is subject or bound and will not violate any other restrictions or prohibition of any kind or character to which Seller is subject.

(f) 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.

The representations and warranties set forth above shall be continuing and shall be true and correct at Closing with the same force and effect as if made at that time, and all such representations and warranties shall survive Closing.

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 and the Easements at all times prior to Closing.

(b) No new or additional improvements will be constructed, located or placed on the Property or the Easements

(c) To the best of Seller's knowledge and belief, neither the Property nor the Easements includes any personal property.

(d) During the pendency of this Contract, Seller shall not (without the prior written consent of the 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 or the Easements.

(e) This Contract constitutes a full and final settlement for all compensation due Seller for the Property and the Easements.

(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) Special Warranty Deeds (Parcel 1, Parcel 3 and Parcel 4) (the "Deeds") substantially the same as the forms attached hereto as Exhibit "C", Exhibit "D", and Exhibit "E" duly executed by Seller and properly acknowledged, in form for recording, conveying good and indefeasible title in fee simple absolute to the Property and containing covenants of special warranty; said Deeds being subject to no liens, charges, encumbrances, exceptions or reservations of any kind or character other than those permitted by paragraph 4(a) of this Contract; and

(b) Temporary Construction Easements (Parcel 1TCE1, Parcels 1TCE2 and 1TCE3, Parcel 1TCE4, Parcel 3TCE and Parcel 4TCE) substantially the same as the forms attached hereto as Exhibit "F", Exhibit "G", Exhibit "H", Exhibit "I" and Exhibit "J", attached hereto duly executed by Seller and properly acknowledged, in form for recording. Purchaser's obligation to restore the land affected by the Easements shall survive termination of the Easements.

(c) All releases or other documents or instruments (all in recordable form) necessary to convey title to the Property as required by paragraph 4(a) of this Contract; and

(d) Such other documents and instruments as may be necessary to evidence the authority of Seller to convey title to the Property.

7. Closing Costs and Proration

Costs of title insurance for the Property and the Easements, 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 of the Property and the Easements 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 the Easements 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, representatives, administrators 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. Copies of notices to Seller shall be sent to Earlane Baccus Croom, 1421 Winrock Boulevard, Houston, Texas 77057 and Croom Interests, Ltd., 1421 Winrock Boulevard, Houston, Texas 77057. Facsimile copies of executed counterparts have the same effect as originally executed counterparts.

(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 commission 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.

SELLERS

Date: June 7, 2010

By: Earlane Baccus Croom
EARLANE BACCUS CROOM
Address: 1421 Winrock Blvd
Houston 77057

**CROOM INTERESTS, LTD., a Texas
limited partnership**

Date: June 7, 2010

By: Sam G. Croom, Jr.
Name: SAM G. CROOM, JR.
General Partner
Address: 1421 Winrock Blvd
Houston, Texas 77057-1729

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

ACKNOWLEDGMENTS

STATE OF TEXAS §

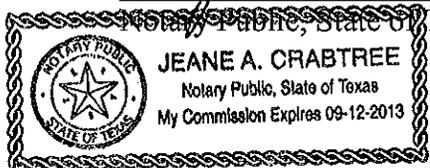
COUNTY OF Harris §

This instrument was acknowledged before me on the 7 day of June, 2010, by **EARLANE BACCUS CROOM**, individually.

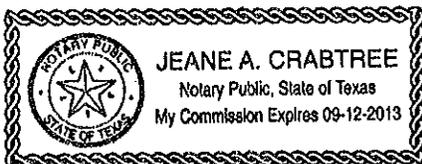
STATE OF TEXAS §

COUNTY OF Harris §

Jeane Crabtree

Notary Public, State of Texas


This instrument was acknowledged before me on the 7 day of June, 2010, by Sam G. Croom, Jr., General Partner of **CROOM INTERESTS, LTD.**, a Texas limited partnership, on behalf of said limited partnership.



Jeane Crabtree

Notary Public, State of Texas

STATE OF TEXAS §

COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 20____, 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

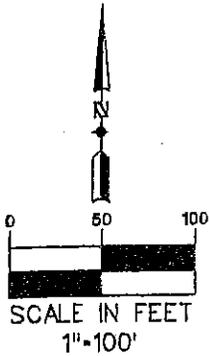
EXHIBIT "A"

PARCEL NO. 1
2.031 ACRE
RIGHT OF WAY DEDICATION
COMMUNICATIONS PARKWAY
PLANO, TEXAS

EARLANE BACCUS CROOM
V. 4550, P. 1143

P.O.B.
5/8" IRS

EZB MANAGEMENT, LLC
V. 5738, P. 656



ALL CORNERS MONUMENTED WITH 5/8" IRON RODS EXCEPT WHERE NOTED.

Delta = 28° 19' 04"
R = 1075.00'
Arc Length = 531.31'
CL = 525.91'
CB = N25° 42' 22" E

EARLANE BACCUS CROOM
V. 4550, P. 1143

RIGHT-OF-WAY
PARCEL NO. 1
2.038 ACRES
88,778 SQ. FT.

Delta = 19° 52' 08"
R = 965.00'
Arc Length = 334.64'
CL = 332.96'
CB = S21° 28' 54" W

Delta = 08° 15' 07"
R = 1104.91'
Arc Length = 159.13'
CL = 158.99'
CB = N10° 55' 50" E

Delta = 03° 28' 39"
R = 1085.00'
Arc Length = 65.85'
CL = 65.84'
CB = N01° 22' 58" E

Delta = 03° 28' 38"
R = 955.00'
Arc Length = 57.96'
CL = 57.95'
CB = S01° 22' 58" W

N00° 21' 22" W
112.85'

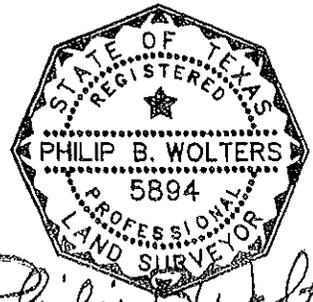
S03° 05' 39" W 64.89'

S89° 03' 21" W 65.00'

S03° 17' 24" W 141.40'
S00° 21' 22" E 111.68'

N45° 38' 40" W 0.17'

EXHIBIT A



PHILIP B. WOLTERS
REGISTERED PROFESSIONAL LAND SURVEYOR
NO. 5894 DATE: JUNE 2009

SPRING CREEK PARKWAY

PARCEL NO. 1 | BEARINGS BASED ON TEXAS COORDINATE SYSTEM OF 1983, NORTH CENTRAL ZONE

D:\ANNEBAU\174 SURVEY\174-1-1-NAD(R).dgn

EXHIBIT 'B'

RIGHT-OF-WAY DEDICATION
PARCEL NO. 1

Field Notes

BEING a 2.038 acre portion of a tract of land deeded to the Earlane Baccus Croom, recorded in Volume 4550, Page 1143, Deed Records, Collin County, Texas (D.R.C.C.T.), described more fully in the warranty deed recorded in Volume 2453, Page 307, D.R.C.C.T., and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8" iron rod found in the west line of a tract of land deeded to BZB Management, LLC in Volume 5738, Page 656, D.R.C.C.T. and the east line of said Croom tract and being at the intersection of the proposed north right of way of Communications Parkway and said common line;

THENCE S 00°29'20" E, continuing along said common line, 186.06 feet, to a 5/8" iron rod found for a corner at the beginning of a non-tangent curve to the left, having a radius of 965.00 feet, a central angle of 19°52'08" and a chord which bears S 21°28'54" W a distance of 332.96 feet;

THENCE Southwest, along the arc of said curve, departing said common line, 334.64 feet to a 5/8" iron rod found for a corner;

THENCE S 03°17'24" W, 141.40 feet, to a 5/8" iron rod found for a corner at the beginning of a curve to the left, having a radius of 955.00 feet, a central angle of 03°28'38" and a chord which bears S 01°22'58" W a distance of 57.95 feet;

THENCE Southwest, along the arc of said curve, a distance of 57.96 feet to a 5/8" iron rod found for a corner;

THENCE S 00°21'22" E, 111.68 feet to a 5/8" iron rod found for a corner in the east, corner clip at the intersection with Spring Creek Parkway;

THENCE N 45°38'40" W, along said corner clip, 0.17 feet, to a 5/8" iron rod found for a corner in the north right of way of Spring Creek Parkway;

THENCE S 89°03'21" W, along said north right of way, 65.00 feet to a point for a corner in the west line of the Henry B. Miller Survey, Abstract No. 614, being the east line of the Collin County School Land Survey, Abstract No. 150;

THENCE S 89°05'39" W, continuing along the north right of way of Spring Creek Parkway, 64.89 feet, to a 5/8" iron rod found for a corner;

EXHIBIT A
2011

THENCE N 00°21'22" W, departing said north right of way, 112.85 feet, to a 5/8" iron rod found for a corner at the beginning of a curve to the right, having a radius of 1,085.00 feet, a central angle of 03°28'39" and a chord which bears N 01°22'58" E a distance of 65.84 feet;

THENCE Northeast, along the arc of said curve, a distance of 65.85 feet to a 5/8" iron rod set for a corner at the beginning of a curve to the right, having a radius of 1,104.91 feet, a central angle of 08°15'07" and a chord which bears N 10°55'50" E a distance of 158.99 feet;

THENCE Northeast, along the arc of said curve, a distance of 159.13 feet to a 5/8" iron rod set for a corner at the beginning of a curve to the right, having a radius of 1,075.00 feet, a central angle of 28°19'04" and a chord which bears N 25°42'22" E a distance of 525.91 feet;

THENCE Northeast, along the arc of said curve, 531.31 feet, to the **POINT OF BEGINNING**, containing 2.038 acres or 88,778 square feet of land.

EXHIBIT A
PAGE 3 OF 7

EXHIBIT "A"

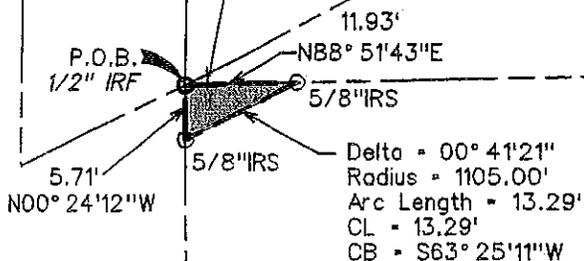
PARCEL NO. 3
0.001 ACRE
RIGHT OF WAY DEDICATION
COMMUNICATIONS PARKWAY
PLANO, TEXAS

CITY OF PLANO
96-0092893

CITY OF PLANO
96-0092889

RIGHT-OF-WAY
PARCEL NO. 3
0.001 ACRES
34 SQ. FT.

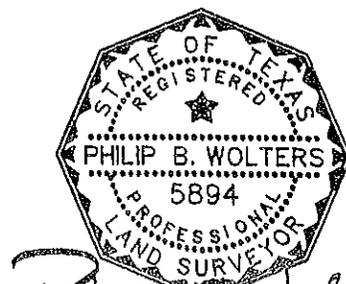
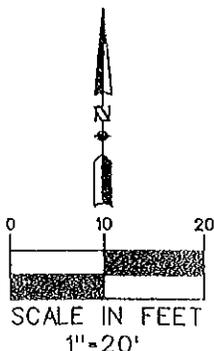
CROOM INTERESTS, LTD.
V. 4802, P. 3524



BZB MANAGEMENT, LLC
V. 5738, P. 656

EARLANE BACCUS CROOM
V. 4550, P. 1143

EXHIBIT A
PAGE 4 OF 7



Philip B. Wolters
PHILIP B. WOLTERS
REGISTERED PROFESSIONAL LAND SURVEYOR
NO. 5894 DATE: JUNE 2009

ALL CORNERS MONUMENTED WITH 5/8" IRON RODS EXCEPT WHERE NOTED.

EXHIBIT 'B'

RIGHT-OF-WAY DEDICATION
PARCEL NO. 3

Field Notes

BEING a 0.001 acre portion of the Earlane Baccus Croom tract as recorded in Volume 4550, Page 1143, Deed Records, Collin County, Texas (D.R.C.C.T.) and being more particularly described by metes and bounds as follows:

BEGINNING at a found 1/2" iron rod at the northwest corner of said Croom tract, said point also being the southwest corner of a tract deeded to Croom Interests, Ltd. in Volume 4802, Page 3524, D.R.C.C.T., the southeast corner of a tract deeded to the City of Plano under Instrument No. 96-0092893, D.R.C.C.T., and a northeast corner of a tract deeded to BZB Management in Volume 5738, Page 656, D.R.C.C.T.;

THENCE N 88°51'43" E, 11.93 feet, along the north line of said Croom tract, to a 5/8" iron rod set for a corner at the beginning of a non-tangent curve to the right with a radius of 1,105.00 feet, a central angle of 00°41'21" and a chord which bears S 63°25'11" W;

THENCE Southwest, along the arc of said curve, 13.29 feet to a 5/8" iron rod set for a corner in the east line of said BZB tract;

THENCE N 00°24'12" W, 5.71 feet, along said east line, to the POINT OF BEGINNING containing 0.001 acres or 34 square feet of land.

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EXHIBIT A
PAGE 5 OF 7

PARCEL NO. 4
0.018 ACRE
RIGHT OF WAY DEDICATION
COMMUNICATIONS PARKWAY
PLANO, TEXAS

CITY OF PLANO
96-0092889

CITY OF
PLANO
96-0092890

CITY OF PLANO
96-0092892

CITY OF PLANO
96-0092893

RIGHT-OF-WAY
PARCEL NO. 4
0.018 ACRES
815 SQ. FT.

Delta = 8° 30' 14"
Radius = 1105.00'
Arc Length = 164.00'
CL = 163.85'
CB = N59° 25' 34"E

S80° 27' 01"E 7.06'

5/8" IRS
CIRF 1/2"
"AZB"

DALLAS AREA
RAPID TRANSIT
V. 5268, P. 4368

CROOM INTERESTS LTD
V. 4802, P. 3524

P.O.B.
1/2" IRF

5/8" IRS

CIRF 1/2"
"AZB"

S88° 51' 43"W
11.93'

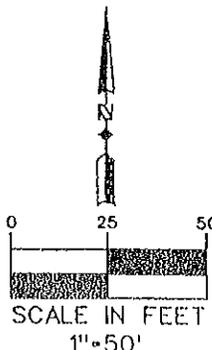
Delta = 8° 14' 41"
Radius = 1105.00'
Arc Length = 159.01'
CL = 158.87'
CB = S58° 57' 10"W

CIRF 1/2"
"AZB"

EXHIBIT A
PAGE 6 OF 7

EARLANE BACCUS CROOM 1966 TRUST
V. 4550, P. 1143

BZB
MANAGEMENT, LLC
V. 5738, P. 656



Philip B. Wolters

PHILIP B. WOLTERS
REGISTERED PROFESSIONAL LAND SURVEYOR
NO. 5894 DATE: JUNE 2009

**RIGHT-OF-WAY DEDICATION
PARCEL NO. 4**

Field Notes

BEING a 0.018 acre portion of a tract of land deeded to Croom Interests, Ltd. in Volume 4208, Page 3524, Deed Records, Collin County, Texas, (D.R.C.C.T.) and being more particularly described by metes and bounds as follows:

BEGINNING at a found 1/2" iron rod at the southwest corner of Croom Interests tract, said point also being the northwest corner of a tract deeded to Earlane Baccus Croom 1966 Trust in Volume 4550, Page 1143, D.R.C.C.T., the southeast corner of a tract deeded to the City of Plano under Instrument No. 96-0092893, D.R.C.C.T., and a northeast corner of a tract deeded to BZB Management in Volume 5738, Page 656, D.R.C.C.T., and being at the beginning of a curve to the left with a central angle of 08°30'14", a radius of 1105.00 feet and a chord which bears N 59°25'34" E a distance of 163.85 feet;

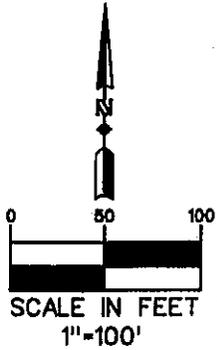
THENCE Northeast, along the arc of said curve, a distance of 164.00 feet to a found 1/2" iron rod, capped "AZB", in the north line of said Croom Interests tract for a corner;

THENCE S 80° 27'01" E, along said north line, 7.06 feet to a 5/8" iron rod set for corner, said point being at the beginning of a curve to the right with a central angle of 08°14'41", a radius of 1,105.00 feet and a chord which bears S 58°57'10" W a distance of 158.87 feet;

THENCE Southwest, along the arc of said curve, a distance of 159.01 feet to a 5/8" iron rod set for a corner in the north line of said Croom Trust tract;

THENCE S 88°51'43" W, along said north line, 11.93 feet to the **POINT OF BEGINNING** containing 0.018 acres or 815 square feet of land.

EXHIBIT "A"
PARCEL NO. 1TCE1
TEMPORARY CONSTRUCTION EASEMENT



LINE TABLE		
NUMBER	BEARING	DISTANCE
L1	S89° 04'30"W	0.11'
L2	S44° 22'53"W	35.53'
L3	S89° 05'39"W	202.35'
L4	N00° 01'06"E	85.13'
L5	S89° 58'54"E	104.86'
L6	S00° 01'06"W	43.89'
L7	S89° 58'54"E	122.54'
L8	S00° 21'22"E	12.57'

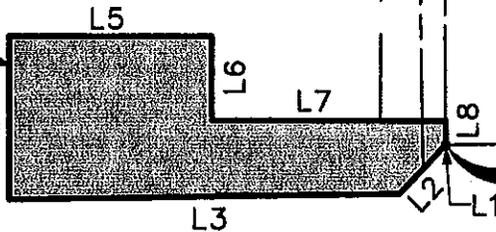
EARLANE BACCUS CROOM
V. 4550, P. 1143

EARLANE BACCUS CROOM
V. 4550, P. 1143

TEMPORARY CONSTRUCTION EASEMENT

PROPOSED R.O.W. COMMUNICATIONS PARKWAY

TEMPORARY CONSTRUCTION EASEMENT
13,235 SQ. FT.



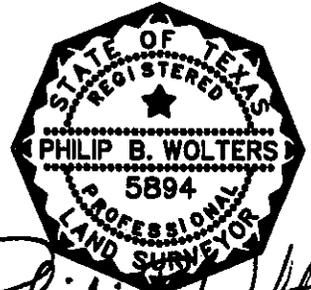
P.O.B. 5/8" IRF

TEMPORARY CONSTRUCTION EASEMENT

SPRING CREEK PARKWAY

EXHIBIT B
~~1 OF 13~~

COLLIN COUNTY SCHOOL
LAND SURVEY NO. 5, A-150
HENRY B. MILLER
SURVEY, A-614



PHILIP B. WALTERS
REGISTERED PROFESSIONAL LAND SURVEYOR
NO. 5894 DATE: MAY 4, 2010

EXHIBIT 'B'

**PARCEL NO. 1TCE1
TEMPORARY CONSTRUCTION EASEMENT**

Field Notes

BEING a 13,235 square foot portion of the Earlane Baccus Croom tract as recorded in Volume 4550, Page 1143, Deed Records, Collin County, Texas (D.R.C.C.T.), out of the Collin County School Land Survey No. 5, A-150, and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8" iron rod found in the south line of said Croom tract, said point being at the intersection of the north line of Spring Creek Parkway and the west line of the proposed Communications Parkway right of way;

THENCE S 89°04'30" W, along the north line of Spring Creek Parkway, 0.11 feet to a point for corner at a corner clip in said north line;

THENCE S 44°22'53" W, along said corner clip, 35.53 feet to a point for corner;

THENCE S 89°05'39" W, continuing along the north line of Spring Creek Parkway, 202.35 feet to a point for corner;

THENCE N 00°01'06" E, departing said north line, 85.13 feet to a point for corner;

THENCE S 89°58'54" E, 104.66 feet to a point for corner;

THENCE S 00°01'06" W, 43.89 feet to a point for corner;

THENCE S 89°58'54" E, 122.54 feet to a point for corner;

THENCE S 00°21'22" E, 12.57 feet to the **POINT OF BEGINNING**, containing 13,235 square feet of land.

EXHIBIT "A"
PARCELS 1TCE2 & 1TCE3
2 TEMPORARY CONSTRUCTION
EASEMENTS

EARLANE BACCUS
 CROOM
 V. 4550, P. 1143

CURVE TABLE					
NUMBER	DELTA	RADIUS	ARC	CHORD	CHORD BEARING
C1	28° 19' 04"	1075.00'	531.31'	525.91'	S25° 42' 22"W
C2	08° 15' 07"	1104.91'	159.13'	158.99'	S10° 55' 50"W
C3	03° 28' 39"	1085.00'	65.85'	65.84'	S01° 22' 58"W
C4	30° 24' 00"	1110.00'	588.94'	582.06'	N26° 44' 50"E
C5	14° 57' 58"	930.00'	242.92'	242.23'	S19° 11' 04"W
C6	03° 28' 39"	955.00'	57.96'	57.95'	N01° 22' 58"E
C7	19° 52' 08"	965.00'	334.64'	332.96'	N21° 28' 54"E

LINE TABLE		
NUMBER	BEARING	DISTANCE
L1	S00° 21' 22"E	100.29'
L2	N89° 58' 54"W	34.86'
L3	N00° 17' 05"E	169.53'
L4	N10° 55' 50"E	162.25'
L5	S00° 29' 20"E	52.92'
L6	S00° 29' 20"E	89.78'
L7	N63° 19' 56"W	9.29'
L8	S03° 17' 24"W	137.92'
L9	S00° 14' 18"W	192.77'
L10	S89° 02' 01"W	9.94'
L11	N45° 38' 40"W	34.91'
L12	N00° 21' 22"W	111.68'
L13	N03° 17' 24"E	141.40'

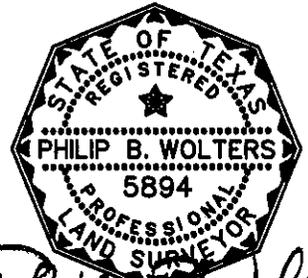
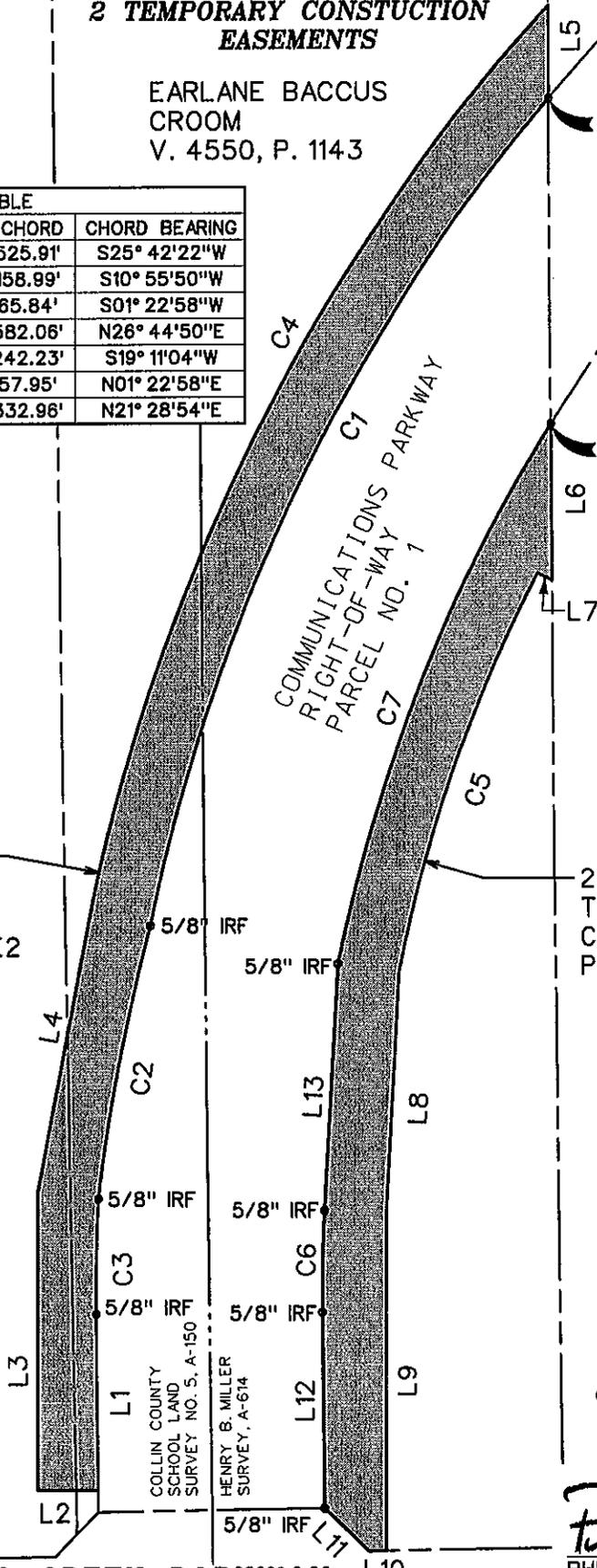
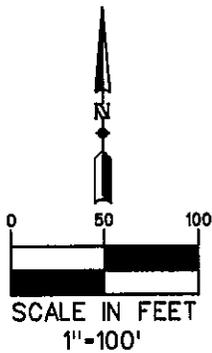
30,673 SQ. FT.
 TEMPORARY
 CONSTRUCTION
 PARCEL NO. 1TCE2

EARLANE BACCUS
 CROOM
 V. 4550, P. 1143

21,989 SQ. FT.
 TEMPORARY
 CONSTRUCTION
 PARCEL NO. 1TCE3

BZB MANAGEMENT, LLC
 V. 5738, P. 656

EXHIBIT B
 PAGE 3 OF 13



Philip B. Wolters
 PHILIP B. WOLTERS
 REGISTERED PROFESSIONAL LAND SURVEYOR
 NO. 5894 DATE: JUNE 2009

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EXHIBIT 'B'

**PARCEL NO. 1TCE2 & 1TCE3
2 TEMPORARY CONSTRUCTION EASEMENTS**

Field Notes

PARCEL NO. 1TCE2

BEING a 30,673 square foot portion of two Earlane Baccus Croom tracts as recorded in Volume 4550, Page 1143, Deed Records, Collin County, Texas (D.R.C.C.T.), out of the Collin County School Land Survey No. 5, A-150 and the Henry B. Miller Survey, A-614, and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8" iron rod found in the west line of a tract of land deeded to BZB Management in Volume 5738, Page 656, D.R.C.C.T., and being at the intersection of the north line of the proposed Communications Parkway right of way and the east line of said Croom tract, said point being at the beginning of a curve to the left with a central angle of 28°19'04", a radius of 1075.00 feet and a chord which bears S25°42'22"W a distance of 525.91 feet;

THENCE Southwest, along the arc of said curve and said proposed right of way, 531.31 feet to a 5/8" iron rod found for corner at the beginning of a curve to the left with a central angle of 08°15'07", a radius of 1104.91 feet and a chord which bears S10°55'50"W a distance of 158.99 feet;

THENCE Southwest, along the arc of said curve and said proposed right of way, 159.13 feet to a 5/8" iron rod found for corner at the beginning of a curve to the left with a central angle of 03°28'39", a radius of 1085.00 feet and a chord which bears S01°22'58"W a distance of 65.84 feet;

THENCE Southwest, along the arc of said curve and said proposed right of way, 65.85 feet to a 5/8" iron rod found for corner;

THENCE S 00°21'22" E, continuing along said proposed right of way, 100.29 feet to a point for corner;

THENCE N 89°58'54" W, departing said proposed right of way, 34.86 feet to a point for corner;

THENCE N 00°17'05" E, 169.53 feet to a point for corner;

THENCE N 10°55'50" E, 162.25 feet to a point for corner at the beginning of a curve to the right with a central angle of 30°24'00", a radius of 1110.00 feet and a chord which bears N26°44'50"E a distance of 582.06 feet;

THENCE Northeast, along the arc of said curve, 588.94 feet to a point for corner in the east line of said Croom tract;

THENCE S 00°29'20" E, along said east line, 52.92 feet to the **POINT OF BEGINNING** and containing 30,673 square feet of land.

PARCEL NO. 1TCE3

BEING a 21,989 square foot portion of the Earlane Baccus Croom tract as recorded in Volume 4550, Page 1143, Deed Records, Collin County, Texas (D.R.C.C.T.), out of the Henry B. Miller Survey, A-614, and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8" iron rod found in the west line of a tract of land deeded to BZB Management in Volume 5738, Page 656, D.R.C.C.T., and being at the intersection of the south line of the proposed Communications Parkway right of way and the east line of said Croom 1966 Trust tract;

THENCE S 00°29'20" E, along said east line, 89.78 feet to a point for corner;

THENCE N 63°19'56" W, 9.29 feet to a point for corner at the beginning of a curve to the left with a central angle of 14°57'58", a radius of 930.00 feet and a chord which bears S19°11'04"W a distance of 242.23 feet;

THENCE Southwest, along the arc of said curve, 242.92 feet to a point for corner;

THENCE S 03°17'24" W, 137.92 feet to a point for corner;

THENCE S 00°14'18" W, 192.77 feet to a point for corner in the south line of said Croom 1966 Trust tract, same being the north line of Spring Creek Parkway;

THENCE S 89°02'01" W, 9.94 feet to a point for corner at a corner clip in the north line Spring Creek Parkway;

THENCE N 45°38'40" W, along said corner clip, 34.91 feet to a 5/8" iron rod found for corner;

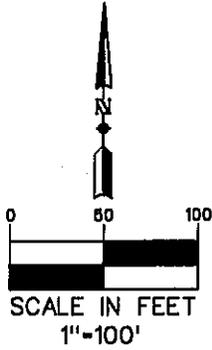
THENCE N 00°21'22" W, departing said corner clip and along the southwest line of the proposed Communications Parkway right of way, 111.68 feet to a 5/8" iron rod found for corner at the beginning of a curve to the right with a central angle of 03°28'39", a radius of 955.00 feet and a chord which bears N01°22'58"E a distance of 57.95 feet;

THENCE Northeast, along the arc of said curve and said proposed right of way, 57.96 feet to a 5/8" iron rod found for corner;

THENCE N 03°17'24" E, continuing along said proposed right of way, 141.40 feet to a 5/8" iron rod found for corner at the beginning of a curve to the right with a central angle of 19°52'08", a radius of 965.00 feet and a chord which bears N21°28'54"E a distance of 332.96 feet;

THENCE Northeast, along the arc of said curve and said proposed right of way, 334.64 feet to the **POINT OF BEGINNING**, containing 21,989 square feet of land.

EXHIBIT "A"
PARCEL NO. 1TCE4
TEMPORARY CONSTRUCTION EASEMENT



LINE TABLE		
NUMBER	BEARING	DISTANCE
L1	N00° 21'22"W	12.57'
L2	N89° 58'54"W	34.86'
L3	N89° 58'54"W	87.68'
L4	N00° 01'06"E	43.89'
L5	N89° 58'54"W	104.65'
L6	N35° 53'19"W	75.67'
L7	NORTH	104.15'

EARLANE BACCUS CROOM
 V. 4550, P. 1143

TEMPORARY CONSTRUCTION EASEMENT 1TCE4
 144,291 SQ. FT.

TEMPORARY CONSTRUCTION EASEMENT 1TCE1

N30° 01'38"E 369.10'

S61° 14'03"E
 164.77'

N15° 40'25"E 198.90'

Δ-17° 13'07"
 R-1110.00'
 L-333.58'
 CB-S20° 09'24"W
 CL-332.33'

EARLANE BACCUS CROOM
 V. 4550, P. 1143

S10° 55'53"W
 162.63'

COLLIN COUNTY SCHOOL
 LAND SURVEY NO. 5, A-150
 HENRY B. MILLER
 SURVEY, A-614

PROPOSED R.O.W.
 COMMUNICATIONS PARKWAY

S00° 17'05"W
 169.53'

L5
 DRAINAGE EASEMENT 1UDE

L3

L2

L1

P.O.B.

P.O.C.
 5/8" IRF

EXHIBIT B
 PAGE 7 OF 13



Philip B. Wolters

PHILIP B. WOLTERS
 REGISTERED PROFESSIONAL LAND SURVEYOR
 NO. 5894 DATE: JUNE 2009

SPRING CREEK PARKWAY

P:\DANNENBAUM\1714\SURVEY\Exam-ROW\1714-Temp 1-4Croom(R).dgn

EXHIBIT 'B'

**PARCEL NO. 1TCE4
TEMPORARY CONSTRUCTION EASEMENT**

Field Notes

BEING a 144,291 square foot portion of the Earlane Baccus Croom tract as recorded in Volume 4550, Page 1143, Deed Records, Collin County, Texas (D.R.C.C.T.), out of the Collin County School Land Survey No. 5, A-150, and the Henry B. Miller Survey, A-614, and being more particularly described by metes and bounds as follows:

COMMENCING at a 5/8" iron rod found in the south line of said Croom tract, said point being at the intersection of the north line of Spring Creek Parkway and the west line of the proposed Communications Parkway right of way;

THENCE N 00°21'22" W, along the west line of said proposed Communications Parkway, 12.57 feet to a point at the northeast corner of Drainage Easement 1UDE;

THENCE N 89°58'54" W, along the north line of said drainage easement, 34.86 feet to the **POINT OF BEGINNING**;

THENCE N 89°58'54" W, continuing along said north line, 87.68 feet to a point for corner at the most easterly southeast corner of Temporary Construction Easement 1TCE1;

THENCE N 00°01'06" E, along the east line of said temporary construction easement, 43.89 feet to a point for corner at the northeast corner of said temporary construction easement;

THENCE N 89°58'54" W, along the north line of said temporary construction easement, 104.65 feet to a point for corner;

THENCE N 35°53'19" W, departing said north line, 75.67 feet to a point for corner;

THENCE NORTH, 104.15 feet to a point for corner;

THENCE N 15°40'25" E, 198.90 feet to a point for corner;

THENCE N 30°01'38" E, 369.10 feet to a point for corner;

THENCE S 61°14'03" E, 164.77 feet to a point for corner in the west line of Temporary Construction Easement 1TCE2, said point being at the beginning of a curve to the left with a central angle of 17°13'07", a radius of 1110.00 feet and a chord which bears S20°09'24"W a distance of 332.33 feet;

THENCE Southwest, along the arc of said curve and said west line, 333.58 feet to a point for corner;

THENCE S 10°55'53" W, continuing along said west line, 162.63 feet to a point for corner;

THENCE S 00°17'05" W, continuing along said west line, 169.53 feet to the **POINT OF BEGINNING**, containing 144,291 square feet of land.

EXHIBIT "A"
PARCEL 3TCE
TEMPORARY CONSTRUCTION EASEMENT

CITY OF PLANO
96-0092893

HENRY B. MILLER SURVEY, A-614

CITY OF PLANO
96-0092889

RIGHT-OF-WAY
PARCEL NO. 3

Delta = 00° 41' 21"
Radius = 1105.00'
Arc Length = 13.29'
CL = 13.29'
CB = N63° 25' 11"E

CROOM INTERESTS, LTD.
V. 4802, P. 3524

1/2" IRF
5/8" IRF
S88° 51' 43"W 75.76'
P.O.B.
5/8" IRF

BZB MANAGEMENT, LLC
V. 5738, P. 656

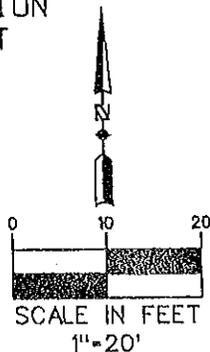
N00° 24' 12"W
38.75'

Delta = 04° 58' 06"
Radius = 1140.00'
Arc Length = 98.85'
CL = 98.82'
CB = S62° 07' 44"W

4,985 SQ. FT.
TEMPORARY
CONSTRUCTION
EASEMENT

EARLANE BACCUS CROOM
V. 4550, P. 1143

EXHIBIT B
PAGE 10 OF 13



Philip B. Wolters
PHILIP B. WOLTERS
REGISTERED PROFESSIONAL LAND SURVEYOR
NO. 5894 DATE: JUNE 2009

ADAMS&BURNETT SURVEY, Esmt.-ROW, 5714-Temp. 6-Croom(R).dgn

Exhibit "A"
The Easement Property

EXHIBIT 'B'

PARCEL NO. 3TCE
TEMPORARY CONSTRUCTION EASEMENT

Field Notes

BEING a 1,985 square foot portion of the Earlane Baccus Croom tract as recorded in Volume 4550, Page 1143, Deed Records, Collin County, Texas (D.R.C.C.T.), out of the Henry B. Miller Survey, A-614, and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8" iron rod found at the intersection of the south line of the proposed Communications Parkway right of way and the west line of said Croom tract, same being the east line of a tract of land deeded to BZB Management, LLC in Volume 5738, Page 656, D.R.C.C.T., said point being at the beginning of a curve to the left with a central angle of 00°41'21", a radius of 1105.00 feet and a chord which bears N63°25'11"E a distance of 13.29 feet;

THENCE Northeast, along the arc of said curve and said proposed south right of way, 13.29 feet to a 5/8" iron rod found for corner in the south line of a tract of land deeded to Croom Interests, Ltd. in Volume 4802, Page 3524, D.R.C.C.T.;

THENCE S 88°51'43" W, along said south line, 75.76 feet to a point for corner at the beginning of a curve to the right with a central angle of 04°58'06", a radius of 1140.00 feet and a chord which bears S62°07'44"W a distance of 98.82 feet;

THENCE Southwest, along the arc of said curve, 98.85 feet to a point for corner in the east line of said BZB tract;

THENCE N 00°24'12" W, along said east line, 38.75 feet to the POINT OF BEGINNING and containing 1,985 square feet of land.

Exhibit "A"
The "Easement Property"

PARCEL NO. 4TCE
TEMPORARY CONSTRUCTION EASEMENT

Field Notes

BEING a 4,850 square foot portion of the Croom Interests, Ltd. tract as recorded in Volume 4802, Page 3524, Deed Records, Collin County, Texas (D.R.C.C.T.), out of the Henry B. Miller Survey, A-614, and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8" iron rod found, being N88°51'43"E a distance of 11.93 feet from a 1/2" iron rod found at the southwest corner of said Croom Interests tract, same being the northwest corner of a tract of land deeded to the Earlane Baccus Croom 1966 Trust in Volume 4550, Page 1143, D.R.C.C.T., said 5/8" iron rod being at the intersection of the south line of the proposed Communications Parkway right of way and the south line of said Croom Interests tract, and being at the beginning of a curve to the left with a central angle of 08°14'41", a radius of 1105.00 feet and a chord which bears N58°57'10"E a distance of 158.87 feet;

THENCE Northeast, along the arc of said curve and said proposed south right of way, 159.01 feet to a 5/8" iron rod found for corner in a south line of a tract of land deeded to Dallas Area Rapid Transit (DART) in Volume 5268, Page 4368, D.R.C.C.T.;

THENCE S 80°27'01" E, along said south line, 21.05 feet to a 1/2" iron rod, capped "AZB", found for corner;

THENCE S 35°50'44" E, along the west line of said DART tract, 20.09 feet to a point at the beginning of a curve to the right with a central angle of 05°34'40", a radius of 1140.00 feet and a chord which bears S56°51'21"W a distance of 110.93 feet;

THENCE Southwest, departing said west line and along the arc of said curve, 110.98 feet to a point for corner in the south line of said Croom Interests tract;

THENCE S 88°51'43" W, along said south line, 75.76 feet to the POINT OF BEGINNING and containing 4,850 square feet of land.

Exhibit "A" The "Easement Property"

PARCEL NO. 4TCE
TEMPORARY CONSTRUCTION EASEMENT

CITY OF PLANO
96-0092892

CITY OF PLANO
96-0092889

CITY OF
PLANO
96-0092890

HENRY B. MILLER SURVEY, A-614

CITY OF PLANO
96-0092893

RIGHT-OF-WAY
PARCEL NO. 4

Delta = $08^{\circ} 14' 41''$
Radius = 1105.00'
Arc Length = 159.01'
CL = 158.87'
CB = $N58^{\circ} 57' 10'' E$

1/2" IRF
"AZB"

5/8" IRF

$S80^{\circ} 27' 01'' E$ 21.05'

1/2" IRF
"AZB"

$S35^{\circ} 50' 44'' E$ 20.09'

DALLAS AREA
RAPID TRANSIT
V. 5268, P. 4368

CROOM
INTERESTS LTD
V. 4802, P. 3524

1/2" IRF

$S88^{\circ} 51' 43'' W$

75.76'

P.O.B.
5/8" IRF

$N88^{\circ} 51' 43'' E$
11.93'

Delta = $05^{\circ} 34' 40''$
Radius = 1140.00'
Arc Length = 110.98'
CL = 110.93'
CB = $S56^{\circ} 51' 21'' W$

CIRF 1/2"
"AZB"

CIRF 1/2"
"AZB"

4,850 SQ. FT.
TEMPORARY
CONSTRUCTION
EASEMENT
PARCEL 4TCE

BZB
MANAGEMENT, LLC
V. 5738, P. 656

EARLANE BACCUS
CROOM 1966 TRUST
V. 4550, P. 1143

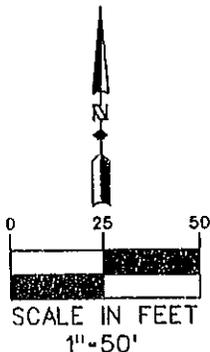


EXHIBIT B
PAGE (3 OF 13)



Philip B. Wolters

PHILIP B. WOLTERS
REGISTERED PROFESSIONAL LAND SURVEYOR
NO. 5894 DATE: JUNE 2009

NOTICE OF CONFIDENTIALITY RIGHTS; IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY 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, EARLANE BACCUS CROOM, individually, whether one or more, hereinafter called "Grantor," for and in consideration of the sum of **TEN DOLLARS (\$10.00)** and other good and valuable consideration to Grantor in hand paid by the **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: Diane Zucco, City Secretary

EXECUTED this _____ day of _____, 20_____

EARLANE BACCUS CROOM

Address: _____

ACKNOWLEDGMENT

STATE OF TEXAS

COUNTY OF _____

This instrument was acknowledged before me on the _____ day of _____, 20_____, by **EARLANE BACCUS CROOM**, individually.

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 ONLY NOT FOR SIGNATURE

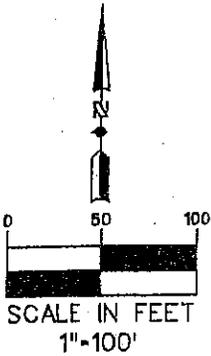
EXHIBIT "A"

PARCEL NO. 1
2.031 ACRE
RIGHT OF WAY DEDICATION
COMMUNICATIONS PARKWAY
PLANO, TEXAS

EARLANE BACCUS CROOM
 V. 4550, P. 1143

BZB MANAGEMENT, LLC
 V. 5738, P. 656

P.O.B.
 5/8" IRS



ALL CORNERS MONUMENTED WITH 5/8" IRON RODS EXCEPT WHERE NOTED.

Delta = 28° 19' 04"
 R = 1075.00'
 Arc Length = 531.31'
 CL = 525.91'
 CB = N25° 42' 22" E

EARLANE BACCUS CROOM
 V. 4550, P. 1143

RIGHT-OF-WAY
 PARCEL NO. 1
 2.038 ACRES
 88,778 SQ. FT.

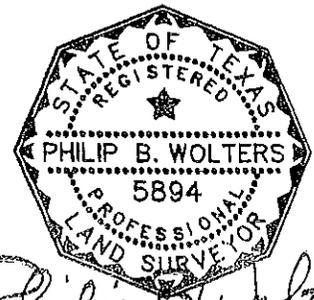
Delta = 19° 52' 08"
 R = 965.00'
 Arc Length = 334.64'
 CL = 332.96'
 CB = S21° 28' 54" W

Delta = 08° 15' 07"
 R = 1104.91'
 Arc Length = 159.13'
 CL = 158.99'
 CB = N10° 55' 50" E

EXHIBIT C
 PAGE 3 OF 6

Delta = 03° 28' 39"
 R = 1085.00'
 Arc Length = 65.85'
 CL = 65.84'
 CB = N01° 22' 58" E

Delta = 03° 28' 38"
 R = 955.00'
 Arc Length = 57.96'
 CL = 57.95'
 CB = S01° 22' 58" W



Philip B. Wolters

PHILIP B. WOLTERS
 REGISTERED PROFESSIONAL LAND SURVEYOR
 NO. 5894 DATE: JUNE 2009

SPRING CREEK PARKWAY

PARCEL NO. 1 BEARINGS BASED ON TEXAS COORDINATE SYSTEM OF 1983, NORTH CENTRAL ZONE

D:\ANENG\ALMA\1714 SURVEY\A.smt-ROW\1714-1.dgn

2007 AVENUE SUITE 107 ARLINGTON TEXAS 76010 PH 817-548-0608 FAX 817-265-8530

Exhibit "A"
The Property

EXHIBIT 'B'

RIGHT-OF-WAY DEDICATION
PARCEL NO. 1

Field Notes

BEING a 2.038 acre portion of a tract of land deeded to the Earlane Baccus Croom, recorded in Volume 4550, Page 1143, Deed Records, Collin County, Texas (D.R.C.C.T.), described more fully in the warranty deed recorded in Volume 2453, Page 307, D.R.C.C.T., and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8" iron rod found in the west line of a tract of land deeded to BZB Management, LLC in Volume 5738, Page 656, D.R.C.C.T. and the east line of said Croom tract and being at the intersection of the proposed north right of way of Communications Parkway and said common line;

THENCE S 00°29'20" E, continuing along said common line, 186.06 feet, to a 5/8" iron rod found for a corner at the beginning of a non-tangent curve to the left, having a radius of 965.00 feet, a central angle of 19°52'08" and a chord which bears S 21°28'54" W a distance of 332.96 feet;

THENCE Southwest, along the arc of said curve, departing said common line, 334.64 feet to a 5/8" iron rod found for a corner;

THENCE S 03°17'24" W, 141.40 feet, to a 5/8" iron rod found for a corner at the beginning of a curve to the left, having a radius of 955.00 feet, a central angle of 03°28'38" and a chord which bears S 01°22'58" W a distance of 57.95 feet;

THENCE Southwest, along the arc of said curve, a distance of 57.96 feet to a 5/8" iron rod found for a corner;

THENCE S 00°21'22" E, 111.68 feet to a 5/8" iron rod found for a corner in the east corner clip at the intersection with Spring Creek Parkway;

THENCE N 45°38'40" W, along said corner clip, 0.17 feet, to a 5/8" iron rod found for a corner in the north right of way of Spring Creek Parkway;

THENCE S 89°03'21" W, along said north right of way, 65.00 feet to a point for a corner in the west line of the Henry B. Miller Survey, Abstract No. 614, being the east line of the Collin County School Land Survey, Abstract No. 150;

THENCE S 89°05'39" W, continuing along the north right of way of Spring Creek Parkway, 64.89 feet, to a 5/8" iron rod found for a corner;

Exhibit "A"
The Property

- THENCE** N 00°21'22" W, departing said north right of way, 112.85 feet, to a 5/8" iron rod found for a corner at the beginning of a curve to the right, having a radius of 1,085.00 feet, a central angle of 03°28'39" and a chord which bears N 01°22'58" E a distance of 65.84 feet;
- THENCE** Northeast, along the arc of said curve, a distance of 65.85 feet to a 5/8" iron rod set for a corner at the beginning of a curve to the right, having a radius of 1,104.91 feet, a central angle of 08°15'07" and a chord which bears N 10°55'50" E a distance of 158.99 feet;
- THENCE** Northeast, along the arc of said curve, a distance of 159.13 feet to a 5/8" iron rod set for a corner at the beginning of a curve to the right, having a radius of 1,075.00 feet, a central angle of 28°19'04" and a chord which bears N 25°42'22" E a distance of 525.91 feet;
- THENCE** Northeast, along the arc of said curve, 531.31 feet, to the **POINT OF BEGINNING**, containing 2.038 acres or 88,778 square feet of land.

EXHIBIT C
PAGE 5 OF 6

EXHIBIT "B"
Permitted Exceptions

1. Restrictive covenants recorded in Volume 2132, Page 1, Real Property Records of Collin County, Texas. As refiled in Volume 2235, Page 827, Real Property Records, Collin County, Texas.
2. Restrictive covenants described in instrument recorded in Volume 1694, Page 825, Real Property Records of Collin County, Texas. As affected by Agreement recorded in Volume 2241, Page 738, Real Property Records, Collin County, Texas.
3. Easements to Denton County Electric Cooperative, Inc. recorded in Volume 467, Page 277; Volume 467, Page 283; Volume 467, Page 294, Volume 467, Page 313 and Volume 468, Page 227, Real Property Records Collin County, Texas. As affected by Agreement Defining Area Embraced in Volume 1262, Page 312, Real Property Records, Collin County, Texas.
4. Easement granted by John C. Thompson and Mattie W. Thompson to Lebannon Water Supply Corporation, dated 02/05/1966, filed 02/25/1966, recorded in Volume 669, Page 268, Real Property Records of Collin County, Texas.
5. Easement granted by C. B. Thompson to Lebannon Water Supply Corporation, dated 02/02/1966, filed 02/25/1966, recorded in Volume 669, Page 290, Real Property Records of Collin County, Texas. As assigned to the City of Plano recorded in Volume 2919, Page 214, Real Property Records, Collin County, Texas.
6. Easement granted by Laverne W. Baccus, Trustee for Earlane B. Croom to City of Plano, dated 01/27/1999, filed 02/17/1999, recorded in Volume 4355, Page 1609, Real Property Records of Collin County, Texas.
7. Easement granted by Laverne W. Baccus, Individually and as Trustee for Earlane B. Croom to the City of Plano, dated 10/25/1996, filed 10/28/1996, cc# 96-0092891, Real Property Records of Collin County, Texas.

NOTICE OF CONFIDENTIALITY RIGHTS; IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY 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 §

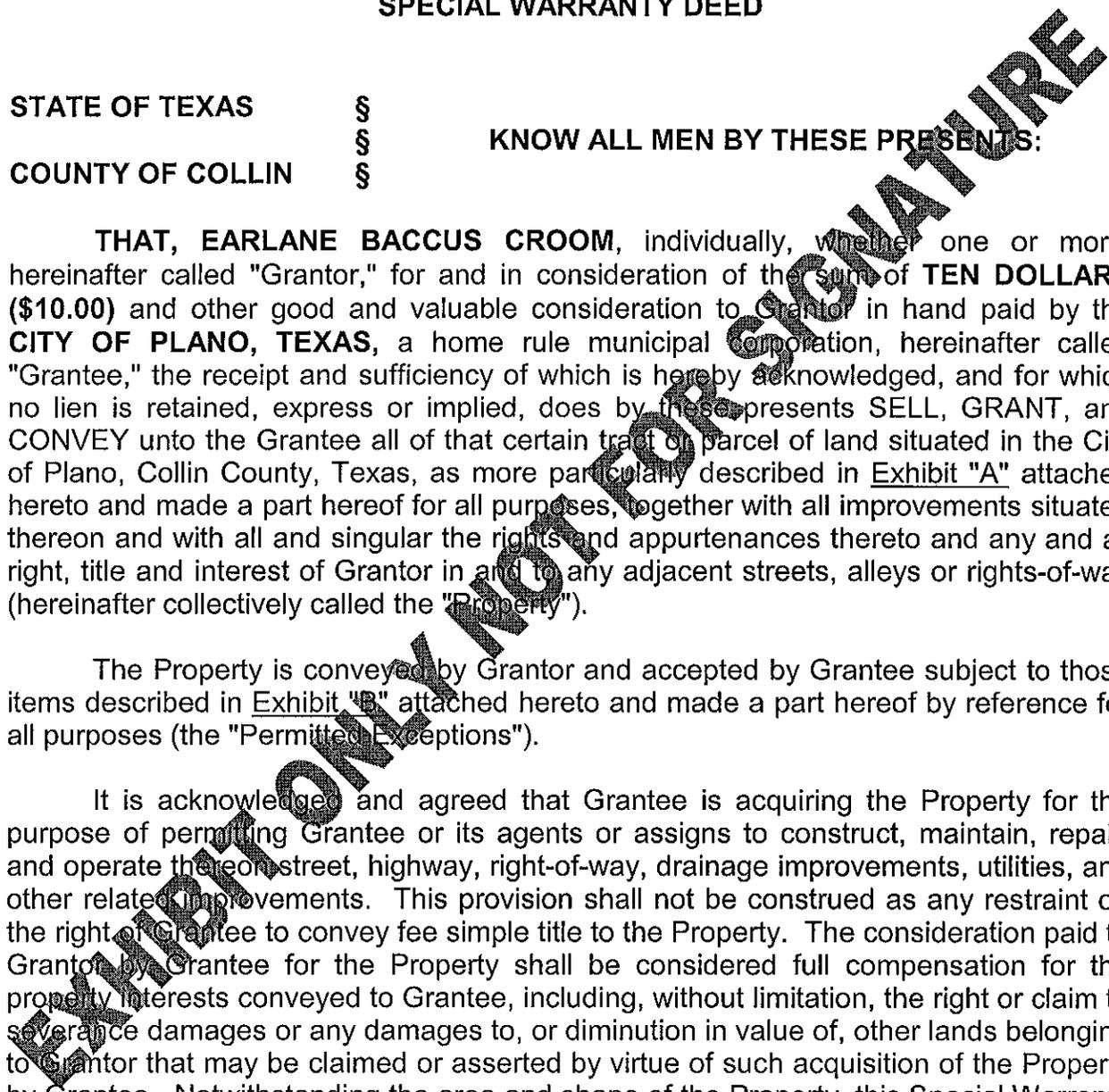
KNOW ALL MEN BY THESE PRESENTS:

THAT, EARLANE BACCUS CROOM, individually, whether one or more, hereinafter called "Grantor," for and in consideration of the sum of **TEN DOLLARS (\$10.00)** and other good and valuable consideration to Grantor in hand paid by the **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: Diane Zucco, City Secretary

EXECUTED this _____ day of _____, 20_____

EARLANE BACCUS CROOM

Address: _____

ACKNOWLEDGMENT

STATE OF TEXAS

COUNTY OF _____

This instrument was acknowledged before me on the _____ day of _____, 20_____, by **EARLANE BACCUS CROOM**, individually.

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 ONLY NOT FOR SIGNATURE

EXHIBIT "A"

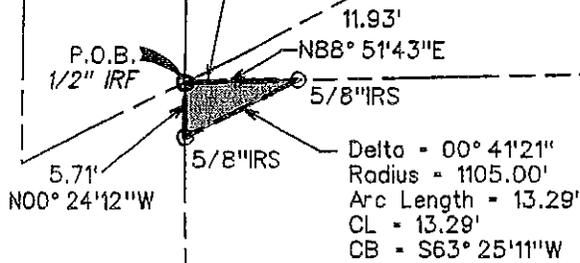
PARCEL NO. 3
0.001 ACRE
RIGHT OF WAY DEDICATION
COMMUNICATIONS PARKWAY
PLANO, TEXAS

CITY OF PLANO
96-0092889

CITY OF PLANO
96-0092893

RIGHT-OF-WAY
PARCEL NO. 3
0.001 ACRES
34 SQ. FT.

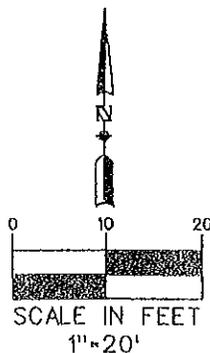
CROOM INTERESTS, LTD.
V. 4802, P. 3524



BZB MANAGEMENT, LLC
V. 5738, P. 656

EARLANE BACCUS CROOM
V. 4550, P. 1143

EXHIBIT D
PAGE 3 OF 5



ALL CORNERS MONUMENTED WITH 5/8" IRON RODS EXCEPT WHERE NOTED.



Philip B. Wolters
 PHILIP B. WOLTERS
 REGISTERED PROFESSIONAL LAND SURVEYOR
 NO. 5894 DATE: JUNE 2008

P:\DANGERBAMA\74\SURVEY\Eamt-ROW\1714-1g1-3-NAD(R).dgn

EXHIBIT 'B'

RIGHT-OF-WAY DEDICATION
PARCEL NO. 3

Field Notes

BEING a 0.001 acre portion of the Earlane Baccus Croom tract as recorded in Volume 4550, Page 1143, Deed Records, Collin County, Texas (D.R.C.C.T.) and being more particularly described by metes and bounds as follows:

BEGINNING at a found 1/2" iron rod at the northwest corner of said Croom tract, said point also being the southwest corner of a tract deeded to Croom Interests, Ltd. in Volume 4802, Page 3524, D.R.C.C.T., the southeast corner of a tract deeded to the City of Plano under Instrument No. 96-0092893, D.R.C.C.T., and a northeast corner of a tract deeded to BZB Management in Volume 5738, Page 656, D.R.C.C.T.;

THENCE N 88°51'43" E, 11.93 feet, along the north line of said Croom tract, to a 5/8" iron rod set for a corner at the beginning of a non-tangent curve to the right with a radius of 1,105.00 feet, a central angle of 00°41'21" and a chord which bears S 63°25'11" W;

THENCE Southwest, along the arc of said curve, 13.29 feet to a 5/8" iron rod set for a corner in the east line of said BZB tract;

THENCE N 00°24'12" W, 5.71 feet, along said east line, to the **POINT OF BEGINNING** containing 0.001 acres or 34 square feet of land.

EXHIBIT "B"
Permitted Exceptions

1. Restrictive covenants described in instrument recorded in Volume 1694, Page 828, Real Property Records of Collin County, Texas. As affected by instrument recorded in Volume 2241, Page 738, Real Property Records, Collin County, Texas.
2. Restrictive covenants recorded in Volume 2132, Page 1, Real Property Records of Collin County, Texas. As refiled recorded in Volume 2235, Page 827, Real Property Records, Collin County, Texas.
3. Easement granted by John C. Thompson and Mattie V. Thompson to Lebanon Water Supply Corporation, dated 02/05/1966, filed 02/25/1966, recorded in Volume 669, Page 268, Real Property Records of Collin County, Texas.
4. Easement granted by C. B. Thompson to Lebanon Water Supply Corporation, dated 02/02/1966, filed 02/25/1966, recorded in Volume 669, Page 290, Real Property Records of Collin County, Texas. As assigned to the City of Plano recorded in Volume 2419, Page 214, Real Property Records, Collin County, Texas.
5. Easement granted by Mrs. M. B. Thompson to Denton County Electric Cooperative, Inc., dated 02/25/1938, filed 03/18/1953, recorded in Volume 468, Page 227, Real Property Records of Collin County, Texas. As affected by Agreement Defining Area Embraced recorded in Volume 1262, Page 312, Real Property Records, Collin County, Texas.
6. Easement granted by Laverne W. Baccus, Individually and as Trustee for Earlane B. Croom to City of Plano, dated 10/25/1996, filed 10/28/1996, cc# 96-0092891, Real Property Records of Collin County, Texas.

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, CROOM INTERESTS, LTD., a Texas limited partnership, whether one or more, hereinafter called "Grantor," for and in consideration of the sum of **TEN DOLLARS (\$10.00)** and other good and valuable consideration to Grantor in hand paid by the **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: Diane Zucco, City Secretary

EXECUTED this _____ day of _____, 20_____

CROOM INTERESTS, LTD., a Texas limited partnership

By: _____
Name: _____
GENERAL PARTNER

Address: _____

EXHIBIT ONLY NOT FOR SIGNATURE

ACKNOWLEDGMENT

STATE OF TEXAS

COUNTY OF _____

This instrument was acknowledged before me on the _____ day of _____, 20____, by _____, General Partner of **CROOM INTERESTS, LTD.**, a Texas limited partnership, on behalf of said limited partnership.

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"

RIGHT-OF-WAY DEDICATION
PARCEL NO. 4

Field Notes

BEING a 0.018 acre portion of a tract of land deeded to Croom Interests, Ltd. in Volume 4208, Page 3524, Deed Records, Collin County, Texas, (D.R.C.C.T.) and being more particularly described by metes and bounds as follows:

BEGINNING at a found 1/2" iron rod at the southwest corner of Croom Interests tract, said point also being the northwest corner of a tract deeded to Earlane Baccus Croom 1966 Trust in Volume 4550, Page 1143, D.R.C.C.T., the southeast corner of a tract deeded to the City of Plano under Instrument No. 96-0092893, D.R.C.C.T., and a northeast corner of a tract deeded to BZB Management in Volume 5738, Page 656, D.R.C.C.T., and being at the beginning of a curve to the left with a central angle of $08^{\circ}30'14''$, a radius of 1105.00 feet and a chord which bears $N 59^{\circ}25'34'' E$ a distance of 163.85 feet;

THENCE Northeast, along the arc of said curve, a distance of 164.00 feet to a found 1/2" iron rod, capped "AZB", in the north line of said Croom Interests tract for a corner;

THENCE $S 80^{\circ}27'01'' E$, along said north line, 7.06 feet to a 5/8" iron rod set for corner, said point being at the beginning of a curve to the right with a central angle of $08^{\circ}14'41''$, a radius of 1,105.00 feet and a chord which bears $S 58^{\circ}57'10'' W$ a distance of 158.87 feet;

THENCE Southwest, along the arc of said curve, a distance of 159.01 feet to a 5/8" iron rod set for a corner in the north line of said Croom Trust tract;

THENCE $S 88^{\circ}51'43'' W$, along said north line, 11.93 feet to the POINT OF BEGINNING containing 0.018 acres or 815 square feet of land.

PARCEL NO. 4
0.018 ACRE
RIGHT OF WAY DEDICATION
COMMUNICATIONS PARKWAY
PLANO, TEXAS

CITY OF PLANO
96-0092889

CITY OF
PLANO
96-0092890

CITY OF PLANO
96-0092892

CITY OF PLANO
96-0092893

RIGHT-OF-WAY
PARCEL NO. 4
0.018 ACRES
815 SQ. FT.

Delta - 8° 30' 14"
Radius - 1105.00'
Arc Length - 164.00'
CL - 163.85'
CB - N59° 25' 34" E

S80° 27' 01" E 7.06'

5/8" IRS
CIRF 1/2"
"AZB"

DALLAS AREA
RAPID TRANSIT
V. 5268, P. 4368

CROOM INTERESTS LTD
V. 4802, P. 3524

P.O.B.
1/2" IRF

5/8" IRS

CIRF 1/2"
"AZB"

S88° 51' 43" W
11.93'

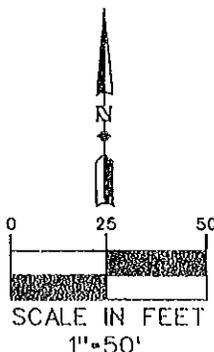
Delta - 8° 14' 41"
Radius - 1105.00'
Arc Length - 159.01'
CL - 158.87'
CB - S58° 57' 10" W

CIRF 1/2"
"AZB"

EARLANE BACCUS CROOM 1966 TRUST
V. 4550, P. 1143

BZB
MANAGEMENT, LLC
V. 5738, P. 656

EXHIBIT E
PAGE 4 OF 5



Philip B. Wolters

PHILIP B. WOLTERS
REGISTERED PROFESSIONAL LAND SURVEYOR
NO. 5894 DATE: JUNE 2009

P:\DANCE\B\A\1774 SURVEY\Examt-ROW\1714-1g-4-NAD.dgn

EXHIBIT "B"
Permitted Exceptions

1. Restrictive covenants described in instrument recorded in Volume 1694, Page 828, Real Property Records of Collin County, Texas. As affected by instrument recorded in Volume 2241, Page 738, Real Property Records, Collin County, Texas.
2. Restrictive covenants recorded in Volume 2132, Page 1, Real Property Records of Collin County, Texas. As refiled in Volume 2235, Page 827, Real Property Records, Collin County, Texas.
3. Easement granted by John L. Thompson and Mattie V. Thompson to Lebannon Water Supply Corporation, dated 02/05/1966, filed 02/25/1966, recorded in Volume 669, Page 268, Real Property Records of Collin County, Texas.
4. Easement granted by C. B. Thompson to Lebannon Water Supply Corporation, dated 02/02/1966, filed 02/25/1966, recorded in Volume 669, Page 290, Real Property Records of Collin County, Texas. As assigned to the City of Plano recorded in Volume 2919, Page 214, Real Property Records, Collin County, Texas.
5. Easement granted by Mrs. M. B. Thompson to Denton County Electric Cooperative, Inc., dated 02/25/1938, filed 03/18/1953, recorded in Volume 468, Page 227, Real Property Records of Collin County, Texas. As affected by Agreement Defining Area Embraced recorded in Volume 1262, Page 312, Real Property Records, Collin County, Texas.
6. Easement granted by Laverne W. Baccus, Individually and as Trustee for Earlane B. Croom to City of Plano, dated 10/25/1996, filed 10/28/1996, cc# 96-0092891, Real Property Records of Collin County, Texas.

TEMPORARY CONSTRUCTION EASEMENT

STATE OF TEXAS
COUNTY OF COLLIN

§
§
§

KNOW ALL MEN BY THESE PRESENTS:

THAT, EARLANE BACCUS CROOM, individually, whether one or more, hereinafter called "Grantor," for and in consideration of the sum of **TEN DOLLARS (\$10.00)** and other good and valuable consideration to Grantor in hand paid by the **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 roadway, drainage or utility facilities and grading, 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 Communications Parkway (Spring Creek to Tennyson) Project No. 5625, is completed and accepted by the City of Plano, Texas.

EXHIBIT
PAGE 1 **OF** 4

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 _____, 20_____.

EARLANE BACCUS CROOM
Address: _____

ACKNOWLEDGMENT

STATE OF TEXAS
COUNTY OF _____

§
§
§

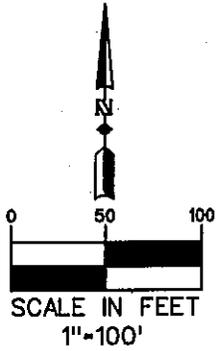
This instrument was acknowledged before me on the _____ day of _____, 20____ by **EARLANE BACCUS CROOM**, individually.

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 F
PAGE 2 **OF** 4

EXHIBIT "A"
PARCEL NO. 1TCE1
TEMPORARY CONSTRUCTION EASEMENT



LINE TABLE		
NUMBER	BEARING	DISTANCE
L1	S89° 04'30"W	0.11'
L2	S44° 22'53"W	35.53'
L3	S89° 05'39"W	202.35'
L4	N00° 01'06"E	85.13'
L5	S89° 58'54"E	104.66'
L6	S00° 01'06"W	43.89'
L7	S89° 58'54"E	122.54'
L8	S00° 21'22"E	12.57'

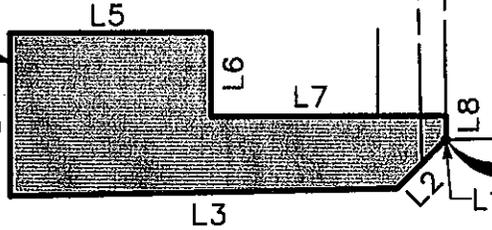
EARLANE BACCUS
CROOM
V. 4550, P. 1143

EARLANE BACCUS
CROOM
V. 4550, P. 1143

TEMPORARY
CONSTRUCTION
EASEMENT

PROPOSED
R. O. W.
COMMUNICATIONS
PARKWAY

TEMPORARY
CONSTRUCTION
EASEMENT
13,235 SQ. FT.



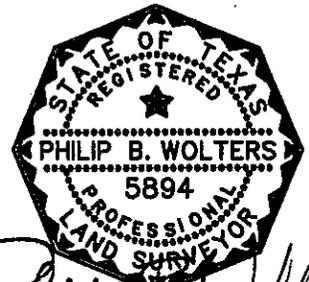
TEMPORARY
CONSTRUCTION
EASEMENT

SPRING CREEK PARKWAY

EXHIBIT PAGE 3 OF 4

COLLIN COUNTY SCHOOL
LAND SURVEY NO. 5, A-150

HENRY B. MILLER
SURVEY, A-614



Philip B. Wolters

PHILIP B. WOLTERS
REGISTERED PROFESSIONAL LAND SURVEYOR
NO. 5894 DATE: MAY 4, 2010

EXHIBIT 'B'

PARCEL NO. 1TCE1
TEMPORARY CONSTRUCTION EASEMENT

Field Notes

BEING a 13,235 square foot portion of the Earlane Baccus Croom tract as recorded in Volume 4550, Page 1143, Deed Records, Collin County, Texas (D.R.C.C.T.), out of the Collin County School Land Survey No. 5, A-150, and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8" iron rod found in the south line of said Croom tract, said point being at the intersection of the north line of Spring Creek Parkway and the west line of the proposed Communications Parkway right of way;

THENCE S 89°04'30" W, along the north line of Spring Creek Parkway, 0.11 feet to a point for corner at a corner clip in said north line;

THENCE S 44°22'53" W, along said corner clip, 35.53 feet to a point for corner;

THENCE S 89°05'39" W, continuing along the north line of Spring Creek Parkway, 202.35 feet to a point for corner;

THENCE N 00°01'06" E, departing said north line, 85.13 feet to a point for corner;

THENCE S 89°58'54" E, 104.66 feet to a point for corner;

THENCE S 00°01'06" W, 43.89 feet to a point for corner;

THENCE S 89°58'54" E, 122.54 feet to a point for corner;

THENCE S 00°21'22" E, 12.57 feet to the **POINT OF BEGINNING**, containing 13,235 square feet of land.

TEMPORARY CONSTRUCTION EASEMENT

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

KNOW ALL MEN BY THESE PRESENTS:

THAT, EARLANE BACCUS CROOM, individually, whether one or more, hereinafter called "Grantor," for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration to Grantor in hand paid by the 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 roadway, drainage or utility facilities and grading, in, on, across and through certain real property in the City of Plano, Collin County, Texas, more particularly described as Parcel 1TCE2 and Parcel 1TCE3 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 Communications Parkway (Spring Creek to Tennyson), Project No. 5625 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 _____, 20____.

EARLANE BACCUS CROOM

Address: _____

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 20____, by EARLANE BACCUS CROOM, individually.

Notary Public, State of Texas

AFTER RECORDING RETURN TO:
City Attorney's Office
City of Plano, Texas
P.O. Box 860358
Plano, TX 75086-0358

EXHIBIT ONLY NOT FOR SIGNATURE

EXHIBIT G
PAGE 2 OF 6

EXHIBIT "A"
PARCELS 1TCE2 & 1TCE3
2 TEMPORARY CONSTRUCTION
EASEMENTS

EARLANE BACCUS
 CROOM
 V. 4550, P. 1143

CURVE TABLE					
NUMBER	DELTA	RADIUS	ARC	CHORD	CHORD BEARING
C1	28° 19' 04"	1075.00'	531.31'	525.91'	S25° 42' 22"W
C2	08° 15' 07"	1104.91'	159.13'	158.99'	S10° 55' 50"W
C3	03° 28' 39"	1085.00'	65.85'	65.84'	S01° 22' 58"W
C4	30° 24' 00"	1110.00'	588.94'	582.06'	N26° 44' 50"E
C5	14° 57' 58"	930.00'	242.92'	242.23'	S19° 11' 04"W
C6	03° 28' 39"	955.00'	57.96'	57.95'	N01° 22' 58"E
C7	19° 52' 08"	965.00'	334.64'	332.96'	N21° 28' 54"E

LINE TABLE		
NUMBER	BEARING	DISTANCE
L1	S00° 21' 22"E	100.29'
L2	N89° 58' 54"W	34.86'
L3	N00° 17' 05"E	169.53'
L4	N10° 55' 50"E	162.25'
L5	S00° 29' 20"E	52.92'
L6	S00° 29' 20"E	89.78'
L7	N63° 19' 56"W	9.29'
L8	S03° 17' 24"W	137.92'
L9	S00° 14' 18"W	192.77'
L10	S89° 02' 01"W	9.94'
L11	N45° 38' 40"W	34.91'
L12	N00° 21' 22"W	111.68'
L13	N03° 17' 24"E	141.40'

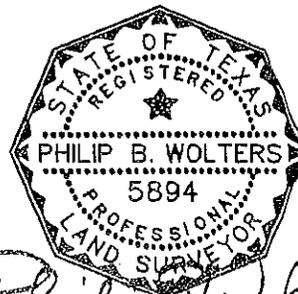
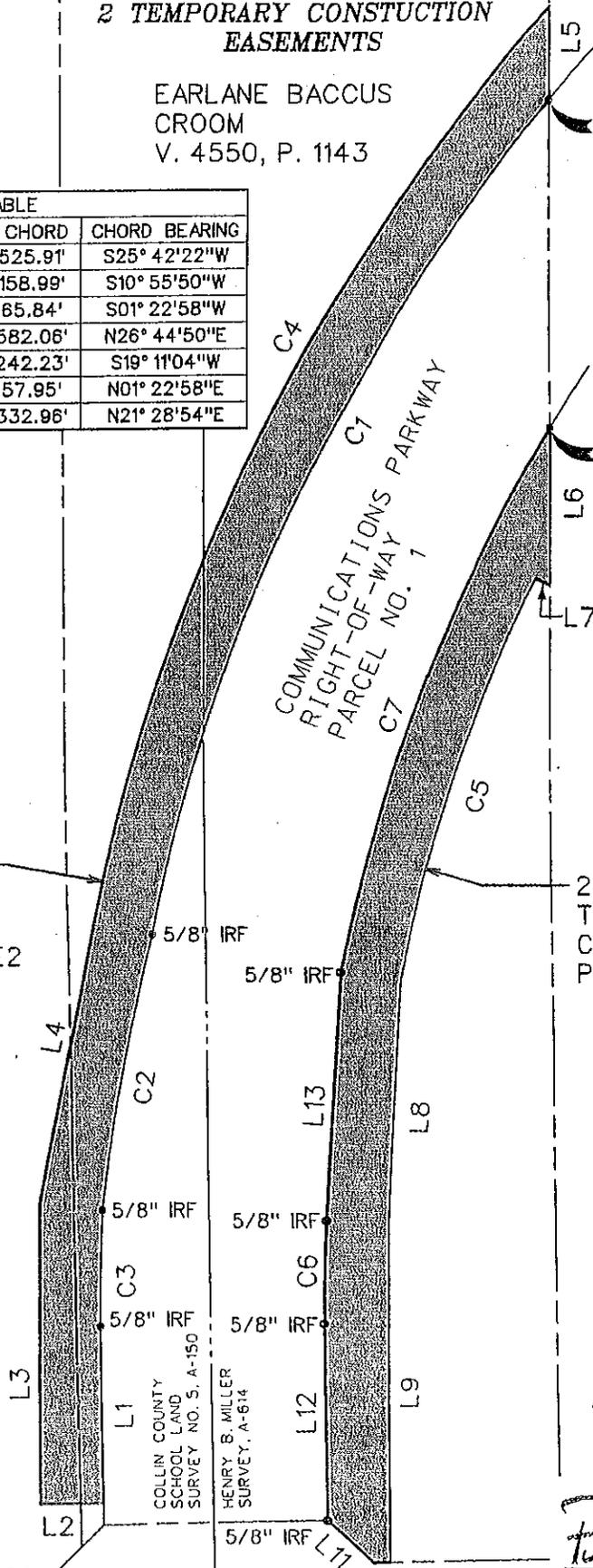
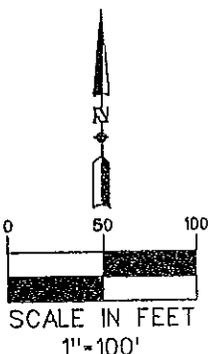
30,673 SQ. FT.
 TEMPORARY
 CONSTRUCTION
 PARCEL NO. 1TCE2

21,989 SQ. FT.
 TEMPORARY
 CONSTRUCTION
 PARCEL NO. 1TCE3

EARLANE BACCUS
 CROOM
 V. 4550, P. 1143

BZB MANAGEMENT, LLC
 V. 5738, P. 656

EXHIBIT G
PAGE 3 **OF** 6



Philip B. Wolters
 PHILIP B. WOLTERS
 REGISTERED PROFESSIONAL LAND SURVEYOR
 NO. 5894 DATE: JUNE 2009

P:\DANNENBAUM\714 SURVEY\Exam1-ROW\1714-Temp. 2-3-Baccus.dgn

Exhibit "A"
The Easement Property

EXHIBIT 'B'

PARCEL NO. 1TCE2 & 1TCE3
2 TEMPORARY CONSTRUCTION EASEMENTS

Field Notes

PARCEL NO. 1TCE2

BEING a 30,673 square foot portion of two Earlane Baccus Croom tracts as recorded in Volume 4550, Page 1143, Deed Records, Collin County, Texas (D.R.C.C.T.), out of the Collin County School Land Survey No. 5, A-150 and the Henry B. Miller Survey, A-614, and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8" iron rod found in the west line of a tract of land deeded to BZB Management in Volume 5738, Page 656, D.R.C.C.T., and being at the intersection of the north line of the proposed Communications Parkway right of way and the east line of said Croom tract, said point being at the beginning of a curve to the left with a central angle of 28°19'04", a radius of 1075.00 feet and a chord which bears S25°42'22"W a distance of 525.91 feet;

THENCE Southwest, along the arc of said curve and said proposed right of way, 531.31 feet to a 5/8" iron rod found for corner at the beginning of a curve to the left with a central angle of 08°15'07", a radius of 1104.91 feet and a chord which bears S10°55'50"W a distance of 158.99 feet;

THENCE Southwest, along the arc of said curve and said proposed right of way, 159.13 feet to a 5/8" iron rod found for corner at the beginning of a curve to the left with a central angle of 03°28'39", a radius of 1085.00 feet and a chord which bears S01°22'58"W a distance of 65.84 feet;

THENCE Southwest, along the arc of said curve and said proposed right of way, 65.85 feet to a 5/8" iron rod found for corner;

THENCE S 00°21'22" E, continuing along said proposed right of way, 100.29 feet to a point for corner;

THENCE N 89°58'54" W, departing said proposed right of way, 34.86 feet to a point for corner;

THENCE N 00°17'05" E, 169.53 feet to a point for corner;

THENCE N 10°55'50" E, 162.25 feet to a point for corner at the beginning of a curve to the right with a central angle of 30°24'00", a radius of 1110.00 feet and a chord which bears N26°44'50"E a distance of 582.06 feet;

EXHIBIT G
PAGE 4 OF 6

Exhibit "A"
The Easement Property

THENCE Northeast, along the arc of said curve, 588.94 feet to a point for corner in the east line of said Croom tract;

THENCE S 00°29'20" E, along said east line, 52.92 feet to the POINT OF BEGINNING and containing 30,673 square feet of land.

PARCEL NO. 1TCE3

BEING a 21,989 square foot portion of the Earlane Baccus Croom tract as recorded in Volume 4550, Page 1143, Deed Records, Collin County, Texas (D.R.C.C.T.), out of the Henry B. Miller Survey, A-614, and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8" iron rod found in the west line of a tract of land deeded to BZB Management in Volume 5738, Page 656, D.R.C.C.T., and being at the intersection of the south line of the proposed Communications Parkway right of way and the east line of said Croom 1966 Trust tract;

THENCE S 00°29'20" E, along said east line, 89.78 feet to a point for corner;

THENCE N 63°19'56" W, 9.29 feet to a point for corner at the beginning of a curve to the left with a central angle of 14°57'58", a radius of 930.00 feet and a chord which bears S19°11'04"W a distance of 242.23 feet;

THENCE Southwest, along the arc of said curve, 242.92 feet to a point for corner;

THENCE S 03°17'24" W, 137.92 feet to a point for corner;

THENCE S 00°14'18" W, 192.77 feet to a point for corner in the south line of said Croom 1966 Trust tract, same being the north line of Spring Creek Parkway;

THENCE S 89°02'01" W, 9.94 feet to a point for corner at a corner clip in the north line Spring Creek Parkway;

THENCE N 45°38'40" W, along said corner clip, 34.91 feet to a 5/8" iron rod found for corner;

EXHIBIT G
PAGE 5 OF 6

Exhibit "A"
The Easement Property

THENCE N 00°21'22" W, departing said corner clip and along the southwest line of the proposed Communications Parkway right of way, 111.68 feet to a 5/8" iron rod found for corner at the beginning of a curve to the right with a central angle of 03°28'39", a radius of 955.00 feet and a chord which bears N01°22'58"E a distance of 57.95 feet;

THENCE Northeast, along the arc of said curve and said proposed right of way, 57.96 feet to a 5/8" iron rod found for corner;

THENCE N 03°17'24" E, continuing along said proposed right of way, 141.40 feet to a 5/8" iron rod found for corner at the beginning of a curve to the right with a central angle of 19°52'08", a radius of 965.00 feet and a chord which bears N21°28'54"E a distance of 332.96 feet;

THENCE Northeast, along the arc of said curve and said proposed right of way, 334.64 feet to the **POINT OF BEGINNING**, containing 21,989 square feet of land.

TEMPORARY CONSTRUCTION EASEMENT

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

KNOW ALL MEN BY THESE PRESENTS:

THAT, EARLANE BACCUS CROOM, individually, whether one or more, hereinafter called "Grantor," for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration to Grantor in hand paid by the 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 roadway, drainage or utility facilities and grading, 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 Communications Parkway (Spring Creek to Tennyson), Project No. 5625 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 _____, 20____.

EARLANE BACCUS CROOM

Address: _____

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 20____, by EARLANE BACCUS CROOM, individually.

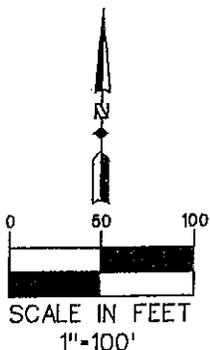
Notary Public, State of Texas

AFTER RECORDING RETURN TO:
City Attorney's Office
City of Plano, Texas
P.O. Box 860358
Plano, TX 75086-0358

EXHIBIT ONLY NOT FOR SIGNATURE

EXHIBIT PAGE 2 OF 5

EXHIBIT "A"
PARCEL NO. 1TCE4
TEMPORARY CONSTRUCTION EASEMENT



LINE TABLE		
NUMBER	BEARING	DISTANCE
L1	N00° 21' 22" W	12.57'
L2	N89° 58' 54" W	34.86'
L3	N89° 58' 54" W	87.68'
L4	N00° 01' 06" E	43.89'
L5	N89° 58' 54" W	104.65'
L6	N35° 53' 19" W	75.67'
L7	NORTH	104.15'

EARLANE BACCUS CROOM
 V. 4550, P. 1143

TEMPORARY CONSTRUCTION EASEMENT 1TCE4
 144,291 SQ. FT.

TEMPORARY CONSTRUCTION EASEMENT 1TCE1

DRAINAGE EASEMENT 1UDE

P.O.B.

PROPOSED R.O.W. COMMUNICATIONS PARKWAY

P.O.C. 5/8" IRF

TEMPORARY CONSTRUCTION EASEMENT 1TCE2

Δ-17° 13' 07"
 R-1110.00'
 L-333.58'
 CB-S20° 09' 24" W
 CL-332.33'

EARLANE BACCUS CROOM
 V. 4550, P. 1143

COLLIN COUNTY SCHOOL LAND SURVEY NO. 5, A-150
 HENRY B. MILLER SURVEY, A-614

EXHIBIT PAGE 3 OF 4



Philip B. Wolters
 PHILIP B. WOLTERS
 REGISTERED PROFESSIONAL LAND SURVEYOR
 NO. 5894 DATE: JUNE 2008

SPRING CREEK PARKWAY

P:\DANS\B\A\1714\SURVEY\Emt-ROW\1714-Temp 1-4-Croom\F3.dgn

Exhibit "A"
The Easement Property

EXHIBIT 'B'

PARCEL NO. 1TCE4
TEMPORARY CONSTRUCTION EASEMENT

Field Notes

BEING a 144,291 square foot portion of the Earlane Baccus Croom tract as recorded in Volume 4550, Page 1143, Deed Records, Collin County, Texas (D.R.C.C.T.), out of the Collin County School Land Survey No. 5, A-150, and the Henry B. Miller Survey, A-614, and being more particularly described by metes and bounds as follows:

COMMENCING at a 5/8" iron rod found in the south line of said Croom tract, said point being at the intersection of the north line of Spring Creek Parkway and the west line of the proposed Communications Parkway right of way;

THENCE N 00°21'22" W, along the west line of said proposed Communications Parkway, 12.57 feet to a point at the northeast corner of Drainage Easement 1UDE;

THENCE N 89°58'54" W, along the north line of said drainage easement, 34.86 feet to the POINT OF BEGINNING;

THENCE N 89°58'54" W, continuing along said north line, 87.68 feet to a point for corner at the most easterly southeast corner of Temporary Construction Easement 1TCE1;

THENCE N 00°01'06" E, along the east line of said temporary construction easement, 43.89 feet to a point for corner at the northeast corner of said temporary construction easement;

THENCE N 89°58'54" W, along the north line of said temporary construction easement, 104.65 feet to a point for corner;

THENCE N 35°53'19" W, departing said north line, 75.67 feet to a point for corner;

THENCE NORTH, 104.15 feet to a point for corner;

THENCE N 15°40'25" E, 198.90 feet to a point for corner;

THENCE N 30°01'38" E, 369.10 feet to a point for corner;

EXHIBIT H
PAGE 4 OF 5

Exhibit "A"
The Easement Property

THENCE S 61°14'03" E, 164.77 feet to a point for corner in the west line of Temporary Construction Easement 1TCE2, said point being at the beginning of a curve to the left with a central angle of 17°13'07", a radius of 1110.00 feet and a chord which bears S20°09'24"W a distance of 332.33 feet;

THENCE Southwest, along the arc of said curve and said west line, 333.58 feet to a point for corner;

THENCE S 10°55'53" W, continuing along said west line, 162.63 feet to a point for corner;

THENCE S 00°17'05" W, continuing along said west line, 169.53 feet to the POINT OF BEGINNING, containing 144,291 square feet of land.

TEMPORARY CONSTRUCTION EASEMENT

STATE OF TEXAS
COUNTY OF COLLIN

§
§
§

KNOW ALL MEN BY THESE PRESENTS:

THAT, EARLANE BACCUS CROOM, individually, whether one or more, hereinafter called "Grantor," for and in consideration of the sum of **TEN DOLLARS (\$10.00)** and other good and valuable consideration to Grantor in hand paid by the **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 roadway, drainage or utility facilities and grading, 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 thereof 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 Communications Parkway (Spring Creek to Tennyson), Project No. 5625 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 _____, 20____.

EARLANE BACCUS CROOM
Address: _____

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 20____, by **EARLANE BACCUS CROOM**, individually.

Notary Public, State of Texas

AFTER RECORDING RETURN TO:

City Attorney's Office
City of Plano, Texas
P. O. Box 860358
Plano, TX 75086-0358

EXHIBIT "A"
PARCEL 3TCE
TEMPORARY CONSTRUCTION EASEMENT

CITY OF PLANO
96-0092893

HENRY B. MILLER SURVEY, A-614

CITY OF PLANO
96-0092889

RIGHT-OF-WAY
PARCEL NO. 3

Delta = 00° 41' 21"
Radius = 1105.00'
Arc Length = 13.29'
CL = 13.29'
CB = N63° 25' 11"E

CROOM INTERESTS, LTD.
V. 4802, P. 3524

1/2" IRF
5/8" IRF
S88° 51' 43" W 75.76'
P.O.B.
5/8" IRF

BZB MANAGEMENT, LLC
V. 5738, P. 656

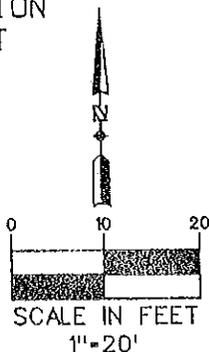
N00° 24' 12" W
38.75'

Delta = 04° 58' 06"
Radius = 1140.00'
Arc Length = 98.85'
CL = 98.82'
CB = S62° 07' 44" W

4,985 SQ. FT.
TEMPORARY
CONSTRUCTION
EASEMENT

EARLANE BACCUS CROOM
V. 4550, P. 1143

EXHIBIT I
PAGE 3 OF 4



Philip B. Wolters
PHILIP B. WOLTERS
REGISTERED PROFESSIONAL LAND SURVEYOR
NO. 5894 DATE: JUNE 2009

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EXHIBIT 'B'

PARCEL NO. 3TCE
TEMPORARY CONSTRUCTION EASEMENT

Field Notes

BEING a 1,985 square foot portion of the Earlane Baccus Croom tract as recorded in Volume 4550, Page 1143, Deed Records, Collin County, Texas (D.R.C.C.T.), out of the Henry B. Miller Survey, A-614, and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8" iron rod found at the intersection of the south line of the proposed Communications Parkway right of way and the west line of said Croom tract, same being the east line of a tract of land deeded to BZB Management, LLC in Volume 5738, Page 656, D.R.C.C.T., said point being at the beginning of a curve to the left with a central angle of 00°41'21", a radius of 1105.00 feet and a chord which bears N63°25'11"E a distance of 13.29 feet;

THENCE Northeast, along the arc of said curve and said proposed south right of way, 13.29 feet to a 5/8" iron rod found for corner in the south line of a tract of land deeded to Croom Interests, Ltd. in Volume 4802, Page 3524, D.R.C.C.T.;

THENCE S 88°51'43" W, along said south line, 75.76 feet to a point for corner at the beginning of a curve to the right with a central angle of 04°58'06", a radius of 1140.00 feet and a chord which bears S62°07'44"W a distance of 98.82 feet;

THENCE Southwest, along the arc of said curve, 98.85 feet to a point for corner in the east line of said BZB tract;

THENCE N 00°24'12" W, along said east line, 38.75 feet to the POINT OF BEGINNING and containing 1,985 square feet of land.

EXHIBIT I
PAGE 4 OF 4

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 _____, 20__.

CROOM INTERESTS, LTD., a Texas limited partnership

By: _____
Name: _____
GENERAL PARTNER

Address: _____

ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF _____ §
§

This instrument was acknowledged before me on the _____ day of _____, 20__ by _____, General Partner of **CROOM INTERESTS, LTD., a Texas limited partnership**, on behalf of said limited partnership.

Notary Public, State of Texas

AFTER RECORDING RETURN TO:
City Attorney's Office
City of Plano, Texas
P. O. Box 860358
Plano, TX 75086-0358

Exhibit "A"
The "Easement Property"

PARCEL NO. 4TCE
TEMPORARY CONSTRUCTION EASEMENT

Field Notes

BEING a 4,850 square foot portion of the Croom Interests, Ltd. tract as recorded in Volume 4802, Page 3524, Deed Records, Collin County, Texas (D.R.C.C.T.), out of the Henry B. Miller Survey, A-614, and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8" iron rod found, being N88°51'43"E a distance of 11.93 feet from a 1/2" iron rod found at the southwest corner of said Croom Interests tract, same being the northwest corner of a tract of land deeded to the Earlane Baccus Croom 1966 Trust in Volume 4550, Page 1143, D.R.C.C.T., said 5/8" iron rod being at the intersection of the south line of the proposed Communications Parkway right of way and the south line of said Croom Interests tract, and being at the beginning of a curve to the left with a central angle of 08°14'41", a radius of 1105.00 feet and a chord which bears N58°57'10"E a distance of 158.87 feet;

THENCE Northeast, along the arc of said curve and said proposed south right of way, 159.01 feet to a 5/8" iron rod found for corner in a south line of a tract of land deeded to Dallas Area Rapid Transit (DART) in Volume 5268, Page 4368, D.R.C.C.T.;

THENCE S 80°27'01" E, along said south line, 21.05 feet to a 1/2" iron rod, capped "AZB", found for corner;

THENCE S 35°50'44" E, along the west line of said DART tract, 20.09 feet to a point at the beginning of a curve to the right with a central angle of 05°34'40", a radius of 1140.00 feet and a chord which bears S56°51'21"W a distance of 110.93 feet;

THENCE Southwest, departing said west line and along the arc of said curve, 110.98 feet to a point for corner in the south line of said Croom Interests tract;

THENCE S 88°51'43" W, along said south line, 75.76 feet to the POINT OF BEGINNING and containing 4,850 square feet of land.

EXHIBIT J
PAGE 3 OF 4

Exhibit "A" The "Easement Property"

PARCEL NO. 4TCE
TEMPORARY CONSTRUCTION EASEMENT

CITY OF PLANO
96-0092889

CITY OF PLANO
96-0092890

HENRY B. MILLER SURVEY, A-614

CITY OF PLANO
96-0092892

CITY OF PLANO
96-0092893

RIGHT-OF-WAY
PARCEL NO. 4

Delta = $08^{\circ}14'41''$
Radius = 1105.00'
Arc Length = 159.01'
CL = 158.87'
CB = $N58^{\circ}57'10''E$

$1/2''$ IRF
"AZB"

$5/8''$ IRF

$1/2''$ IRF
"AZB"

$S80^{\circ}27'01''E$ 21.05'

$S35^{\circ}50'44''E$ 20.09'

DALLAS AREA
RAPID TRANSIT
V. 5268, P. 4368

CROOM
INTERESTS LTD
V. 4802, P. 3524

$1/2''$ IRF

$S88^{\circ}51'43''W$
75.76'

P.O.B.
 $5/8''$ IRF

$N88^{\circ}51'43''E$
11.93'

CIRF $1/2''$
"AZB"

Delta = $05^{\circ}34'40''$
Radius = 1140.00'
Arc Length = 110.98'
CL = 110.93'
CB = $S56^{\circ}51'21''W$

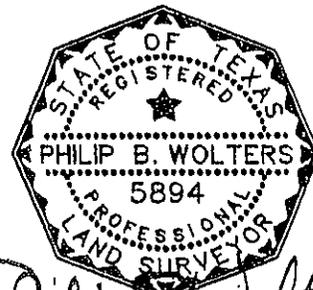
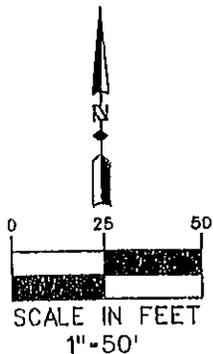
CIRF $1/2''$
"AZB"

4,850 SQ. FT.
TEMPORARY
CONSTRUCTION
EASEMENT
PARCEL 4TCE

EXHIBIT J
PAGE 4 OF 4

BZB
MANAGEMENT, LLC
V. 5738, P. 656

EARLANE BACCUS
CROOM 1966 TRUST
V. 4550, P. 1143



Philip B. Wolters

PHILIP B. WOLTERS
REGISTERED PROFESSIONAL LAND SURVEYOR
NO. 5894 DATE: JUNE 2009

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**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		June 28, 2010		
Department:		Library Administration		
Department Head		Cathy Ziegler		
Agenda Coordinator (include phone #): Mary Ann Dunnivant - Ext. 4208				
CAPTION				
<p>A Resolution of the City Council of the City of Plano, Texas, authorizing the purchase of eight (8) additional XpressCheck™ patron self-checkout stations in an amount not to exceed \$53,149 from Integrated Technology Group, the sole source provider of such equipment, for the City of Plano Public Library System; and authorizing the City Manager or his authorized designee to take such action and execute such documents as necessary to effectuate the purchase approved herein; and providing an effective date.</p>				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: 2009-10	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	158,403	0	158,403
Encumbered/Expended Amount	0	-12,827	0	-12,827
This Item	0	-53,149	0	-53,149
BALANCE	0	92,427	0	92,427
FUND(S): STATE LIBRARY GRANTS FUND				
<p>COMMENTS: Funds are included in the FY 2009-10 adopted budget for the purchase of two (2) ITG Xpress Check Countertop Kiosks and six (6) ITG Xpress check freestanding Kiosks. Expenditures will be made within the State Library Grants Fund grant appropriation. Remaining balance will be used for other grant fund appropriations.</p> <p>STRATEGIC PLAN GOAL: Providing countertop and freestanding Kiosks purchases relates to the City's Goal of a "Financially Strong City with Service Excellence".</p>				
SUMMARY OF ITEM				
<p>Approval of this purchase from Integrated Technology Group (ITG) is requested in the amount of \$53,149. Funds for this purchase will come from the LoanStar Libraries Grant. These Xpress Check™ patron self-checkout stations are being ordered in addition to five existing stations purchased from ITG after City Council approval on January 25, 2010 (CSP 2009-145-C).</p> <p>ITG is the sole source provider for kiosks which are compatible with ITG's Management Console and Remote Messaging functionality. Sole source purchases are exempt from the competitive bid process as provided in V.T.C.A., Local Government Code, Section 252.022 (a) (7).</p>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
<ol style="list-style-type: none"> 1. Memo from Cathy Ziegler dated 06.11.10 2. Quote from ITG dated 06.03.10 3. ITG Sole Source Letter dated 06.10.10 4. Affidavit of No Prohibited Interest from ITG dated 06.11.10 				



City of Plano
Library Administration
2501 Coit Road
Plano, TX 75075-3892
Phone: 972.964.4208
Fax: 972.964.4269

Memorandum

Date: June 11, 2010
To: Sharron Mason, Purchasing
From: Cathy Ziegler, Director of Libraries
Subject: Approval for ITG (Integrated Technology Group) XpressCheck™ Patron Self-Service Kiosks

I recommend that City Council approve purchase of two ITG Xpress Check™ Countertop Kiosks and 6 ITG XpressCheck™ freestanding kiosks which are in addition to 5 previously purchased kiosks previously purchased after City Council Approval on January 25, 2010 – CSP 2009-145-C. They are a necessary part of Plano Public Library System's implementation of the self-service business model.

5000 Miller Court East
Norcross, GA 30071



Toll Free Phone: 1-877-207-3127
Fax: 1-877-207-3129
www.integratedtek.com

Quote #: 06.03.10_PPLS_XpressCheck	Telephone: 972.769.4455	Proprietary and Confidential
Library Name: Plano Public Library System	Fax: 972.769.4269	
Contact: Mike Shamel	Email: mikesh@plano.gov	
Address: 2501 Coit Road, Plano, TX 75075		

Item #	Description	Unit List Price	Quantity	Your Unit Price	Unit	Your Extended Price
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Self-Checkout

ITG XpressCheck™ patron self-checkout stations are the third generation of self-checkouts provided by the company. We have taken our 10+ years of patron self-service experience and incorporated it into our latest generation of kiosks. Options for build-in, countertop, and free-standing kiosks are available. ITG XpressCheck requires access to SIP2 for ILS communications.

Hardware

ITG Kiosks

ITG XpressCheck Medallion Edition is equipped with the compact, one-piece, highly reliable NCR SelfServ 60™ kiosk and ITG's RFID hardware. Includes:

- state-of-the-art computer
- NCR's incomparable touch screen monitor
- RFID antenna and reader
- built-in bar code scanner
- exceptional, built-in cable management
- receipt printer (with optional dual-sided printing)

The ITG XpressCheck™ Countertop Kiosk is designed to sit on top of a library-supplied counter or desk. With the surface at the correct height, the unit is ADA-compliant.

The ITG XpressCheck Free-standing Kiosk is ADA compliant and can be located anywhere in the library where there is access to power and the library's Ethernet network, either by cable or wireless.

RFID300CTMEDHW	ITG XpressCheck™ Medallion - Countertop Kiosk and Hardware	\$ 8,495.00	2	\$ 5,496.75	Each	\$ 10,993.50
RFID300FSMEDHW	ITG XpressCheck™ Medallion - Freestanding Kiosk and Hardware	\$ 8,995.00	6	\$ 6,496.75	Each	\$ 38,980.50

Optional Extras

CUSTOMXC	Custom ITG XpressCheck Finish (One price for unlimited number of identical units) (Castle Oak-Davis FSXC-2)	\$ 300.00	1	\$ 300.00	Each	\$ 300.00
XCMAGST	Mag Stripe Reader	\$ 180.00	8	\$ 180.00	Each	\$ 1,440.00

Installation and Training

INSTALLTRN	On-Site Installation and/or Training ¹	see footnote				\$ -
REMOTECFGTRN	Remote Configuration and/or Training ²	\$ 750.00		\$ -	Each	\$ -

Shipping

SHIP	Shipping and Administrative			\$ 1,435.00		\$ 1,435.00
------	-----------------------------	--	--	-------------	--	-------------

Grand Total: \$ 53,149.00

¹ \$2,500 for first site, \$1,000 per additional site installed at the same time. Pedestals and Sorters not included.

² Tag programming training done remotely. Onsite installation & training for all other products. Pedestal and Sorter installation and training quoted separately.

Prices quoted above include first year's support and maintenance.



INTEGRATED TECHNOLOGY GROUP

June 10, 2010

Plano Public Library System
Mr. Mike Shamel
2501 Coit Road
Plano, TX 75075

Dear Mr. Shamel,

This letter is to confirm the Integrated Technology Group provides certain products which are unique to the RFID Library market, and as such, can only be acquired through ITG; namely, ITG's Management Console and Remote Management. Additionally, The ITG XpressCheck Self Checkout units we recently quoted you were a part of our response to your bid requirements (CSP No. 2009-145-C, CSP – Library RFID system). Pricing and availability were solidified in that document and we were notified that that business had been awarded to us. For further clarification on what would make our units stand out from others, please consider this list:

1) Management Console.

The Apex XpressCheck Management Console, provided to PPLS at no additional charge, allows system administrators to configure multiple Apex XpressCheck systems quickly and simply. Changes can be made to all machines simultaneously, or groups of machines selected by easily readable “friendly” machine names. Utilizing folder shares, over the customer’s network, the Apex XpressCheck Management Console can update configuration settings, image files, sound files, and distribute product patches or updates. Integration into the existing configuration interface is virtually seamless. The Management Console also includes one Apex XpressCheck™ license for the system administrator’s computer to facilitate remote configuration capabilities. This means that staff need not be present at remote sites or units to keep every unit at the same revision levels.

2) Remote Messaging

ITG is providing the Library with its remote messaging capabilities free of charge. This allows staff members to receive messages when patrons encounter checkout issues such as blocks due to fine/fee limits, expired cards and overdue materials. The remote messaging feature allows a single staff person to assist multiple patrons without having to leave the circulation desk. Remote Messaging can also be configured to alert staff when a sorter bin is full or if the sorter needs staff assistance. Additionally, the Library has plans to use ITG's Exit Watch application. This item identification software works in conjunction with our Remote Messaging system and alerts staff with item information on items that have passed through the security gates without being de-secured. The combination of items 1 and 2 above, combined with that same level of connectivity with other products in your ITG system, constitute ITG's *Connected Library*. The *Connected Library* is a very important product for a library of any size, but especially one the size of Plano Public Library.

3) Network Down Store and Forward

Integrated Technology Group

**5000 Miller Court East
Norcross, GA 30071**

Experienced, Innovative, Plays Well with Others

**877.207.3127 (voice)
877.207.3129 (fax)**

A Division of Vernon Library Supplies, Inc.

Store and Forward provides the ability to continue self-checkout transactions during times when the Library's SIP server is offline or unavailable. The self-checkout software will save patron checkouts locally. When the SIP server becomes available, the transactions will be sent automatically (or when the Library chooses) to the circulation database.

4) Language Support

Apex XpressCheck comes standard with English and Spanish supported. Up to four language choices can be available at any XpressCheck unit at a time. Custom language text, audio, and receipts can be added at any time. The powerful user-configurable nature of the system allows library staff to input languages of their choosing themselves. Alternatively, ITG can provide additional language translations for a nominal fee.

5) Self-Check-in

Apex XpressCheck provides an option to allow patrons to return materials at the self-checkout station. The return process will turn on the RFID security and update the patron records in the ILS via the SIP2 interface. Patrons can view account information and, if self-payment of fines and fees is enabled at the self-checkout, these services are available at check-in.

6) Credit Card Processing

Apex XpressChecks Fines and Fees module provides the ability for patrons to pay fines and charges at the self-service station. It will allow you to accept credit and debit card payments using the Authorize.net payment gateway and the Library's existing merchant account.

Items 1 & 2 above are available only to ITG system customers installing ITG XpressCheck Self-Checkout units.

In addition to the above list, a consistent patron experience is crucial to high self-checkout adoption rates. Having the same hardware and software at all patron interaction points will enhance and ensure a solid return on investment for your RFID and self-service system. This will also limit the amount of training and systems that staff have to be familiar with and comfortable using.

I hope this overview has been of some use to you as you evaluate your RFID plans and the direction which will best serve the Plano Public Library System. Please don't hesitate to contact me with any questions you may have concerning this document.

Sincerely,

Candice G. Oliver
Central States Account Manager
Integrated Technology Group
877.207.3127 ext 156
candice.oliver@integratedtek.com

A Resolution of the City Council of the City of Plano, Texas, authorizing the purchase of eight (8) additional XpressCheck™ patron self-checkout stations in an amount not to exceed \$53,149 from Integrated Technology Group, the sole source provider of such equipment, for the City of Plano Public Library System; and authorizing the City Manager or his authorized designee to take such action and execute such documents as necessary to effectuate the purchase approved herein; and providing an effective date.

WHEREAS, the City of Plano, Texas desires to purchase from Integrated Technology Group eight (8) additional XpressCheck™ patron self-checkout stations with Integrated Technology Group's Management Console and Remote Messaging functionality for the City of Plano, Plano Public Library System; and

WHEREAS, Integrated Technology Group is the sole source provider for kiosks which are compatible with Integrated Technology Group's Management Console and Remote Messaging functionality; and

WHEREAS, the funds to purchase additional eight (8) XpressCheck™ patron self-checkout stations will come from the LoanStar Libraries Grant; and

WHEREAS, these kiosks are in addition to five (5) existing Integrated Technology Group kiosks which were purchased after City Council approval on January 25, 2010; and

WHEREAS, the City Council is of the opinion that these kiosks are available only from one source, Integrated Technology Group, and therefore the purchase is exempt from competitive bid as provided for in V.T.C.A., Local Government Code, Section 252.022 (a) (7); and

WHEREAS, upon full review and consideration of the proposed purchase and all matters attendant and related thereto, the City Council is of the opinion that the purchase should be approved, and that the City Manager or his authorized 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 City Council hereby finds and determines that Integrated Technology Group is the sole source provider for the XpressCheck™ patron self-checkout stations, and said purchase is exempt from competitive bid as provided for in V.T.C.A., Local Government Code, Section 252.022 (a) (7).

Section II. The City Manager or his authorized designee is hereby authorized to take such action and execute such documents with Integrated Technology Group, the sole source provider, as necessary to effectuate the purchase of eight (8) additional

XpressCheck™ patron self-checkout stations in an amount not to exceed **Fifty Three Thousand One Hundred Forty Nine and 00/100 (\$53,149)**.

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

DULY PASSED AND APPROVED this the 28th day of June, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane Wetherbee, CITY ATTORNEY



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		06/28/2010		
Department:		Customer & Utility Services		
Department Head		Mark Israelson		
Agenda Coordinator (include phone #): Eric Ellwanger X5128				
CAPTION				
<p>An Ordinance of the City of Plano, Texas, amending specific sections of Ordinance No 2004-9-28 and Ordinance No 2004-10-25 codified as sections 21-152 and 21-154 respectively, of article IV, Service Charges Generally, of Chapter 21, Utilities, of the Code of Ordinances of the City of Plano to increase the deposit amount for residential customers, modify the response schedule for non-emergency calls and amend the utility service fee schedule, effective August 1, 2010, and providing a repealer clause, a severability clause, a savings clause, and an effective date.</p>				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: 09/10	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): WATER & SEWER				
COMMENTS: This item has no fiscal impact.				
SUMMARY OF ITEM				
<p>Approval of this item is expected to be revenue neutral by modifying the call out schedules and amending fees while reducing operating expenses related to after-hour customer call-outs, including overtime.</p> <p>STRATEGIC PLAN GOAL: Changes to the Water & Sewer Ordinance regarding Deposit and Service Fees relate to the City's Goal of "Financially Strong City with Service Excellence".</p>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Deposit & Service Fee Ordinance Change Memo				

Memo

Date: 6/10/2010

To: Mark Israelson, Assistant City Manager

From: Eric Ellwanger, Customer & Utility Services Manager

RE: Deposit & Service Fee Ordinance Change

- Customer & Utility Services recommends that the residential deposit be increased from \$50 to \$100 per residential account. In order to mitigate the impact to the customer we will offer to collect the deposit in two \$50 installments and we will return the deposit to the customer after twelve (12) months of good credit history instead of the current requirement of twenty-four (24) months.
 - The average residential utility bill in the City of Plano is now over \$80 per month in the winter and well over \$100 per month in the summer.
 - The minimum possible utility bill for a new resident to the City of Plano is \$70.78.
 - The City does not terminate an account for non-payment until the account is two months past due.
- Customer & Utility Services also recommends that non-emergency service calls be limited to Monday through Saturday 8:00AM to 9:00PM.
 - This change will result in budgeted savings of \$25,000 due to reduced overtime expense.
 - Service calls are currently taken 24 hours per day, 7 days per week, 365 days per year. There is a tiered rate structure that charges the customer \$15, \$20, \$25, or \$50 depending on the time of the scheduled service.
 - The recommended change would establish two rates for service calls:
 - Calls received during normal city working hours (Monday – Friday 8:00 a.m. to 5:00 p.m., excluding city holidays) would incur a \$20 charge.
 - Calls received Monday – Friday from 5:00 p.m. to 9:00 p.m., Saturday from 8:00 a.m. to 9:00 p.m. and city holidays from 8:00 a.m. to 9:00 p.m. would incur a \$50 charge.
 - Non-emergency service calls would not be accepted from 9:00 p.m. to 8:00 a.m. and would not be accepted at any time on Sunday.
 - This recommendation retains a significant amount of after-hours service for our citizens while decreasing the amount of overtime expense the department incurs. In addition, the change provides a simplified rate structure that is more understandable to both staff and citizens.
- Customer & Utility Services recommends that customer requested modifications to the initial request for service be complimentary unless the request is made on the day of service, in which case an additional \$20 fee will result.

- We currently charge a \$10 administrative fee for any customer requested modification to the initial request for service.
- Eliminating this \$10 fee enhances customer service.
 - Many times this transaction is the citizen's first contact with City employees.
 - Many times the reason for the modification of service is beyond the customer's control.
- The \$20 fee for requested modifications on the day of the original service request is necessary to cover expenses related to sending service personnel to the location on multiple occasions.

An Ordinance of the City of Plano, Texas, amending specific sections of Ordinance No 2004-9-28 and Ordinance No 2004-10-25 codified as sections 21-152 and 21-154 respectively, of article IV, Service Charges Generally, of Chapter 21, Utilities, of the Code of Ordinances of the City of Plano to increase the deposit amount for residential customers, modify the response schedule for non-emergency calls and amend the utility service fee schedule, effective August 1, 2010, and providing a repealer clause, a severability clause, a savings clause, and an effective date.

WHEREAS, on September 27, 2004 the City Council of the City of Plano enacted Ordinance No. 2004-9-28 amending the utility deposit requirements; and

WHEREAS, on October 26, 2004 the City Council of the City of Plano enacted Ordinance No. 2004-10-25 amending the utility services fee schedule; and

WHEREAS, the City Council has been presented a report which indicates that the residential deposit currently required is insufficient to protect the city from non-payment by customers; and

WHEREAS, upon consideration of the report and the recommendations contained therein, the City Council is of the opinion that the residential deposit should be increased to one hundred dollars (\$100.00) per unit; and

WHEREAS, upon consideration of the report and the recommendations contained therein, the City Council is of the opinion that the requirement for satisfactory completion of deposit rebate provisions be changed to twelve (12) months of good standing; and

WHEREAS, upon consideration of the report and the recommendations contained therein, the City Council is of the opinion that the City's response schedule for non-emergency utility service be limited to the hours of 8:00 a.m. to 9:00 p.m. Monday through Saturday; and

WHEREAS, upon consideration of the report and the recommendations contained therein, the City Council is of the opinion that the utility service fee schedule be amended to provide for a twenty dollar (\$20.00) fee for service scheduled during normal city working hours and a fifty dollar (\$50.00) fee for service scheduled outside normal city working hours; and

WHEREAS, the City Council further finds and determines that increasing the residential deposit amount, modifying the response schedule for non-emergency utility service, and adjusting the utility services fee schedule are necessary and in the best interest of the City and its citizens.

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

Section I. *Section 21-152, Deposits Generally, of Article IV, Service Charges Generally, of Chapter 21, Utilities, of the Code of Ordinances of the City of Plano, is hereby amended to read in its entirety as follows:*

“Sec. 21-152. Deposits generally.

(a) *Established.* A cash deposit is required of each customer account receiving water, sewer, storm drainage, or solid waste service. The cash deposit will be retained until termination of service by the city, or satisfactory completion of deposit rebate provisions of this Code. Customer deposit shall not be returned unless all outstanding charges and fees have been paid.

(b) *Amount of deposit.*

- (1) Residential customer. The deposit required for a residential customer, including single-family dwellings and multifamily dwellings when metered separately, shall be one hundred dollars (\$100.00) per unit subject to provisions of section 21-131.
- (2) Commercial customer. The deposit required of commercial and industrial customers, which includes multifamily dwellings with a single meter, shall be equal to one (1) month's average bill or one hundred dollars (\$100.00), whichever is greater, for water and sewer service. Where there is no history of consumption to determine a one (1) month's average bill, the customer & utility services director or designee shall consult the department's policies and procedures manual to determine the amount of deposit required for a commercial or industrial account.

If more than one (1) account is involved, a separate deposit shall be paid for each account. Additional deposits to ensure that the city is protected from loss may be required by the customer & utility services director or designee from those commercial and industrial accounts that are habitually delinquent in the payment of their utility bill. A deposit equal to a three-month average bill may be required in these cases. The city may review the deposits of commercial and industrial accounts periodically to ensure that a deposit has been collected sufficient to meet the criteria set forth in this section.

(c) *Exception to the requirement to maintain a residential water deposit.* Any customer who has maintained a deposit with the city for utility services at their primary residence or for a special purpose meter at their primary residence for at least twelve (12) months and is in good standing will have the residential deposit automatically credited to their account unless the customer requests in writing to the customer and utility services department that a check be issued for the refund amount. The customer may be required to file an application for such refund. For the purpose of this paragraph, a customer is in good standing when they have met the criteria for good

standing as defined in the policies and procedures manual of the customer and utility services department. All deposits existing prior to implementation of the new customer information system shall be refunded in accordance with the provisions of Ordinance No. 92-11-21.

(d) *Exception to the residential water deposit for persons sixty-five (65) years of age or older.* No person sixty-five (65) years of age or older will be required to make a deposit for their primary residence or for a special purpose meter at their primary residence if the customer submits to the customer and utility services department satisfactory proof of age. Any person sixty-five (65) years of age or older who now has a deposit with the city will have their deposit refunded if the customer has maintained their account in good standing and they file an application for such refund, with satisfactory proof of his age, to the customer and utility services department. For the purpose of this paragraph, a customer is in good standing when they have met the criteria for good standing as set out in the policies and procedures manual of the customer and utility services department.

(e) *Exception for a former residential customer with a closed account in good standing for which no deposit was required.* A former customer who closed their account in good standing may establish a new account at a primary residence with no deposit requirement if the account remains in good standing. For the purpose of this paragraph, a customer is in good standing when they have met the criteria for good standing as set out in the policies and procedures manual of the customer and utility services department.

(f) *How a customer may lose an exemption from the residential water deposit.* Failure to maintain an account in good standing shall constitute grounds to require a customer to establish or reinstate the deposit in the proper amount as determined by the customer and utility services director. Water and sewer service may be discontinued until the deposit requirements are met. The deposit requirements shall continue until the customer has reestablished good standing status.

(g) *Exception for blanket deposits for landlords of residential property.* Landlords shall be permitted the option of maintaining a blanket deposit for rental property they own. The deposit charged shall be the normal residential deposit on the first residence for which water service is required. Subsequent residences shall require a deposit of one-fifth (1/5) the normal deposit. Landlords desiring to exercise this option shall maintain the total deposit with the city, which will enable the landlord to maintain water service at each property, between tenants, without making an additional deposit.

Landlords who want to exercise this option must provide to the customer and utility services department satisfactory proof of ownership of the property (properties) to be included under the blanket deposit. The blanket deposit will cover only these properties. Landlords must notify the city in writing of any changes to this list of properties.

The blanket deposit is refundable in partial increments when a landlord notifies the customer and utility services department that water service is to be discontinued at a property covered under the blanket deposit. The blanket deposit does not automatically apply to the final bill when water service is discontinued. For the purpose of this paragraph, a landlord desiring to maintain a blanket deposit must meet the following criteria:

- (1) Has not incurred a late charge on a city utility bill more than three (3) times in the preceding twelve-month period;
- (2) Has not attempted payment of a city utility bill more than one (1) time in the preceding twelve-month period, with a check that was not honored by the bank;
- (3) Has not appeared on the list of customers whose service is scheduled for termination for nonpayment within a twelve-month period; and
- (4) Does not owe any delinquent debt to the city as provided in section 2-2 of the Code of Ordinances of the City of Plano, Texas.

(h) *Exception to the requirement to maintain a commercial water deposit.* Any commercial customer who has maintained a deposit with the city for utility service on a commercial account for at least thirty-six (36) months and is in good standing will have the commercial deposit automatically credited to their account. For the purpose of this paragraph, a customer is in good standing when they have met the criteria for good standing as defined in the policies and procedures manual of the customer and utility services department, as it may be amended from time to time. All deposits existing prior to implementation of the new utility billing system shall be refunded in accordance with the provisions of Ordinance No. 92-11-21. A customer shall lose their exemption from the deposit requirements if they fail to maintain their account in good standing as set out above, and upon demand they shall immediately deposit the appropriate sum with the customer and utility services department. Water and sewer service will be discontinued until the deposit requirements are met. The deposit requirements shall continue until the customer has re-established their good standing.”

Section II. *Section 21-154, Utility Services Fee, of Article IV, Service Charges Generally, of Chapter 21, Utilities, of the Code of Ordinances of the City of Plano, is hereby amended to read in its entirety as follows:*

“Sec. 21-154. Utility services fee.

(a) There is hereby established a utility service fee which shall be assessed for the following services:

- (1) Initial commencement of service;

- (2) Any request for transfer of service from one (1) name or address to another;
- (3) Costs associated with collection of delinquent accounts;
- (4) Reconnection of water service resulting from nonpayment of bill;
- (5) Lock-up or removal of meters for unauthorized use of water;
- (6) Any other non-emergency service call made at the customer's request.

(b) Any customer requested modification to the initial request for service on the day of that service will result in an administrative fee of twenty dollars (\$20.00) being applied in addition to the utility service fees as described in section 21-154(c).

(c) Utility service fees are nonrefundable fees to cover the cost of providing these services. The fees are "per account" for residential services and "per meter" for commercial services. The utility service fee shall be:

Service scheduled during normal city working hours	\$20.00
Service scheduled outside normal city working hours*— Weekdays from 5:00 p.m. to 9:00 p.m. and Saturdays and holidays from 8:00 a.m. to 9:00 p.m.	\$50.00
Service will not be scheduled from 9:00 p.m. to 8:00 a.m and will not be scheduled at all on Sundays.	
Emergency disconnect of water services	No charge

* Monday—Friday 8:00 a.m. to 5:00 p.m., excluding city holidays.

(d) The utility services fee shall be paid by each applicant for service from the city water utilities at the time of submission of each request shall be paid to the service representative at the time service is performed, or shall be added to the customer's account. Payment shall be made to "City of Plano Utilities."

(e) Whenever a customer fails to keep an appointment for a utility service call and requests the service representative to make a return call to the same address(es), the customer shall be charged the applicable fee for the missed service call as well as the fee for the service call during which work was actually performed."

Section III. Any provision of any Ordinance of the City of Plano, codified or uncodified, in conflict with the provisions of this Ordinance is 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 IV. 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 V. The repeal of any Ordinance or part of Ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such Ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any Ordinances at the time of passage of this Ordinance.

Section VI. This Ordinance shall become effective immediately upon its passage.

DULY PASSED AND APPROVED this the 28th day of June, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, City Secretary

APPROVED AS TO FORM:

Diane C. Wetherbee, City Attorney



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		June 28, 2010		
Department:		Emergency Management		
Department Head		S. Shane Stovall		
Agenda Coordinator (include phone #): S. Shane Stovall 972-941-5554				
CAPTION				
An Ordinance of the City of Plano, Texas repealing Section 2-137 Emergency management director; appointment of emergency management coordinator; responsibilities and Section 2-139 Operation of warning devices of Article VI Emergency Management of Chapter 2 Administration of the Code of Ordinances of the City of Plano, Texas and providing a repealer clause, a severability clause, a savings clause, and 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:	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: This item has no fiscal impact				
SUMMARY OF ITEM				
An Ordinance of the City of Plano repealing Section 2-137 and Section 2-139 of Article VI Emergency Management of Chapter 2 Administration of the Code of Ordinances of the City of Plano, Texas.				
List of Supporting Documents: Ordinance			Other Departments, Boards, Commissions or Agencies	

An Ordinance of the City of Plano, Texas repealing Section 2-137 Emergency management director; appointment of emergency management coordinator; responsibilities and Section 2-139 Operation of warning devices of Article VI Emergency Management of Chapter 2 Administration of the Code of Ordinances of the City of Plano, Texas and providing a repealer clause, a severability clause, a savings clause, and an effective date.

WHEREAS, Ordinance No. 2004-11-4 was adopted by the City Council on November 8, 2004 establishing the Comprehensive Emergency Management Plan for the City of Plano and its citizens; and

WHEREAS, the City Council finds that Section 2-137 Emergency management director; appointment of emergency management coordinator; responsibilities is covered by State law and is also contained in the City's 2004 Comprehensive Emergency Management Plan and is, therefore, redundant and unnecessary; and

WHEREAS, the City Council finds that Section 2-139 concerning the activation or operation of sirens is no longer needed as these functions are controlled internally through City management and operational procedures.

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

Section I. The City Council hereby repeals in their entirety Section 2-137 Emergency management director; appointment of emergency management coordinator; responsibilities and Section 2-139 Operation of warning devices of Article VI Emergency Management of Chapter 2 Administration of the Code of Ordinances of the City of Plano, Texas.

Section II All provisions of the Code of 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 Code of 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 III. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, or section of this Ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining phrase, clause, sentence, paragraph or section of this Ordinance.

Section IV. The repeal of any Ordinance or part of Ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such Ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions at the time of passage of this ordinance.

Section V. This Ordinance shall become effective immediately upon its passage and publication as required by law.

DULY PASSED AND APPROVED this 28th day of June, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		6/28/10		
Department:		Finance		
Department Head		Denise Tacke		
Agenda Coordinator (include phone #): Katherine Crumbley - 7479				
CAPTION				
A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas, and Rapid Tooling, Inc., a Texas corporation; authorizing its execution by the City Manager or his designee; 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: 2010	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	12,578,710	0	12,578,710
Encumbered/Expended Amount	0	-4,257,675	-4,591,500	-8,849,175
This Item	0	-13,500	-2,000	-15,500
BALANCE	0	8,307,535	-4,593,500	3,714,035
FUND(s): ECONOMIC DEVELOPMENT FUND				
COMMENTS: Strategic Plan Goal: Providing economic development incentives relates to the City's goal of strong local economy				
SUMMARY OF ITEM				
A request from Rapid Tooling, Inc. for an Economic Development Incentive to relocate its business and commercial activities to the City, thereby generating additional local sales tax revenues and increasing ad valorem tax values to the City. Rapid Tooling agrees to occupy not less than 14,300 sq. ft of commercial/industrial space by 7/1/10 and create or transfer 27 jobs by 7/1/10. Rapid Tooling may also create or transfer up to 4 additional jobs by 7/1/11.				
List of Supporting Documents: Economic Development Incentive Agreement			Other Departments, Boards, Commissions or Agencies	

A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano, Texas, and Rapid Tooling, Inc., a Texas corporation; authorizing its execution by the City Manager or his designee; and providing an effective date.

WHEREAS, the City Council has been presented a proposed Economic Development Incentive Agreement by and between the City of Plano, Texas and Rapid Tooling, Inc., a Texas corporation, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and,

WHEREAS, upon full review and consideration of the Agreement, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager or 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, THAT:

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

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

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

DULY PASSED AND APPROVED this the 28th day of June, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT

This Economic Development Incentive Agreement ("Agreement") is made by and between the City of Plano, Texas (the "City") and Rapid Tooling, Inc., a Texas corporation ("Company"), acting by and through its respective authorized officers and representatives.

WITNESSETH:

WHEREAS, Company specializes in the design and manufacture of tooling for the manufacturing industry; and

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

WHEREAS, the Company has plans to add Sixty Thousand Dollars (\$60,000.00) of taxable Real Property improvements to its new location in Plano and to increase its business personal property in Plano from its current level of Two Hundred Eighty Thousand Dollars (\$280,000) by an additional Three Hundred Forty Five Thousand Dollars (\$345,000) for a combined total of Six Hundred and Twenty Five Thousand Dollars (\$625,000.00); and

WHEREAS, the Company, as consideration for a grant, to occupy not less than a total of 14,300 square feet of commercial space located at 2605 Technology Drive, Suite 360, Plano, Texas 75074 (the "Property"); and create up to 31 Job Equivalents on the Property and maintain those positions for the remainder of the term of this Agreement; and

WHEREAS, occupancy of 14,300 square feet of commercial space on the Property and the creation of up to 31 Job Equivalents at the Property within the City will promote economic development, stimulate commercial activity and enhance the tax base and economic vitality of the City; and

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

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

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

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

Article 1 Definitions

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

"Commencement Date" shall mean the earlier of the date of occupancy of the Property by the Company or July 1, 2010, whichever occurs first.

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

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

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

Article 2 Term

The term of this Agreement shall begin on the Commencement Date and continue until June 30, 2020, unless sooner terminated as provided herein.

Article 3 Obligations of Company

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

(a) Occupy not less than 14,300 square feet of commercial/industrial space on the Property on or before July 1, 2010;

(b) Retain or transfer 27 Job Equivalents to the Property on or before July 1, 2010;

(c) May create or transfer up to 4 additional Job Equivalents (total of 31 Job Equivalents including the initial Job Equivalents created or transferred as of July 1, 2010) to the Property on or before June 1, 2011; and

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

Article 4 Economic Development Grant

4.01 **Grant.** The City agrees to provide the Company a cash grant of up to Fifteen Thousand Five Hundred Dollars (\$15,500.00) for the occupancy of 14,300 square feet of commercial space on the Property and the creation of up to 31 Job Equivalent positions on the Property in accordance with Article 3 above. The Company agrees to maintain the transferred or created Job Equivalents throughout the term of this Agreement as provided in Section 4.03 below.

4.02 **Grant Payments.** Except as otherwise indicated, the Company shall be entitled to a payment of Thirteen Thousand Five Hundred Dollars (\$13,500.00) from the City under this Agreement within thirty (30) days after the Company verifies to the City, using the Initial Certification form attached hereto as Exhibit "A", that the Company has met its obligations as set forth in Article 3 (a) and (b) above (such payment referred to as the "Initial Grant Payment"). **IN ORDER TO RECEIVE PAYMENT UNDER THIS AGREEMENT, COMPANY'S INITIAL CERTIFICATION VERIFYING COMPLIANCE WITH ARTICLE 3 (A) AND (B) ABOVE MUST BE FILED WITH THE CITY ON OR BEFORE OCTOBER 1, 2010.** The Company shall be entitled to a second payment of Five Hundred Dollars (\$500.00) for each additional Job Equivalent created at the Property before June 1, 2011, subject to a maximum total grant payment, including the Thirteen Thousand Five Hundred Dollars (\$13,500) Initial Grant Payment, of Fifteen Thousand Five Hundred Dollars (\$15,500.00) from the City under this Agreement within thirty (30) days after the Company verifies to the City, using the Initial Certification form attached hereto as Exhibit "A", that the Company has met the conditions set forth in Article 3(c) above. **IN ORDER TO RECEIVE PAYMENT, COMPANY'S INITIAL CERTIFICATION VERIFYING COMPLIANCE WITH ARTICLE 3 (C) ABOVE MUST BE FILED WITH THE CITY ON OR BEFORE SEPTEMBER 1, 2011.**

4.03 **Refunds.**

(a) In the event the Company allows Job Equivalents at the Property to fall below the number of Job Equivalents for which it has received a grant payment for more than one hundred eighty (180) consecutive days during the term of this Agreement, not the result of an Event of Force Majeure, the Company shall refund to the City an amount equal to Five Hundred Dollars (\$500.00) for each lost Job Equivalent. For purposes of determining whether the City is due a refund under this section, the Company's Chief Financial Officer shall certify to the City by January 31, 2011, and by January 31st of each year thereafter during the term of this Agreement the actual number of Job Equivalents at the Property for the preceding calendar year, using the Certification form attached as Exhibit "B". All refunds under this Agreement shall be due within thirty (30) days of written demand for payment. Notwithstanding the foregoing, the

Company shall never be required to refund to the City, in the aggregate, any amount in excess of the total grant amount set forth in Section 4.01.

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

Article 5 Termination

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

- (a) By mutual written agreement of the parties;
- (b) Upon expiration of the term of this Agreement;
- (c) By either party upon written notice to the other, if the other party defaults or breaches any of the terms or conditions of this Agreement and such default or breach is not cured within thirty (30) days after written notice thereof (provided that such 30-day period shall be extended if the default is of a nature that cannot reasonably be cured within such 30-day period and further provided that the remedy is being diligently pursued); and
- (d) By either party upon written notice to the other if any subsequent federal or state legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal or unenforceable, provided that such termination notice shall set forth an explanation of the terminating party's basis for termination under this subsection (d).

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

Article 6 Miscellaneous

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

such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

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

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

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

6.12 **Time is of the Essence**. Time is of the essence in this Agreement.

EXECUTED on this 28th day of June, 2010.

ATTEST:

CITY OF PLANO, TEXAS, a home rule municipal corporation

Diane Zucco, CITY SECRETARY

By: _____
Thomas H. Muehlenbeck, CITY MANAGER

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

RAPID TOOLING, INC.,
a Texas corporation

By: _____
Dee Claybrook
PRESIDENT/CEO

EXHIBIT "A"

INITIAL CERTIFICATE OF COMPLIANCE*

[DATE]

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

RE: Initial Certificate of Compliance by Rapid Tooling, Inc. ("Company")
Economic Development Incentive Agreement between Company and the City of Plano
dated as of 6/28/10 (the "Agreement")

I hereby certify that Company has occupied not less than 14,300 square feet of commercial/industrial space located at 2605 Technology Drive, Suite 360, Plano, Texas (the "Property") and has retained, transferred, or created ____ Job Equivalent (as defined in the Agreement) positions to the Property. Company is in compliance with subsections [(a) and (b)] / [(c)]* of Article 3 of the Agreement and is entitled to receive payment under the terms of the Agreement.

Rapid Tooling, Inc.,
a Texas corporation

By: _____
Name:
Title:

NOTE:

*This form may be modified and used for the initial certification of the additional jobs as specified in Article 3(c) above.

EXHIBIT "B"

ANNUAL CERTIFICATE OF COMPLIANCE

[DATE]

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

RE: Annual Certificate of Compliance by Rapid Tooling, Inc. ("Company")
Economic Development Incentive Agreement between Company and the City of Plano
dated as of 6/28/10 (the "Agreement")

I hereby certify that Company is in compliance with each applicable term as set forth in Article 3 of the Agreement. The term of the Agreement is July 1, 2010 through June 30, 2020. The number of new Job Equivalents, calculated as set forth in the Agreement and maintained pursuant to the Agreement since its inception, has not fallen below _____ for more than one hundred eighty (180) consecutive days and is _____ as of the date of this Certificate of Compliance. If the number herein reported is below the number required to be maintained pursuant to the Agreement, I certify that the City of Plano has been refunded the appropriate amount as required by Section 4.03 of the Agreement. This form is due on April 1st of each year the Agreement is in force.

Rapid Tooling, Inc.,
a Texas corporation

By: _____
Name: _____
Title: _____



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		06/28/10		
Department:		Planning/Community Services		
Department Head		Phyllis Jarrell		
Agenda Coordinator (include phone #): Doris Carter, ext. 5350				
CAPTION				
Public Hearing and consideration of a Resolution of the City Council of the City of Plano, Texas, adopting the 2010-2011 Action Plan, including the final statement of Community Development Block Grant and HOME programs objectives and proposed use of funds for program year 2010-2011; and declaring 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: 2010-2011	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): GRANT FUND				
<p>COMMENTS: There are two companion agenda items that are contingent on the approval of this Action Plan which outlines the objectives and proposed use of \$1,976,098 in CDBG and HOME grant funds. This public hearing and resolution, which have no current fiscal impact, set a budget for the use of funds at a total of \$1,976,098; estimated at \$1,200,000 in 2010-11 and \$776,098 in 2011-12.</p> <p>STRATEGIC PLAN GOAL: A CDBG and HOME program action plan relates to the City's goal of Great Neighborhoods – 1st Choice to Live, Financially Strong City with Service Excellence and Partnering for Community Benefit.</p>				
SUMMARY OF ITEM				
This resolution formally adopts the 2010-11 Action Plan, which includes the final statement of Community Development Block Grant and HOME Program objectives, thereby setting the budget for the use of these funds in 2010-11. If, as a result of the public hearing, any of the proposed projects are changed, this resolution will need to be amended prior to its approval.				
List of Supporting Documents: Resolution, Staff Summary, Action Plan		Other Departments, Boards, Commissions or Agencies Community Relations Commission Approved 8-0		

CITY OF PLANO

COMMUNITY RELATIONS COMMISSION

June 28, 2010

Report on 2010-2011 Federal Grant Recommendations

SUMMARY OF RECOMMENDATIONS:

The Community Services Division has a total of \$1,976,098 in federal funds and program income to be allocated for 2010-11. This amount is derived as follows:

New 2010-11 CDBG Grant amount:	\$1,385,905
New 2010-11 HOME Grant amount:	\$ 477,993
Estimated CDBG Program Income for 2010-11:	\$ 102,000
<u>Estimated HOME Program Income for 2010-11:</u>	<u>\$ 10,200</u>
Total Amount:	\$1,976,098

Each year we are required to allocate our projected program income. We project an estimated \$112,200 in program income for 2010-11, and therefore must include the additional funds in this year's total. We are assuming \$102,000 in CDBG program income for next year, although the actual amount collected may be substantially less, or more. We are assuming \$10,200 in HOME program income.

Because there is uncertainty about the actual amount of program income we will have, and because nearly all of the income is generated by the rehabilitation program, we typically allocate all the program income to the rehab program rather than to a particular agency. If there is a shortfall, the rehab program is best able to absorb the loss because of the large amount of funding it receives.

We have calculated the public service cap, 15% of the 2010-11 CDBG grant amount and estimated CDBG program income, to be \$223,185. We received \$395,945 in public services requests from agencies recommended for CDBG funds. Public services are defined as activities directed toward improving community services, including employment, crime prevention, child care, health, drug abuse, education, fair housing counseling, energy conservation, welfare, or recreational needs, and which do not fall under any other CDBG category. Any change in the recommendations must take this calculation into account.

On the non-public service side, we have \$1,428,213 to allocate and \$1,747,270 in requests.

Direction from the City Council has been to use CDBG funds primarily to fund housing and neighborhood projects. Housing is a great concern for the City because deteriorating housing results in high crime rates, lower property taxes, and higher tax rates to pay the cost of dealing with problems. In addition, the lack of affordable housing (under \$110,000) is a major concern. However, it is illegal to spend City tax funds on private property, with the result that federal CDBG funds are the only source we have which enables us to address housing concerns such as rehabilitation needs. For these reasons, CDBG is targeted toward housing and neighborhoods, and 71% of the following recommendations are addressed to these areas.

HUD expects the City to use CDBG funds to meet the goals expressed in the Five-Year Consolidated Plan, which are included in the Action Plan. In our annual report to HUD and the community, we are expected to explain our progress in meeting these goals, using our available resources.

Additionally, 20% of CDBG and 10% of HOME funds are dedicated to grant administration; 20% is allowed by the CDBG grant and 10% is allowed by the HOME grant.

The following are the Commission's recommendations for the use of the 2010-11 grants. The chart shown below demonstrates how the recommendations are distributed between the three sources of funds. Please note that, for comparison purposes, the last column on the right shows the amount the agency received in 2009.

2010 Applicant	CDBG	HOME	2010 Total Grant	2010 Request	2009 Funding
Boys and Girls Clubs of Collin County	\$ 17,000	\$ -	\$ 17,000	\$ 35,000	\$ 20,000
Christ United Methodist Church	\$ -	\$ 50,000	\$ 50,000	\$ 60,000	\$ 46,500
City of Plano – First Time Homebuyer Assistance	\$ 52,720	\$ 120,000	\$ 172,720	\$ 192,270	\$ 150,000
City of Plano – Grant Administration	\$ 277,000	\$ 47,700	\$ 324,700	\$ 324,700	\$ 197,000
City of Plano – Homelessness Prevention	\$ 38,185	\$ -	\$ 38,185	\$ 65,544	\$ 51,662
City of Plano - Helping Partners	\$ 12,000	\$ -	\$ 12,000	\$ 27,160	\$ -
City of Plano – Housing Rehabilitation	\$ 900,000	\$ -	\$ 900,000	\$1,095,000	\$ 866,977
Communities in Schools Dallas Region	\$ 30,000	\$ -	\$ 30,000	\$ 60,000	\$ 35,000
Habitat for Humanity of South Collin County	\$-	\$ 162,000	\$ 162,000	\$ 180,000	\$ 180,000
Health Services of North Texas	\$ 52,000	\$ -	\$ 52,000	\$ 66,725	\$ 51,000
LaunchAbility	\$ 25,000	\$ -	\$ 25,000	\$ 34,060	\$ 30,000
Maurice Barnett Geriatric Wellness Center - PHC	\$ 30,000	\$ -	\$ 30,000	\$ 40,000	\$ 37,578
Maurice Barnett Geriatric Wellness Center – Gatekeeper	\$ 19,000	\$ -	\$ 19,000	\$ 37,500	\$ -
Plano Housing Corporation	\$ 35,000	\$108,493	\$ 143,493	\$ 220,000	\$ 175,000

2010 - 2014 CONSOLIDATED PLAN COMMUNITY DEVELOPMENT STRATEGIES AND OBJECTIVES AND OBJECTIVES

DECENT HOUSING

Strategy DH: Encourage the provision of decent, safe and affordable housing for low and moderate income and special needs residents.

Objective DH-1.1 (Affordability): Continue to preserve and enhance existing housing stock through home rehabilitation.

Objective DH-1.2 (Affordability): Continue to create affordable homeownership opportunities through homeownership assistance, new construction and/or acquisition and rehabilitation of land and properties for income qualifying households.

Objective DH-1.3 (Affordability): Increase and support affordable rental housing opportunities in Plano.

SUITABLE LIVING ENVIRONMENT

Strategy SL: Improve and maintain suitable living environments by supporting and enhancing public facilities, public services and infrastructure for low income persons, special needs populations and neighborhoods in need of revitalization.

Objective SL-2.1 (Availability/Accessibility): Develop and upgrade public facilities and infrastructure to help lower income persons, those with special needs and neighborhoods in need.

Objective SL-2.2 (Availability/Accessibility): Fund public service activities serving primarily lower income persons and those with special needs.

Objective SL-3 (Sustainability): Support the rehabilitation/revitalization of aging neighborhoods through a mixture of infrastructure improvements, home and business rehabilitation, code enforcement, and expanding economic opportunities.

ECONOMIC OPPORTUNITIES

Strategy EO: Encourage economic opportunities that promote private investment for low and moderate income persons and area workforce.

Objective EO-1 (Availability/Accessibility): Create and/or expand opportunities for small businesses and/or microenterprises.

REQUEST DETAILS:

Program: **SMART Moves** Request: \$ 35,000
Agency: **Boys and Girls Clubs of Collin County** Recommendation: **CDBG** \$ 17,000

The Boys and Girls Clubs organization is requesting continuing financial assistance for the SMART Moves program, which is a comprehensive prevention and education program for at-risk youth run out of the Douglass Community Center. The program is designed to combat threats to children from engaging in risky behaviors including alcohol, tobacco, other drugs, teenage pregnancy, and gang violence.

This program relates to SL 2.2, Fund public service activities serving primarily lower income persons and those with special needs.

Program: **House on the Corner** Request: \$ 60,000
Agency: **Christ United Methodist Church** Recommendation: **HOME** \$ 50,000

Christ United Methodist Church has built a new, affordable house each of the last six years moving the completed home to a residential lot in the Douglass Community. As with Habitat for Humanity, their volunteer hours and donations are an excellent source of matching funds for the HOME grant.

In recognition of the excellent quality of the work they have produced at a reasonable cost to the program, the Commission recommended that \$50,000 in HOME funds be granted to them.

This activity relates to DH 1.2, Continue to create affordable homeownership opportunities through homeownership assistance, new construction and/or acquisition and rehabilitation of land and properties for income qualifying households.

Program: **First Time Homebuyer Assistance** Request: \$ 192,270
Agency: **City of Plano Community Services** Recommendation: **HOME** \$ 120,000
CDBG \$ 52,720

This program provides down payment and closing cost assistance to enable a low-income family to purchase their first home. The funds for this program are increasing significantly over last year because they have been restructured to demonstrate the actual program costs, including staff salaries, homebuyer education classes, and materials. The CDBG funds are the portion of the program costs that are contracted for Homebuyer Education classes serving approximately 165 potential homebuyers. Funds will assist 20 households to buy a home. The amount recommended includes an estimated \$10,200 in program income based on loan repayments.

This activity relates to DH 1.2, Continue to create affordable homeownership opportunities through homeownership assistance, new construction and/or acquisition and rehabilitation of land and properties for income qualifying households.

Program:	Grant Administration	Request:	\$ 324,700
Agency:	City of Plano Community Services	Recommendation:	HOME \$ 277,000 CDBG \$ 47,700

The administrative funds from CDBG are used for incidental expenses of administration of the grant, including the annual audit, the cost of travel, legal notices and advertisements, and fair housing expenses. The administrative funds are also required to staff oversight of the grants, including development of HUD reports, subrecipient agency monitoring, and financial management.

HOME administrative funds are used for the same purposes as CDBG administrative funds. HOME administrative funds have the added benefit of not requiring matching funds, thereby reducing the City's potential liability for contributing cash out of the budget for the required match.

Program:	Helping Partners	Request:	\$ 27,160
Agency:	City of Plano Community Services	Recommendation:	CDBG \$ 12,000

Helping Partners is a referral service that brings volunteer groups to location-eligible Plano homeowners and neighborhoods in need of repairs, cleanups or other services. The program connects pre-approved homeowners with community organizations who have resources to assist them.

This activity relates to DH 1.1, Continue to preserve and enhance existing housing stock through home rehabilitation.

Program:	Homelessness Prevention	Request:	\$ 65,544
Agency:	City of Plano Community Services	Recommendation:	CDBG \$ 38,185

For a number of years the City has funded a homeless prevention program, whereby families who are in non-recurring difficulties which have put them in danger of losing their home can receive up to three months of rent and utility assistance. The Commission recommended \$38,185 in funding. The program is subcontracted to the Samaritan Inn and has specific guidelines that distinguish this program from other family assistance programs run by the agency. Additionally, the Samaritan Inn comes to Plano two times a month to administer the program within the city, providing easier access for residents.

This program relates to SL 2.2, Fund public service activities serving primarily lower income persons and those with special needs.

Program:	Housing Rehabilitation	Request:	\$1,095,000
Agency:	City of Plano Community Services	Recommendation:	CDBG \$ 900,000

This is an on-going program of low-interest loans for the rehabilitation of houses and apartments in Plano. The program helps low-income households to make their homes livable, and has been the primary activity of the Community Development program in Plano since its inception. Housing Rehabilitation provides a decent living environment for low-income families, and visibly improves neighborhoods.

Since this is a revolving loan fund, a portion of the money is recovered to be used again. The amount recommended includes an estimated \$102,000 in program income based on loan repayments.

This activity relates to DH 1.1, Continue to preserve and enhance existing housing stock through home rehabilitation.

Program:	Help Kids Program	Request:	\$ 60,000
Agency:	Communities in Schools Dallas, Inc.	Recommendation:	CDBG \$ 30,000

Communities in Schools Dallas, Inc. is requesting funds to compensate counselors at Williams High School and Armstrong Middle School. These individuals provide academic and social support services, drug and alcohol prevention programs, and mentoring and tutoring for at-risk students. According to the agency, student needs in these schools continue to increase. This is a public service.

CDBG has funded this program for the past seven years. The Commission recommended \$30,000.

This program relates to SL 2.2, Fund public service activities serving primarily lower income persons and those with special needs.

Program:	Land Purchase and Lot Preparation	Request:	\$ 180,000
Agency:	Habitat for Humanity of South Collin County	Recommendation:	HOME \$ 162,000

Habitat is asking for money to buy land to build four houses in Plano. This year the Commission is recommending funding from both HOME and CDBG. The organization has received both types of funding in the past. The volunteer hours and donations obtained by Habitat in building their homes have been invaluable in meeting the City's matching requirements for the HOME program.

This activity relates to DH 1.2, Continue to create affordable homeownership opportunities through homeownership assistance, new construction and/or acquisition and rehabilitation of land and properties for income qualifying households.

Program:	Medical Care & Nutrition Services for Persons with HIV/AIDS	Request:	\$ 66,725
Agency:	Health Services of North Texas	Recommendation:	CDBG \$ 52,000

This request is for food and hygiene products and un-reimbursed medical expenses for their clients. The request is considered to be a public service. The Commission believed that the services provided by this organization meet needs of individuals with significant medical and related financial challenges.

This program relates to SL 2.2, Fund public service activities serving primarily lower income persons and those with special needs.

Program:	Supported Employment/Continued Support	Request:	\$ 34,060
Agency:	LaunchAbility	Recommendation:	CDBG \$ 25,000

This request is for the Supported Employment program, a comprehensive program that helps adults with cognitive disabilities to obtain employment at market pay. The request includes \$2,000 for marketing the program to employers.

Program:	Preventative Health Care	Request:	\$ 40,000
Agency:	Maurice Barnett Geriatric Wellness Center	Recommendation:	CDBG \$ 30,000

This requests is for preventative nursing care, counseling, health education, referrals, medical equipment lending and routine preventative service not covered by Medicare. Individuals participating in this program will be 62 years or older.

This program relates to SL 2.2, Fund public service activities serving primarily lower income persons and those with special needs.

Program:	Gatekeeper	Request:	\$ 37,500
Agency:	Maurice Barnett Geriatric Wellness Center	Recommendation:	CDBG \$ 19,000

This request requests assists at-risk Plano seniors age 62 or older with case management. Case management will include referrals to the appropriate community partners, assistance in securing resources and advocacy.

This program relates to SL 2.2, Fund public service activities serving primarily lower income persons and those with special needs.

Program:	Land Purchase and Lot Preparation	Request:	\$ 220,000
Agency:	Plano Housing Corporation	Recommendation:	CDBG \$ 35,000 HOME \$ 108,493

This request is for operational expenses up to \$58,899, and funding to purchase, rehabilitate, and re-sell single-family homes with approximately \$84,594. The homes are typically sold at a discount from appraised value to make them more affordable to low-income families.

HOME rules require that at least 15% of the HOME funds be designated for Community Housing Development Organizations (CHDO's). The rules also allow the City to provide up to 5% of the HOME grant for CHDO operating expenses. No matching funds are required for operating expenses, so it is to our benefit to provide them in order to reduce our matching requirements. Plano Housing Corporation is currently our only CHDO, so they automatically receive \$71,698.95 (15% of the HOME grant). The Commission is recommending that they receive \$108,493 from HOME, including \$23,899 (5%) of the HOME entitlement grant for operating expenses.

The Commission also recommended that \$35,000 be granted from CDBG funds to give them a total of \$143,493.

This activity relates to DH 1.1, Continue to preserve and enhance existing housing stock through home rehabilitation.

Unfunded Request Details:

There were three requests that were not recommended by the Commission; all requests were for program support.

Program:	Neighborhood Enhancement Tool	Request:	\$ 75,000
Agency:	City of Plano Community Services	Recommendation:	CDBG \$ 0

The Neighborhood Enhancement Tool (N.E.T.) program implements activities to improve neighborhoods. Specifically, the fund would provide for one property standards specialist to be dedicated specifically to improving neighborhoods participating in the NET program.

The Commission's recommendation for no funding was based on the program's newness and its inability to guarantee improved neighborhood results.

Program:	Plano Family Literacy Program	Request:	\$ 25,000
Agency:	Plano ISD Education Foundation	Recommendation:	CDBG \$ 0

The application requests funds to support two part time salaries in adult ed/GED class, an aide in children's class, and additional classroom supplies for services to students.

The Commission's recommendation for no funding was based on the limited availability of funds and the agency's ability to provide the program through other funding sources.

Program:	Youth At-Risk Intervention Program	Request:	\$ 60,000
Agency:	Crossroads Family Services	Recommendation:	CDBG \$ 0

The Youth At-Risk Intervention Program provides education and prevention/deferred adjudication programs including first offender classes, first offender counseling, truancy class, truancy counseling, threat assessments, and empowerment groups for youth.

The Commission's recommendation for no funding was based on the shortage of funding and their desire to provide funding where it served basic emergency needs. The agency also lacked necessary details required by the Commission in the public hearing.

A Resolution of the City Council of the City of Plano, Texas, adopting the 2010-2011 Action Plan, including the final statement of Community Development Block Grant and HOME programs objectives and proposed use of funds for program year 2010-2011; and declaring an effective date.

WHEREAS, the Community Relations Commission held public hearings in 2010 on April 22, May 4, May 6, and May 13 and made final recommendations at the public meeting on May 25, 2010, concerning the 2010-2011 Action Plan, and the use of the Community Development Block Grant Funds, and the HOME Investment Partnership Funds collectively referred to herein as “the Funds”, and;

WHEREAS, the City Council held a public hearing on June 28, 2010, to receive public comments concerning the recommendations of the Community Relations Commission, and;

WHEREAS, the City Council has authorized the City Manager to make application for the Funds;

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

SECTION I. - The 2010-2011 Action Plan (Exhibit “A” attached hereto), and the Final Statement of Community Development Block Grant and HOME Investment Partnership Objectives and Proposed Use of Funds for 2010-2011, are hereby adopted with funding allocations as follows:

Boys and Girls Clubs of Collin County	\$ 17,000
Christ United Methodist Church	\$ 50,000
First Time Homebuyer Assistance	\$172,720
Grant Administration	\$324,700
Homelessness Prevention	\$ 38,185
Helping Partners	\$ 12,000
Housing Rehabilitation	\$900,000
Communities in Schools Dallas Region	\$ 30,000
Habitat for Humanity of South Collin County	\$162,000
Health Services of North Texas	\$ 52,000
LaunchAbility	\$ 25,000

Maurice Barnett Geriatric Wellness Center – PHC	\$ 30,000
Maurice Barnett Geriatric Wellness Center – Gatekeeper	\$ 19,000
Plano Housing Corporation	\$143,493

SECTION II. - This resolution shall take effect immediately upon its passage.

DULY PASSED AND APPROVED THIS 28TH DAY OF JUNE 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

Approved as to form:

Diane C. Wetherbee, CITY ATTORNEY

2010-2011 City of Plano Action Plan

Prepared for the
United States Department of
Housing and Urban Development
by the
City of Plano, Texas



1. Executive Summary	3
2. Plan Objectives	4
2.1 Resources	4
2.2 Statement of Specific Objectives to be Addressed	4
2.2.1 2010-2014 Decent Housing Strategy (DH)	5
2.2.2 2010-2014 Suitable Living Environment Strategy (SL)	6
2.2.3 2010-2014 Economic Opportunity Strategy (EO)	6
2.3 Geographic Distribution	7
2.4 Affordable Housing Goals	7
3. Special Needs Populations	8
3.1 Needs of Public Housing	8
3.2 Homeless and Other Special Needs Populations	8
3.3 Chronic Homelessness	8
4. Program Strategies	9
4.1 Anti-Poverty Strategy	9
4.2 Barriers to Affordable Housing	9
4.3 Minority Outreach Program	9
5. Program Standards	10
5.1 CDBG and HOME Monitoring	10
5.2 HOME Program Requirements	11
5.3 Homeownership Initiatives	12
5.4 Lead-Based Paint Hazards	12
6. Citizen Participation and Resulting Comments	13
6.1 Public Comment Period	13
7. Self Evaluation of Progress	14
7.1 2005-2009 Goal One	14
7.2 2005-2009 Goal Two	14

7.3 2005-2009 Goal Three	15
7.4 2005-2009 Goal Four	15
7.5 2005-2009 Goal Five	15
8. Appendices	17
8.1 2009-2010 Table 3A: Program Objectives & Outcomes	17
8.2 2009-2010 Table 3B: Annual Housing Completion Goals	19
8.3 2010-2011 Table 3A: Program Objectives & Outcomes	21
8.4 2010-2011 Table 3B: Annual Housing Completion Goals	23
8.5 Consolidated Goal Evaluation Table	25

1 Executive Summary

The City of Plano has received U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) funds since 1985 and Home Investment Partnership (HOME) funds since 2004. Over the years, these funds have helped improve the quality of life for many of the City of Plano's low-to-moderate income residents. These funds have also helped improve the vitality of many of the city's oldest neighborhoods, through producing new housing and rehabilitating older homes.

The City of Plano is classified as an entitlement community by HUD. Such a designation allows the City to enjoy a direct allocation of HUD funds annually. In exchange, the City of Plano must (1) every five years submit a Consolidated Plan stating how potential HUD funds will be used for the next five years, (2) annually submit an Action Plan that outlines the projects that will take place with the use of HUD funds, and (3) annually submit a Consolidated Annual Performance Evaluation Report (CAPER) detailing achievements over the grant year. The annual Action Plan serves as a road map to achieving the goals established in the Consolidated Plan.

The City of Plano will enter into its first year of the 2010-2014 Consolidated Plan on October 1, 2010, and the grant year ends September 30, 2011. The 2010-2011 Action Plan enables the City of Plano to begin achieving 2010-2014 Consolidated Plan goals. The projects set forth in the 2010-2011 Action Plan allow the City to successfully achieve Consolidated Plan goals. Although the availability of city general funds for activities that fall within consolidated plan goals has decreased by fifty percent (50%), the City of Plano will continue to combine general funds with CDBG and HOME funds to ensure that all goals are met, and therefore improve the quality of life for the citizens of Plano. The 2010-2011 Action Plan objective and outcome categories are (1) owner housing, (2) homeless, (3) special needs, and (4) public services. As can be seen in the Table 8.3 (2010-2011 Table 3A) in the Appendices, the outcomes of these categories will provide for new and/or accessible affordable housing, new and/or improved access to social services, and access to economic opportunity.

Finally, the self evaluation in Section 7.1 of this document highlights the City's overall progression toward completing 2005-2009 Consolidated Plan Goals and brief update on the 2009 Action Plan activities. Table 8.1 and 8.2 of this document provides a more in-depth status of 2009 Action Plan activities.

2 Plan Objectives

2.1 Resources

The following federal financial resources are anticipated to be received during the program year:

1. The City of Plano's Community Development Block Grant (CDBG) entitlement grant for 2010-2011 is \$1,385,905 an increase of \$112,604 from 2009-2010. In addition, the City expects to receive approximately \$102,000 in CDBG program income through rehabilitation loan repayments.
2. The City of Plano's HOME funding is \$477,993, with an estimated \$119,499 in matching funds. HOME funds have decreased \$4,447 from 2009-2010. In addition, program income from HOME will be approximately \$10,200.

The City of Plano also provides Buffington Community Services grants to eligible non-profit agencies, many of which provide services to CDBG-eligible clients. It is anticipated that approximately \$263,000 will be allocated for Consolidated Plan goals from these grants. During 2010-2011, the City of Plano will address obstacles to meeting underserved needs by providing Buffington Community Service grants to eligible agencies that work toward such needs.

The City anticipates that CDBG funds will leverage at least \$1.0 million annually through the Homeownership Financial Assistance Program. The City will have a minimum matching requirement of \$119,499 for the HOME program. This matching requirement will be met through non-governmental cash contributions to non-profit groups and Community Housing Development Organizations (CHDO), permit fee waivers, the value of donated materials and labor, sweat equity, and/or cash from the City's general fund. Additionally, funds are leveraged through public service activities.

The City anticipates that 90% of CDBG and HOME funds will be used for activities that benefit persons of low- and moderate-income.

2.2 Statement of Specific Objectives to be Addressed

The 2010-2014 Consolidated Plan sets forth five-year Community Development strategies, with various objectives. The specific five-year strategies and objectives for the program year 2010 are stated below and followed by the planned activities which will address them. Additional references are located in Tables 8.3 and 8.4 (2010-2011 Tables 3A and 3B) of the appendices.

2.2.1 2010-2014 Decent Housing Strategy (DH)

Strategy 1 Decent Housing (DH) : Encourage the provision of decent, safe and affordable housing for low and moderate income and special needs residents.

Objective DH-1.1: Preserve and enhance existing housing stock through home rehabilitation.

City of Plano Housing Rehabilitation

The City will allocate \$900,000 from CDBG to rehabilitate dwelling units. Of that amount, approximately \$102,000 is CDBG program income.

City of Plano Helping Partners

The City's Helping Partners program will use \$12,000 in CDBG funds to connect homeowners and neighborhoods in qualified CDBG area benefit locations with volunteer groups that provide repairs, cleanups and other maintenance services.

Objective DH-1.2: Create affordable homeownership opportunities through homeownership assistance, new construction and/or acquisition and rehabilitation of land and properties for income qualifying households.

Plano Housing Corporation

The Plano Housing Corporation (CHDO) will receive \$23,899 in CHDO Operating (HOME) funds, \$84,594 in CHDO Reserve (HOME) funds, and \$35,000 in CDBG funds to purchase and rehabilitate houses. Through the HOME subsidy, these houses will be made affordable to low and moderate income homebuyers.

City of Plano First Time Homebuyer

The First Time Homebuyer Program will allocate \$109,800 in HOME funds, \$10,200 in HOME program income, and \$52,720 in CDBG funds to be used for downpayment and/or closing cost assistance for low income homebuyers.

Habitat for Humanity

Habitat for Humanity of South Collin County will receive \$162,000 in HOME funds funds, for lot purchase and development, as well as home rehabilitation. It is anticipated that Habitat for Humanity will purchase and develop residential lots. The locations of these lots are not yet determined.

Christ United Methodist Church

Christ United Methodist Church will receive \$50,000 in HOME funds to construct an affordable infill house. The church will contact various social service agencies, including churches, in Plano to make known the availability of the home to prospective purchasers. A committee of the church will interview candidates and choose a buyer. The committee does not include church or religious affiliation as a criterion for selection.

2.2.2 2010-2014 Suitable Living Environment Strategy (SL)

Strategy 2 Suitable Living Environment (SL): Improve and maintain suitable living environments by supporting and enhancing public facilities, public service and infrastructure for low income persons, special needs populations and neighborhoods in need of revitalization.

Objective DH-2.2a: Provide support to organizations that engage in public services for Plano residents, especially special needs populations, including but not limited to low income elderly, persons with disabilities, persons with HIV/AIDS and at-risk youth.

Boys & Girls Club

Boys and Girls Club of Collin County will receive \$17,000 to provide comprehensive prevention and education assistance to at-risk youth participating in the SMART Moves program.

Communities in School Dallas Region

Communities in Schools Dallas Region will receive \$30,000 in CDBG funds to provide mentoring and tutoring in two Plano schools.

Health Service of North Texas

Health Services of North Texas will receive \$52,000 in CDBG funds to provide medically necessary nutrition, hygiene products, and medical services for persons living with HIV/AIDS.

Maurice Barnett Geriatric Wellness

Maurice Barnett Geriatric Wellness will provide case management and preventative health care and education to elderly persons 62 years of age and older through the use of \$49,000 in CDBG funds.

Objective DH-2.2b: Assist homeless supportive services across the entire spectrum of need, from homelessness to self-sufficiency, with continued emphasis on homelessness prevention.

City of Plano Homelessness Prevention

The City of Plano will allocate \$38,185 in CDBG funds for a homelessness prevention program. The program will provide up to three months of emergency rent and/or mortgage and utility assistance to low-to-moderate income individuals.

2.2.3 2010-2014 Economic Opportunity Strategy (EO)

Strategy 3 Economic Opportunity (EO): Create and/or expend opportunities for small businesses and/or microenterprises.

Objective EO-2: Support activities that provide job training and assist with job/small business creation.

LauchAbility

LauchAbility will assist adults with cognitive disabilities in obtaining and keeping employment with market pay through the use of \$25,000 in CDBG funds.

2.3 Geographic Distribution

In general, assistance provided to low-to-moderate income residents is not restricted to any particular geographic area in Plano. Eleven of the twelve 2010 projects are available to eligible families and individuals, regardless of their geographic location within the city. The City will fund one program this year, Helping Partners, which will be geared toward homeowners and neighborhoods located within any of the thirty nine low-to-moderate income census blocks as determined by the HUD.

2.4 Affordable Housing Goals

The City will foster and maintain affordable housing through the rehabilitation and infill programs conducted by the City and various nonprofit agencies. Goals for affordable housing to be provided through the production of new units, rehabilitation of existing units, or acquisition of existing units are shown in Table 8.4 of the appendices.

3 Special Needs Populations

3.1 Needs of Public Housing

The City of Plano will continue to support the efforts of the Plano Housing Authority (PHA) and its public housing needs. This includes, but is not limited to, preparing environmental review documents to ensure that PHA's Capital Funds are released so that it can sustain the public housing program located in the city of Plano. The PHA owns 24 single family homes that are used for supported public housing.

Additionally, through the public housing homeownership program, in conjunction with the City of Plano First Time Homebuyer program, the City and the PHA are helping residents to reach a goal of homeownership.

PHA is not a "troubled housing agency" as determined by HUD.

3.2 Homeless and Other Special Needs Populations

The City will allocate \$51,622 to fund a homelessness prevention program. AIDS Services of North Texas will receive \$51,000 to provide food and hygiene products and medical services for persons living with HIV/AIDS, operational costs, staff salaries, and occupancy expenses.

The City will provide additional agencies with funds to assist homeless and other special needs populations through the City's Buffington Community Service grant, rather than CDBG.

3.3 Chronic Homelessness

The City continues to support initiatives to end chronic homelessness and homelessness prevention. In 2004, the City adopted a county-wide plan entitled, "Homeward Bound, A Plan to End Chronic Homelessness in Collin County." This led to the awarding of two Housing and Urban Development (HUD) Continuum of Care Grants to obtain funding to implement the Plan. Current funding of \$408,000 provides funds for services to the homeless through the following homeless service providers; Hope's Door and LifePath Systems.

The City will continue to participate in the Collin County Homeless Coalition and Metro-Dallas Homeless Alliance to ensure that plans to end chronic homelessness and homelessness prevention are being carried out. The Collin County Homeless Coalition continues to update the county-wide plan, and the City is playing an active role in the process.

4 Program Strategies

4.1 Anti-Poverty Strategy

Inter-Agency Coordination

Institutional structure is being developed through financial assistance from the CDBG, HOME, Buffington Community Services grants, and other city general funds. Coordination between public and private housing agencies and social service agencies is an on-going process through participation in the Collin County Social Services Association and Collin County Homeless Coalition. Public Housing resident initiatives are supported by the Housing Authority.

Anti-Poverty Services

The Plano ISD Education Foundation's Family Literacy Program offers family literacy programs. The Plano Housing Authority, through its Family Self-Sufficiency and Homeownership programs, is helping public housing residents to move out of poverty.

4.2 Barriers to Affordable Housing

The City's Analysis of Impediments to Fair Housing was completed in 2004 for the 2005-2009 Consolidated Plan. It does not indicate any public policies, procedures and processes that excessively impact the cost of developing, maintaining or improving affordable housing. However, the City of Plano will continue to distribute informational flyers regarding Fair Housing practices to the citizens of Plano. A new Analysis of Impediments to Fair Housing will be completed during the 2009 program year for the 2010-2014 Consolidated Plan.

4.3 Minority Outreach Program

In order to include minority and women-owned contractors in our program, we will solicit new contractors through advertisements on an as needed basis. Additionally, we will send letters, describing the rehabilitation program and requesting they apply to be included on our home improvement and rehabilitation contractor list. Extensive efforts will be made to attend events and meetings that minority and women-owned contractors sponsor. Also, we will continue to attend community meeting that are minority focused, such as "Unidos" held in the city of Plano in order to include minority and women as clients in our programs.

5 Program Standards

5.1 CDBG and HOME Monitoring

The purposes of monitoring activities funded by HUD and the City of Plano are to see that the activity is successfully carried out and to ensure compliance with all applicable regulations. Where the activity is to be performed by a subrecipient or a CHDO, a contract between the agency and the City is signed. The contract specifies what will be done with the money allocated, and the rules and regulations which apply. In addition, City staff will meet with the agencies prior to the start of the grant year to explain the required record-keeping and provide each agency a compliance manual online.

To ensure that HOME and CDBG funds for affordable housing are committed and spent in a timely manner, the City will review monthly the progress of expenditures. In situations where the expenditures are not timely, staff will work with the subrecipient/CHDO to rectify the situation.

The monitoring process consists of the following steps:

1. Notification of subrecipient or CHDO of scheduled monitoring visit.
2. Entrance conference with agency staff, to explain what will be done during the visit.
3. Review of documents justifying expenditures and work completed or in progress, to determine the quality of the work and whether it complies with regulations and codes.
4. Where appropriate, review of income qualification documents.
5. Review of HOME match documentation, where applicable.
6. On-site inspection of housing units under way and completed, where applicable.
7. Exit conference to report tentative conclusions and findings to the agency staff.
8. Written follow-up detailing any problems found and asking for a response explaining how the problems will be corrected.
9. When necessary, additional follow-up visit to see that problems have been corrected, including re-inspection for cited corrections in housing units.

In most cases, monitoring visits will be conducted when work is complete. However, in some cases, particularly with new subrecipients or CHDOs, more frequent monitoring visits will be conducted.

HOME funds will not be used for rental assistance, and therefore there will be no requirement to monitor for long-term compliance with property standards.

5.2 HOME Program Requirements

Required matching funds for the HOME program will be provided by the developers for the funds allocated to them. Matching funds for the City's portion of HOME funds will be provided primarily through the value of cash contributions, fee waivers, donated materials, equipment, and volunteer labor.

It has been determined that federal funds will be leveraged by other resources, such as loans from lenders, "boot strap" funds from Texas Department of Housing and Community Affairs (TDHCA), grants from the Federal Home Loan bank, as well as local homebuyer grants.

To ensure affordability, the City of Plano will impose recapture requirements on homeownership projects receiving subsidy that do not continue to reside in the residence for the entire affordability term.

Homebuyer HOME assistance will be provided as a deferred payment loan, amortizing annually over the course of the minimum period of affordability. If the homeowner sells the property at any time prior to the end of the affordability period, he/she will be expected to pay the full unamortized amount due at the time of sale. If, however, the net proceeds of the sale, less the amount of homeowner investment (defined as down payment and documented capital improvements), is less than the unamortized amount remaining, the City will share the net proceeds with the homeowner. The net proceeds will be divided proportionally according to the following mathematical formulas:

$$\frac{\text{HOME Subsidy}}{\text{HOME investment} + \text{homeowner investment}} \times \text{Net Proceeds} = \text{HOME amount recaptured by P.J.}$$

$$\frac{\text{Homeowner Investment}}{\text{HOME subsidy} + \text{homeowner investment}} \times \text{Net proceeds} = \text{Amount to homeowner}$$

The City of Plano will apply HOME Resale provisions when there is no direct subsidy made to the homebuyer, meaning no funds to recapture. Resale would normally occur with funds provided to developers. The home will be sold to qualified low-to-moderate income buyers, the sales price will remain affordable, and the seller will receive a fair return. Projects only involving development subsidy will not be subject to recapture.

The City of Plano does not intend to use a form of investment not described in the HOME regulations.

The City of Plano does not intend to use HOME funds to refinance existing debt secured by multifamily housing.

The City of Plano will self-impose an affordability period of ten (10) years on Homeowner Rehabilitation projects. Assistance will be provided as an interest bearing note, a deferred payment loan, or a combination of both.

The resale and recapture of funds will be enforced with liens, deed restrictions, affidavits, and contracts.

5.3 Homeownership Initiatives

The City of Plano will use HOME and CDBG allocated for the 2010-11 grant year for first-time homebuyers. Eligible families may receive up to \$10,000 funds to help pay down payment and closing costs. If CDBG funds are used, the funding will cover only 1/2 the down payment and the remainder will be applied to closing costs. The City will continue to partner with the Plano Housing Authority to assist public housing residents and Section 8 tenants in becoming homeowners through the use of remaining ADDI and HOME funds.

All First Time Homebuyer Program participants enter the program through referrals to the First Time Homebuyer Program or through the Self-Sufficiency program conducted by Plano Housing Authority. Both groups are required to attend the City of Plano Homeownership Class, an 8-hour state certified class. This class helps ensure that all First Time Homebuyer Program participants are aware of responsibilities associated with becoming a home owner and maintaining homeownership. Additionally, Plano Housing Authority buyers must also take PHA classes that include Homeownership Orientation, Financial Empowerment, Credit, and Budgeting, which total 32 hours. In addition, they must attend post-purchase classes in exterior maintenance (8 hours) and foreclosure prevention (6 hours).

5.4 Lead-Based Paint Hazards

Lead-based paint hazards are addressed through the Housing Rehabilitation program and the HOME acquisition/rehabilitation program. As homes enter these programs, they are evaluated for lead paint and, when necessary, such hazards are mitigated. Actions taken to reduce lead-based paint will be conducted in accordance with HUD's lead-based paint regulations. In addition, homes to be purchased through the First-Time Homebuyer Program that fail the required visual paint inspection will be tested for lead paint. If lead paint is present, the owner will be informed of the appropriate requirements to respond to the lead paint, and the purchase will not proceed with federal funds unless and until interim controls are completed.

6 Citizen Participation and Resulting Comments

In February 2010, a notice of available funding was e-mailed and sent by the U.S. Post Office to all persons and agencies that had previously expressed an interest in CDBG and HOME program funding. Additionally, notices of informational meetings were posted on the City's web site. On February 15, 2010, the application and instructions were placed on the City of Plano web site as a fillable document, to make application easier for the public. On February 17th and 19th, 2010, informational public meetings were held for all interested in applying for CDBG and HOME funds. On April 14, 2010, a notice of public hearing for use of CDBG and HOME funds was published in the Plano Star Courier.

The Community Relations Commission conducted public hearings on April 22, May 4, May 6 and May 13. All comments at the public hearings were made by representatives of organizations requesting funds. The essence of their remarks is included in their written applications. No written comments were received, other than the written grant applications which were also available online for public review. On May 25, 2010, the Commission made recommendations for the use of grant funds.

On June 13, 2010, the Preliminary Statement of CDBG and HOME Objectives and Proposed Use of Funds was published in the Plano Star Courier.

The City Council also will hold a public hearing on June 28, 2010 to consider the recommendations of the Community Relations Commission and adopt the Action Plan.

6.1 Public Comment Period

The public comment period began on June 13, 2010, with publication of the Preliminary Statement of CDBG and HOME Objectives and Proposed Use of Funds. The comment period will close on July 13, 2010. No verbal or written comments have been received to date.

7 Self Evaluation of Progress

The City of Plano 2005-2009 Consolidated Plan set forth five goals and seventeen objectives in order to improve Plano communities and the quality of life for Plano residents. This self evaluation, however, represents the city's overall progression towards completing the goals and objectives established in the 2005-2009 Consolidated Plan. Table 8.5 in the Appendices shows a numerical evaluation of the City's progress towards achieving the Consolidated Plan goals. The five goals set forth in the 2005-2009 Consolidated Plan focus on providing services to low-to-moderate income Plano residents and are as follows:

1. Increase the supply of affordable housing;
2. Increase the supply of affordable rental housing;
3. Preserve existing housing;
4. Expand the continuum of housing and services to provide special needs assistance; and
5. Provide funding for low-income service needs.

As can be seen in Table 8.5 the City has met 12 of the 17 objectives established under the 2005-2009 Consolidated Plan. The 2009 program year ends on September 30, 2010. To date, 54% or six of the eleven 2009 Action Plan activities have been met.

7.1 2005-2009 Goal One

Goal 1: Increase the supply of affordable housing

Goal One has three objectives: (A) New Infill Housing, (B) Acquisition/Rehabilitation, and (C) First Time Homebuyer. The City has consistently made progress towards achieving all three. The availability of land, funding, and increased construction costs within the city has a direct impact on achieving the five year goal of 35 new infill housing units. Over the years, the city has continued to develop and the number of available lots for new infill housing has decreased. Therefore, 24 new infill houses have been built to date. The City expects to increase this number by the end of the 2009 program year, however the five year goal will not be met. Through partnerships with local agencies, the City continues to strive towards the five year goal of providing acquisition/rehabilitation to 25 single-family homes. Each program year the city has made efforts to reach this goal, and to date, ten homes have been acquired/rehabilitated. The city expects the overall number to increase slightly by the end of the 2009 program year, but does not expect to achieve the five year goal. Last, the City has helped 104 first time homebuyers achieve the "American Dream" of homeownership. Though this goal has been exceeded, the City expects to assist more people become homeowners by the end of the 2009 program year.

7.2 2005-2009 Goal Two

Goal 2: Increase the supply of affordable rental housing

Goal Two has two objectives: (A) New Section 8 Units and (B) New Low Income Housing Tax Credit (LIHTC) Units. The City of Plano relied heavily on the Plano Housing Authority to achieve the first objective, and in program year 2005, the objective was met and exceeded. Objective 2B has been a goal that the City has been unable to achieve over the program years. The City of Plano regularly

supports LIHTC applications. Within the past year, the City has been contacted by developers for support, but none of the applications have been accepted by the state. No applications have been submitted during program year 2009. It is expected that this goal will not be met.

7.3 2005-2009 Goal Three

Goal 3: Preserve existing housing

Goal Three has three objectives: (A) Housing Rehabilitation, (B) Housing Reconstruction, and (C) Apartment Rehabilitation. Since program year 2005, the City has strengthened its rehabilitation and reconstruction programs and made major strides toward meeting the five year objective goals. 132 single family homes have been rehabilitated and 6 single family homes have been reconstructed since program year 2005. The City has met and exceeded the five year goal for housing rehabilitation. By the end of program year 2009, the City does not expect to meet the home reconstruction goal of ten homes. The five year apartment rehabilitation goal was met and exceeded in program year 2007.

7.4 2005-2009 Goal Four

Goal 4: Special needs assistance

Goal Four has five objectives: (A) New Homeless Units, (B) Emergency Rent and Utility Assistance, (C) Elderly Person Assistance, (D) AIDS Patient Assistance, and (E) Homeless Services. The City of Plano has a need for an additional shelter for children. Therefore, the City invested federal and general fund dollars in the creation of a homeless shelter for children up to age nine. The shelter officially opened during program year 2009 with 24 beds for youth meeting the goal of 16 new homeless units. Objectives 4A, 4B, 4C, and 4E have been met and exceeded; however these objectives were funded in program year 2009 due to the increased need in the community. Last, the City has assisted 169 persons with HIV/AIDS. Though efforts in this program area will continue through the end of the 2009 program year, the City does not expect to meet the five year goal of 250 persons.

7.5 2005-2009 Goal Five

Goal 5: Low income service needs

Goal Five has four objectives: (A) Youth Services, (B) Literacy Training, (C) Health Care, and (D) Transportation Assistance. Objectives 5A, 5B, and 5C have been met and exceeded; however these objectives continued to be funded through program year 2009 due to the increased need in the community. Objective 5D will not be met due to a steady decrease in city funds to support the activity.

Overall, the City of Plano has actively sought to achieve the five year Consolidated Plan goals through the use of annual action plans. Thirteen of the seventeen objectives in the 2005-2009 Action Plan have been met. Though two of the four unmet objectives were funded in program year 2009, the City does not expect to meet the five year goals for those objectives. Rather activities will continue to take place in those program areas to decrease the gap between the goal and the unmet total. As noted in the Executive Summary, the 2009 Action Plan does not end until September 30, 2010. The City has met and or exceeded 54% or six of the eleven, number-driven, 2009 Action Plan program

activities; Home Rehabilitation, First-Time Homebuyer, Plano Housing Corporation, Habitat for Humanity, Christ United Methodist Church, and Homelessness Prevention. The City expects to meet the remaining 46% of the 2009 Action Plan program activities by the end of the program year.

8 Appendices

8.1 2009-2010 Table 3A: Program Objectives & Outcomes

Table 8.1

Objective #	Specific Objectives	Sources of Funds	Performance Indicators	Expected Number	Actual Number	Outcome/ Objective*
Owner Housing Objectives						
DH-1.1	Preserve existing affordable housing stock (<i>City of Plano Rehabilitation Program</i>)	CDBG: \$779,712 CDBG PI: \$115,000 HOME PI: \$6,800	Total number of affordable units	20	21	DH-1
DH-1.2	Provide affordable housing to low-income first time home buyers (<i>City of Plano First-Time Homebuyer Program</i>)	CDBG: \$6,050 HOME: \$143,950	Number of first time homebuyers and/or number receiving down-payment assistance	14	35	DH-1
DH-1.3	Increase the availability/accessibility to decent housing for low-income families (<i>Plano Housing Corporation</i>)	CDBG: \$25,000 HOME: \$150,000	Total number of affordable units	3	3	DH-1
DH-1.4	Increase the availability/accessibility to decent housing for low-income families (<i>Habitat for Humanity</i>)	CDBG: \$84,864 HOME: \$117,603	Total number of affordable units	5	5	DH-1
DH-1.5	Increase the availability/accessibility to decent housing for low-income families (<i>Christ United Methodist Church</i>)	HOME: \$46,500	Total number of affordable units	1	1	DH-1
Homeless Objective						
DH-1.6	Provide accessibility to create a sustainable living environment to persons who are at risk of being homeless (<i>City of Plano Homeless Prevention Program</i>)	CDBG: \$51,622	Number of households that received emergency financial assistance to prevent homelessness	25	45	DH-1
DH-1.7	Provide accessibility to create a sustainable living environment to persons who are at risk of being homeless (<i>LifePath Systems</i>)	CDBG: \$16,700	Number of households that received emergency financial assistance to prevent homelessness	20	3	
Special Needs Objectives						
SL-1.1	Provide suitable living environments for people with HIV/AIDS (<i>AIDS Services of North Texas</i>)	CDBG: \$51,000	Number of persons assisted with new and/or improved access to a service	35	31	SL-1

Table 8.2

Objective #	Specific Objectives	Sources of Funds	Performance Indicators	Expected Number	Actual Number	Outcome/Objective*
Public Service Objectives						
SL-1.2	Provide accessibility to suitable living environments <i>(Crossroads Family Services)</i>	CDBG: \$30,700	Number of persons assisted with new and/or improved access to a service	150	41	SL-1
SL-1.3	Provide accessibility/availability for the purpose of creating suitable living environments <i>(Communities in Schools)</i>	CDBG: \$35,000	Number of persons assisted with new and/or improved access to a service	150	116	SL-1
SL-1.4	Provide accessibility/availability for the purpose of creating suitable living environments <i>(Boys and Girls Clubs)</i>	CDBG: \$20,000	Number of persons assisted with new and/or improved access to a service	85	55	SL-1
Other Objectives						
DH-1.8	Provide accessibility/availability by assisting in the creation of decent affordable housing <i>(City of Plano Grant Administration)</i>	CDBG: \$165,813 HOME:\$31,187				DH-1

***Outcome/Objective Codes**

Table 8.3

	Availability/Accessibility	Affordability	Sustainability
Decent Housing	DH-1	DH-2	DH-3
Suitable Living Environment	SL-1	SL-2	SL-3
Economic Opportunity	EO-1	EO-2	EO-3

8.2 2009-2010 Table 3B: Annual Housing Completion Goals

Grantee Name: City of Plano Program Year: 2008-09	Expected Annual # of Units to be Completed	Actual # Completed	Resources Used During the Period
ANNUAL AFFORDABLE HOUSING GOALS (sec. 215)			
Homeless households	0	0	N/A
Non-homeless household	68	110	CDBG, HOME
Special Needs households	20	3	CDBG
AFFORDABLE RENTAL HOUSING GOALS (sec. 215)			
Acquisition of existing units	0	0	N/A
Production of new units	0	0	N/A
Rehabilitation of existing units	0	0	N/A
Rental Assistance	45	48	CDBG
Total Sec. 215 Affordable Rental	45	48	CDBG
AFFORDABLE OWNER HOUSING GOALS (sec. 215)			
Acquisition of existing units	3	3	CDBG, HOME
Production of new units	6	6	CDBG, HOME
Rehabilitation of existing units	20	21	CDBG
Homebuyer Assistance	14	35	CDBG
Total Sec. 215 Affordable Owner	43	65	CDBG, HOME
ANNUAL HOUSING GOALS			
Annual Rental Housing Goal	45	48	CDBG
Annual Owner Housing Goal	43	65	CDBG, HOME
Total Annual Housing Goal	88	113	CDBG, HOME

Explanation of Table 3B Expected Numbers:

- **Non-Homeless Households:** Homeless Prevention, First-Time Homebuyers, Plano Housing Corporation, Habitat for Humanity, Christ United Methodist, and Rehabilitation goals.
- **Special Needs:** LifePath Systems goal.

- **Rental Assistance:** Homeless Prevention and LifePath Systems goal.
- **Acquisition of existing owner units:** Plano Housing Corporation goal.
- **Production of new owner units:** Christ United Methodist and Habitat for Humanity goals.
- **Rehabilitation of existing owner units:** Rehabilitation goal.
- **Homebuyer Assistance:** First-Time Homebuyer goal.

8.3 2010-2011 Table 3A: Program Objectives & Outcomes

Table 8.4

Objective #	Specific Objectives	Sources of Funds	Performance Indicators	Expected Number	Actual Number	Outcome/Objective*
Owner Housing Objectives						
DH-1.1	Preserve existing affordable housing stock (<i>City of Plano Rehabilitation Program</i>)	CDBG: \$798,000 CDBG PI: \$102,000	Total number of affordable units	20		DH-1
DH-1.2	Provide affordable housing to low-income first time home buyers (<i>City of Plano First-Time Homebuyer Program</i>)	CDBG: \$52,720 HOME: \$120,000 HOME PI: \$10,200	Number of first time homebuyers and/or number receiving down-payment assistance	20		DH-1
DH-1.3	Increase the availability/accessibility to decent housing for low-income families (<i>Plano Housing Corporation</i>)	CDBG: \$35,000 HOME: \$108,493	Total number of affordable units	3		DH-1
DH-1.4	Increase the availability/accessibility to decent housing for low-income families (<i>Habitat for Humanity</i>)	HOME: \$162,000	Total number of affordable units	4		DH-1
DH-1.5	Increase the availability/accessibility to decent housing for low-income families (<i>Christ United Methodist Church</i>)	HOME: \$50,000	Total number of affordable units	1		DH-1
Homeless Objective						
DH-1.6	Provide accessibility to create a sustainable living environment to persons who are at risk of being homeless (<i>City of Plano Homeless Prevention Program</i>)	CDBG: \$38,185	Number of households that received emergency financial assistance to prevent homelessness	29		DH-1
Special Needs Objectives						
SL-1.1	Provide suitable living environments for people with HIV/AIDS (<i>Health Services of North Texas</i>)	CDBG: \$52,000	Number of persons assisted with new and/or improved access to a service	24		SL-1
Public Service Objectives						
SL-1.2	Provide accessibility to suitable living environments (<i>Maurice Barnett Geriatric Wellness</i>)	CDBG: \$49,000	Number of persons assisted with new and/or improved access to a service	250		SL-1
SL-1.3	Provide accessibility/availability for the purpose of creating suitable living environments (<i>Communities in Schools</i>)	CDBG: \$30,000	Number of persons assisted with new and/or improved access to a service	120		SL-1

Table 8.5

Objective #	Specific Objectives	Sources of Funds	Performance Indicators	Expected Number	Actual Number	Outcome/Objective*
SL-1.4	Provide accessibility/availability for the purpose of creating suitable living environments <i>(Boys and Girls Club)</i>	CDBG: \$17,000	Number of persons assisted with new and/or improved access to a service	100		SL-1
Economic Objective						EO-1
EO-1.1	Provide accessibility/availability to economic opportunity	CDBG: \$25,000	Number of persons assisted with new and/or improved access to a service	9		
Other Objective						
DH-1.8	Provide accessibility/availability by assisting in the creation of decent affordable housing <i>(City of Plano Grant Administration)</i>	CDBG: \$165,813 HOME:\$31,187				DH-1

***Outcome/Objective Codes**

Table 8.6

	Availability/Accessibility	Affordability	Sustainability
Decent Housing	DH-1	DH-2	DH-3
Suitable Living Environment	SL-1	SL-2	SL-3
Economic Opportunity	EO-1	EO-2	EO-3

8.4 2010-2011 Table 3B: Annual Housing Completion Goals

Grantee Name: City of Plano Program Year: 2010-11	Expected Annual # of Units to be Completed	Actual # Completed	Resources Used During the Period
ANNUAL AFFORDABLE HOUSING GOALS (sec. 215)			
Homeless households	0		N/A
Non-homeless household	77		CDBG, HOME
Special Needs households	0		N/A
AFFORDABLE RENTAL HOUSING GOALS (sec. 215)			
Acquisition of existing units	0		N/A
Production of new units	0		N/A
Rehabilitation of existing units	0		N/A
Rental Assistance	29		CDBG
Total Sec. 215 Affordable Rental	29		
AFFORDABLE OWNER HOUSING GOALS (sec. 215)			
Acquisition of existing units	3		CDBG, HOME
Production of new units	5		CDBG, HOME
Rehabilitation of existing units	20		CDBG
Homebuyer Assistance	20		CDBG
Total Sec. 215 Affordable Owner	48		
ANNUAL HOUSING GOALS			
Annual Rental Housing Goal	29		CDBG
Annual Owner Housing Goal	48		CDBG, HOME
Total Annual Housing Goal	77		CDBG, HOME

Explanation of Table 3B Expected Numbers:

- **Non-Homeless Households:** Homelessness Prevention, First-Time Homebuyers, Plano Housing Corporation, Habitat for Humanity, Christ United Methodist, and Rehabilitation goals.
- **Rental Assistance:** Homelessness Prevention goal.

- **Acquisition of existing owner units:** Plano Housing Corporation goal.
- **Production of new owner units:** Christ United Methodist and Habitat for Humanity goals.
- **Rehabilitation of existing owner units:** Rehabilitation goal.
- **Homebuyer Assistance:** First-Time Homebuyer goal.

8.5 Consolidated Goal Evaluation Table

Table 8.7

Goals	Objectives	5 Year Goal	Total	Remaining Units
Goal 1: Affordable Single-Family Housing				
A	New Infill Housing	35	24	11
B	Acquisition/ Rehabilitation	25	10	15
C	First-Time Homebuyer	100	104	0
Goal 2: Affordable Rental Housing				
A	New Section 8 Units	100	236	0
B	New LIHTC Units	1,000	0	1,000
Goal 3: Preserve Existing Housing Stock				
A	Housing Rehabilitation	125	132	0
B	Housing Reconstruct	10	6	4
C	Apartment Rehabilitation	300	494	0
Goal 4: Special Needs Assistance				
A	New Homeless Units	16	23	0
B	Emergency Rent & Utility Assistance	675	11,054	0
C	Elderly Persons	2,000	5278	0
D	AIDS Patients	250	169	81
E	Homeless Services	1,000	13,921	0
Goal 5: Low-Income Service Needs				
A	Youth Services	2,000	8,592	0
B	Literacy Training	750	915	0
C	Health Care	500	21,370	0
D	Transportation Assistance	500	374	126



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY					
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory					
Council Meeting Date:		06/28/10			
Department:		Planning/Community Services			
Department Head		Phyllis Jarrell			
Agenda Coordinator (include phone #): Doris Carter, ext. 5350					
CAPTION					
A Resolution of the City Council of the City of Plano, Texas, authorizing the filing of applications for Federal Funds in an amount not to exceed \$1,863,398 under the Housing and Community Development Act and the HOME Investment Partnership Act; designating Thomas H. Muehlenbeck as Chief Executive Officer and authorized representative of the City for the purpose of giving required assurances and acting in connection with said application and providing required information; and declaring an effective date.					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input checked="" type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	2010-2011	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	1,863,898	1,863,898
BALANCE		0	0	1,863,898	1,863,898
FUND(S): GRANT FUND					
COMMENTS: This item is a companion agenda item of the CDBG and HOME Action Plan which will allow the City of Plano to file grant applications, in the amount of \$1,863,898, to provide annual funding for the CDBG and HOME programs projected to impact fiscal year 2010-11 and 2011-12.					
STRATEGIC PLAN GOAL: Filing for Federal grant funds for the CDBG and HOME program relates to the City's goals of Great Neighborhoods – 1st Choice to Live, Financially Strong City with Service Excellence and Partnering for Community Benefit.					
SUMMARY OF ITEM					
This resolution authorizes the City Manager to apply to HUD for Community Development Block Grant (CDBG) and HOME Investment Partnership funds.					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
Resolution					

A Resolution of the City Council of the City of Plano, Texas, authorizing the filing of applications for Federal Funds in an amount not to exceed \$1,863,898 under the Housing and Community Development Act and the HOME Investment Partnership Act; designating Thomas H. Muehlenbeck as Chief Executive Officer and authorized representative of the City for the purpose of giving required assurances and acting in connection with said application and providing required information; and declaring an effective date.

WHEREAS, the City of Plano is eligible to receive certain funds under the Housing and Community Development Act of 1974 as amended, in the amount of \$1,385,905 based on the adopted Community Development Block Grant budget for entitlement communities; certain funds under the HOME Investment Partnership Act of 1990 as amended, in the amount of \$477,993 based on the adopted HOME Investment Partnership grant budget for entitlement communities for the 2010-2011 program year; and

WHEREAS, it is in the public interest of the citizens of the City of Plano that application be made for such funding; and

WHEREAS, the 2010-2011 Final Statement of Community Development Block Grant and HOME Investment Partnership Objectives has been adopted by the City of Plano as its official 2010-2011 Community Development Program budget and as the Action Plan for 2010-2011.

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

SECTION I. - Thomas H. Muehlenbeck, City Manager of the City of Plano, is hereby authorized to file an application for funds under the Housing and Community Development Act of 1974 as amended and the HOME Investment Partnership Act of 1990 as amended on behalf of the City of Plano, Texas, and to certify to all understandings and assurances required under said Acts, including but not limited to, OMB circulars A-95 and A-1020 and Federal Management Circular 74-4, National Environmental Policy Act of 1969, Titles VI and VII of the Civil Rights Act of 1964 and 1968 respectively, Executive Orders 11063 and 11246, and such other assurances and understandings as may be required.

SECTION II. - Thomas H. Muehlenbeck, City Manager, is hereby designated as the Chief Executive Officer and authorized representative of the City of Plano, Texas, for the purpose of acting in connection with the application and providing such additional information as may be required.

SECTION III. - This resolution shall take effect immediately upon its passage.

DULY PASSED AND APPROVED THIS THE 28TH DAY OF JUNE, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

Approved as to form:

Diane C. Wetherbee, CITY ATTORNEY



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY					
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory					
Council Meeting Date:		06/28/10			
Department:		Planning/Community Services			
Department Head		Phyllis Jarrell			
Agenda Coordinator (include phone #): Doris Carter, ext. 5350					
CAPTION					
A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of Agreements between the City of Plano and various community organizations, providing for the expenditure of Community Development Block Grant funds in the amount of \$246,185 and HOME funds in the amount of \$320,493 for the provisions of various community services and developments; authorizing its execution by the City Manager or his authorized designee; and providing the 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:	2010-2011	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	0	1,976,098	1,976,098
Encumbered/Expended Amount		0	0	0	0
This Item		0	0	-566,678	-566,678
BALANCE		0	0	1,409,420	1,409,420
FUND(S): GRANT FUND					
COMMENTS: This item is a companion agenda item contingent on both the approval of the 2010-11 CDBG and HOME Action Plan and the approval of filing applications for Federal grant funds items. This item, in the amount of \$566,678, will establish an agreement to provide CDBG funds in the amount of \$246,185 and HOME funds in the amount of \$320,493 to various community organizations, leaving \$1,409,420 for other CDBG and HOME services programs and is projected to impact fiscal years 2010-11 and 2011-12.					
STRATEGIC PLAN GOAL: Allocating Federal grant funds to community organizations relates to the City's goals of Great Neighborhoods – 1st Choice to Live, Financially Strong City with Service Excellence and Partnering for Community Benefit.					
SUMMARY OF ITEM					
This Resolution establishes agreements for CDBG and HOME funding with various agencies. Approval of the resolution will enable the agencies to begin using CDBG and HOME grant funds effective October 1, 2010.					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
Resolution including Sample Agreements					

A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of Agreements between the City of Plano and various community organizations, providing for the expenditure of Community Development Block Grant funds in the amount of \$246,185 and HOME funds in the amount of \$320,493 for the provisions of various community services and developments; authorizing its execution by the City Manager or his authorized designee; and providing the effective date.

WHEREAS, the City Council has determined that various social service agencies operating within the City of Plano should receive a portion of the Community Development Block Grant funds and HOME funds received from the U. S. Department of Housing and Urban Development; and

WHEREAS, the City Council has been presented proposed CDBG public service, CDBG construction, and HOME agreements by and between the City of Plano and various social service agencies, sample copies of which are attached hereto as Exhibits "A", "B", and "C" respectively, which establish the general terms and conditions of funding; and

WHEREAS, the City Council has determined that it is in the best interests of the citizens of Plano that the Community Development Block Grant funds and HOME funds be utilized for the purposes for which they were granted to each of the agencies listed herein, and that each such purpose is a valid public purpose; and

WHEREAS, upon full review and consideration of the Agreements, 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 authorized designee, shall be authorized to execute them on behalf of the City of Plano;

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

Section I. - The terms and conditions of the Agreements with the below-named agencies in the amounts specified, having been reviewed by the City Council and found to be acceptable and in the best interests of the City of Plano and its citizens, are hereby in all things approved:

Community Development Block Grant Funds:	
Boys and Girls Clubs of Collin County	\$ 17,000
Communities in Schools Dallas Region	\$ 30,000
Health Services of North Texas	\$ 52,000
LaunchAbility	\$ 25,000
Maurice Barnett Geriatric Wellness Center – Gatekeeper	\$ 19,000
Maurice Barnett Geriatric Wellness Center – PHC	\$ 30,000
Plano Housing Corporation	\$ 35,000
<u>The Samaritan Inn – Homelessness Prevention</u>	<u>\$ 38,185</u>
Total:	\$246,185

HOME Funds:	
Christ United Methodist Church	\$ 50,000
Habitat for Humanity of South Collin County	\$162,000
<u>Plano Housing Corporation</u>	<u>\$108,493</u>
Total:	\$320,493

Section II. - The City Manager, or his authorized designee, is hereby authorized to execute the Agreements 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 Agreements.

Section III. - This resolution shall become effective from and after its passage.

DULY PASSED AND APPROVED THIS THE 28TH DAY OF JUNE, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

Approved as to form:

Diane C. Wetherbee, CITY ATTORNEY



**Funding Agreement Between the City of Plano and
(Insert SUBRECIPIENT's Name)**

**U.S. Department of Housing & Urban Development
Community Development Block Grant, CFDA Title 14-218, B-10-MC-48-0035**

This Agreement, entered this 1st day of October, 2010 by and between the City of Plano (herein called the "City") and **(Insert)** (herein called "Subrecipient").

WHEREAS, the City has received Federal grant monies to carry out the goals and objectives of the City of Plano's Consolidated Plan;

WHEREAS, the City is in need of assistance to further this program; and

WHEREAS, it is the desire of the parties hereto that Subrecipient engage in the performance of certain activities and in the development of programs related to the City of Plano's Consolidated Plan;

NOW THEREFORE, the parties hereto mutually agree as follows:

I. SCOPE OF SERVICES

A. National Objectives

The Subrecipient certifies that the activities carried out with funds provided under this Agreement will meet the CDBG'S program's National Objective of **(Insert objective, ex. benefiting low-and moderate-income persons, limited clientele)**, as defined in **(Insert reference, ex. 24 CFR Part 570.208(a)(2))**. The activity is eligible for funding under **(Insert reference, ex. 24 CFR 570.201(e))**. This program is a Public Service activity being reported with an objective of **(Insert objective, ex. Suitable Living Environment)** and an outcome of **(Insert outcome, ex. Availability/Accessibility (SL-1))** in the Performance Measurements Standards set forth by HUD.

B. Activities

The Subrecipient shall be responsible for **(Insert name of activity and scope)**.

Program Delivery

(Insert agency's activities, purpose and request for use of funds.)

C. Levels of Accomplishment

The Subrecipient agrees to provide the following levels of program service:

<u>Activity</u>	<u>Total Units/Year</u>
<u>(Insert persons served from grant request)</u>	<u>(Insert from grant request)</u>

D. Staffing

(Insert staffing and salaries from grant request)

E. Conditions of Use

Subrecipient shall use any and all funds furnished by City for purposes set forth in this Agreement and for no other purpose. Subrecipient agrees the expenditure of the funds shall be completed on or before September 30, 2011. Any grant funds remaining with Subrecipient which are not expended or encumbered on September 30, 2011 will be returned to the City unless otherwise extended in writing. If, during the term of this Agreement, Subrecipient wishes to utilize funds for purposes other than the activities noted above, such change will be allowed only if the proposed change is not in violation of Community Development Block Grant Regulations. Such change may be allowed only after approval by Subrecipient's Board, as evidenced by the official minutes of the board authorizing the change, and by the City Manager. No expenditure of funds in performance with the proposed change is permitted until written approval is executed by the City Manager or his designee.

F. Performance Monitoring

The City will monitor the performance of the Subrecipient against goals and performance standards as required herein once annually or as it deems necessary. Substandard performance as determined by the City will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the City, contract suspension or termination procedures will be initiated. If compliance is not feasible, Subrecipient is obligated to reimburse the City the amount funded for the particular activity.

G. Eligibility of Clients

In accordance with 24 CFR Part 570.208(a)(2)(A), the activity carried out with the funds provided under this agreement **(Insert is or is not)** for a presumed benefit clientele as defined by the U.S. Department of Housing and Urban Development (HUD). All applicable documentation will be maintained by the Subrecipient to document **(Insert limited clientele or income qualification)** eligibility.

II. TIME OF PERFORMANCE

Services of the Subrecipient shall start on the 1st day of October 2010 and terminate on the 30th day of September, 2011. The term of this agreement and the provisions herein shall be

extended to cover any additional time period during which the Subrecipient remains in control of CDBG funds or other assets, including program income. If an extension is needed, written requests should be submitted by August 15, 2011.

III. BUDGET

See Exhibit A for line item budget. In addition, the City may require a more detailed budget breakdown than the one contained herein, and the Subrecipient shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the City. Any amendments to this budget must be approved in writing by the Community Services Manager before the budget revision can be effective and cannot change the scope of the project funded under this contract.

IV. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the City under this contract shall not exceed **(Insert Amount)**. Drawdowns for the payment of eligible expenses shall be made against the line item budgets specified in Paragraph III herein and in accordance with performance. With the submission of original bills with proper documentation for the services described in Section I.B., the Subrecipient will be reimbursed within 30 days after the Subrecipient has submitted all proper documentation to the City.

ALL REQUESTS FOR FINAL REIMBURSEMENT MUST BE SUBMITTED TO THE CITY WITHIN THREE (3) DAYS AFTER THE LAST DATE OF THE CONTRACT. Payments may be contingent upon certification of the Subrecipient's financial management system in accordance with the standards specified in OMB Circular A-110.

V. NOTICES

Communication and details concerning this contract shall be directed to the following contract representatives:

City
Christina Day, Manager
Community Services
City of Plano
1520 Avenue K
Plano, Texas 75074
972-941-5262
Fax: 972-941-7396

Subrecipient

VI. GENERAL CONDITIONS

A. General Compliance

The Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the Housing and Urban Development regulations concerning

Community Development Block Grants (CDBG). The Subrecipient also agrees to comply with all other applicable Federal, State and local laws, regulations, and policies governing the funds provided under this contract, including but not limited to the City of Plano's Subrecipient Compliance Manual. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

B. Independent Contractor

Nothing contained in the Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Subrecipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The Grantee shall be exempt from all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Worker's compensation Insurance, as the Subrecipient.

C. Insurance

Subrecipient agrees to maintain during the term of this Agreement, or any extension thereof, insurance in the type and amounts as shown in Exhibit B. Such insurance shall be evidenced by certificates, a copy of which shall be provided to the CDBG Administrator at the execution of this Agreement. Insurance provided by Agency is subject to approval by City.

D. HOLD HARMLESS AND INDEMNITY.

THE AGENCY AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY AND ITS RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY AGENCY'S BREACH OF ANY THE TERMS OR PROVISIONS OF THIS CONTRACT, VIOLATIONS OF LAW OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE AGENCY, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE CONTRACTOR IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF THE CITY, AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS. THE CITY DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY OR OTHER DEFENSES AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR

ENTITY.

AGENCY AT ITS OWN EXPENSE IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS. 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 AGENCY'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF AGENCY'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. AGENCY SHALL RETAIN DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF AGENCY FAILS TO RETAIN COUNSEL WITHIN THE REQUIRED TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF AND AGENCY SHALL BE LIABLE FOR ALL COSTS INCURRED BY THE CITY.

THE INDEMNIFICATION HEREIN SURVIVES THE TERMINATION OF THE CONTRACT AND/OR DISSOLUTION OF THIS AGREEMENT.

E. Grantee Recognition

The Subrecipient shall insure recognition of the role of the City in providing Community Development Block Grant resources for this contract. All activities, facilities, and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this contract. The Subrecipient further agrees to utilize funds available under this Agreement rather than supplant funds otherwise available.

F. Amendments

The City or Subrecipient may amend this Agreement at any time, provided that such amendments make specific reference to this Agreement and are executed in writing, signed by a duly authorized representative of both organizations. Such amendments shall not invalidate this Agreement nor relieve or release the City or Subrecipient from its obligations under this Agreement.

The City may, in its discretion, amend this Agreement to conform with Federal, State, or local guidelines, policies, and available funding amounts, or for other reasons. If such amendments result in a change in the funding or the scope of services, such modifications will be incorporated only by written amendment and will not become effective until signed by both City, and the Subrecipient.

Any request for transfer of funds among the contract budget categories submitted by the Subrecipient will require written approval from the City of Plano, before the transfer can be effective. The Subrecipient may make transfer of CDBG funds between or among budget categories of Exhibit A, Budget, without requiring a formal amendment to this contract

provided:

1. The cumulative dollar amount of all transfers among budget categories is equal to or less than ten percent (10%) of the total amount of the budget;
2. The transfer will not change the scope of the project funded under this contract; and
3. The Subrecipient submits to City of Plano, a written statement specifying reason for transfer request, amount of funds to be transferred and identification of effected budget categories.

All other transfer of funds will require a formal amendment

G. Suspension or Termination

1. Failure to Comply with Terms

In accordance with 24 CFR 85.43, if Subrecipient materially fails to comply with any term of this contract, the City may take one or more of the following actions, as appropriate in the circumstances: (1) temporarily withhold cash payments pending correction of the deficiency by the Subrecipient or other more severe enforcement action by the City; (2) disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance; (3) wholly or partly suspend or terminate the current award for the Subrecipient's program, (4) withhold further awards for the program, or (5) take other remedies that are legally available.

2. Termination

In accordance with 24 CFR 85.44(a), this contract may be terminated at any time by the City with the consent of Subrecipient, in which case the City and Subrecipient shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated.

In accordance with 24 CFR 85.44(b), this contract may be terminated by Subrecipient upon written notification to the City, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of a partial termination, the City determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the City may terminate the award in its entirety.

In accordance with 24 CFR 85.43, if Subrecipient materially fails to comply with any term of this contract, this contract may be terminated by the City upon written notification to the Subrecipient, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated.

In the event of termination, whether voluntary or involuntary, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials

prepared by the Subrecipient under this Agreement shall, at the option of the City, become the property of the City, and the Subrecipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

H. Reversion of Assets

Upon the expiration of this agreement, the subrecipient shall transfer to the City of Plano any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. Any real property under the subrecipient's control that was acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to the subrecipient in the form of a loan) in excess of \$25,000 must be either:

- (i) Used to meet one of the national objectives in §570.208 (formerly §570.901) until five years after expiration of the agreement, or for such longer period of time as determined to be appropriate by the recipient; or
- (ii) Not used in accordance with paragraph (i) of this section, in which event the subrecipient shall pay to the recipient an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG fund for the acquisition of, or improvement to, the property. The payment is program income to the recipient. (No payment is required after the period of time specified in paragraph (i) of this section.)

VII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

The Subrecipient agrees to comply with OMB Circular A-110 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

The Subrecipient shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," or A-21, "Cost Principles for Educational Institutions," as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record-Keeping

1. Records to be Maintained

The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR Part 570.506, that are pertinent to the activities to be funded under this Agreement.

Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meets the National Objective of the CDBG program of benefiting low/moderate income persons;
- c. Records required to determine the eligibility of activities;
- d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
- f. Financial records as required by 24 CFR Part 570.502, and OMB Circular A-110; and
- g. Other records necessary to document compliance with Subpart K of 24 CFR 570.

2. Retention

The Subrecipient shall retain all records pertinent to expenditures incurred under this contract for a period of five (5) years after the termination of the Agreement. Records for non-expendable property acquired with funds under this contract shall be retained for five (5) years after final disposition of such property. Records for any displaced person must be kept for five (5) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five-year period, whichever occurs later.

3. Client Data

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to: client name, address, ethnic breakdown, status (i.e. handicap, female-head of household, elderly), and description of service provided. Such information shall also be made available to City monitors or their designees for review upon request.

4. Disclosure

The Subrecipient understands that client information collected under this contract is private, and the use or disclosure of such information, when not directly connected with the administration of the City's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian, unless otherwise required by law.

5. Property Records

The Subrecipient shall maintain real property inventory records which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform with the “changes in use” restrictions specified in 24 CFR Parts 570.503(b)(8), as applicable.

6. Close-Outs

The Subrecipient’s obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), final close-out reports and determining the custodianship of records. ALL REQUESTS FOR FINAL REIMBURSEMENT MUST BE SUBMITTED TO THE CITY WITHIN THREE (3) DAYS AFTER THE LAST DATE OF THE CONTRACT.

7. Audits and Inspections

All Subrecipient records with respect to any matters covered by this Agreement shall be made available to the City, grantor Subrecipient, their designees or the Federal Government, at any time during normal business hours, as often as the City or grantor Subrecipient deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within 30 days after receipt by the Subrecipient. Failure of the Subrecipient to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments.

In accordance with the Single Audit Act of 1984, the Single Audit Act Amendments of 1996 (Public Law 104-156), and revised OMB Circular A-133, subrecipients expending Federal Funds of \$500,000 or more in a fiscal year, are required to have an annual independent audit and a copy of the audit is to be forwarded to Housing & Community Development Services upon completion.

C. Reporting and Payment Procedures

1. Program Income

The Subrecipient shall report monthly all program income as defined at 24 CFR 570.500(a) generated by activities carried out with CDBG funds made available under this contract. In the event that any program income is derived from the activities specified in this Agreement, such income shall be transferred to the City’s Grant Fund.

2. Payment Procedures

The City will pay to the Subrecipient funds available under this contract, based upon information submitted by the Subrecipient and consistent with any approved budget and City policy concerning payments. Payments will be made for eligible expenses actually incurred by the Subrecipient, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with program income balances available in Subrecipient accounts. In addition, the City reserves the right to liquidate funds available under this contract for

costs incurred by the City on behalf of the Subrecipient.

3. Performance Reports

Subrecipient shall submit to City a quarterly Performance Report in a format prescribed by City and shall include the amount of funds obligated and expended for each of the eligible activity, and number of beneficiaries served – total and by income level.

Subrecipient shall submit a Performance Report quarterly no later than the final day of the following month after the completion of the quarter until all Community Development Block Grant amounts are reported and expended. The Subrecipient shall submit Progress Reports to the City in the form, content, and frequency as required by the City.

D. Procurement

1. Compliance

Subrecipient shall establish procurement procedures to ensure that materials and services are obtained in a cost-effective manner. When procuring for services to be provided under this Agreement Subrecipient shall comply at a minimum with the non-profit procurement standards at 24 CFR 84.40-48.

Purchases of items costing \$25,000 or more require sealed bids. The sealed bid process can be complicated; therefore, the Subrecipient is required to contact the City of Plano Grants Coordinator's office for assistance prior to starting the bid process.

For purchases of items costing between \$3,000 and \$25,000 three (3) written quotes for the item are required. These quotes should be placed in the Project file. If the Subrecipient is unable to obtain three (3) quotes, a list of the vendors contacted should be placed in the file, noting those vendors who did submit quotes. If there is only one vendor who makes the item to be purchased, this should be noted in the file with an explanation of what was done to determine there was only one vendor available.

For purchases costing less than \$3,000, only one quote is required. The sales slip from the store where the item was bought will suffice. Subrecipient is not precluded from obtaining several quotes to obtain the best price, even for low-cost items.

2. OMB Standards

The Subrecipient shall procure all materials, property, or services in accordance with the requirements of OMB Circular A-110, Procurement Standards, and shall subsequently follow Property Management Standards as modified by 24CFR 570.502(b)(3)(vi) covering utilization and disposal of property.

VIII. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The Subrecipient agrees to comply with all applicable provisions of Title VI of the Civil

Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086, and with fair housing and nondiscrimination provisions set forth in 24 CFR 570.601 and 24 CFR 570.602.

2. Nondiscrimination

The Subrecipient will not discriminate against any employee or applicant for employment because of race, color, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting SUBRECIPIENT setting forth the provisions of this nondiscrimination clause.

3. Access to Records

The Subrecipient shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts with respect to any matters covered by this agreement by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein related to this contract.

4. EEO/AA Statement

The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.

5. Subcontract Provisions

The Subrecipient will include the provisions of Paragraphs X.A., Civil Rights, and B., Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

B. Employment Restrictions

1. Prohibited Activity

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; and lobbying political patronage, and nepotism activities.

2. Labor Standards

The Subrecipient agrees to comply with the labor standards as set forth in 24 CFR 570.603.

3. “Section 3” Clause

a. Compliance

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the City, the Subrecipient and any of the Subrecipient's subrecipients and subcontractors.

The Subrecipient further agrees to ensure that, to the greatest extent feasible, opportunities for training and employment arising in connection with this project be given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

b. Subcontracts

The Subrecipient will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor Subrecipient.

C. Conduct

1. Assignability

The Subrecipient shall not assign or transfer any interest in this contract without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Subrecipient from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

2. Subcontracts

a. Approvals

The Subrecipient shall not enter into any subcontracts with any Subrecipient or individual in the performance of this contract without the written consent of the City prior to the execution of such agreement. Subrecipient shall also comply with 24 CFR 570.609 with regard to debarment, suspension, or ineligibility status of selected subcontractors.

b. Payment

The City shall not be obligated or liable under this Agreement to any party other than the instant subrecipient for payment of any monies or for provision of any goods or services.

c. Monitoring

The Subrecipient will monitor all subcontracted services on a regular basis to assure

contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

d. Content

The Subrecipient shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

e. Selection Process

The Subrecipient shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the City along with documentation concerning the selection process.

3. Hatch Act

The Subrecipient agrees that no funds provided, nor personnel employed under this contract, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

4. Affidavit of No Prohibited Interest

Subrecipient acknowledges and represents it is aware of all applicable laws, City Charter, and City Code of Conduct regarding prohibited interests and that the existence of a prohibited interest at any time will render the Contract voidable. Subrecipient has executed the Affidavit of No Prohibited Interest, attached and incorporated herein as Exhibit C.

5. Lobbying

The Subrecipient hereby certifies that none of the funds provided under this Agreement shall be used for publicity or propaganda designed to support or defeat legislation pending before the U.S. Congress, a State Legislature, County Commissioners Court, or City Council.

6. Copyright

If this contract results in any copyrightable material or inventions, the City and/or grantor Subrecipient reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

7. Religious Organization

The Subrecipient agrees that funds provided under this contract will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR 570.200(j).

IX. GENERAL PROVISIONS

A. Article and Section Headings

The Article and Section headings contained herein are for convenience and reference and are not intended to define or limit the scope of any provision of this agreement.

B. Partial Invalidity

If any term, provision, covenant, or condition of this agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

C. Severability

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby, and all other parts of this Agreement shall nevertheless be in full force and effect.

XI. EFFECTIVE DATE

This Agreement shall be effective from and after execution by both parties hereto. **SIGNED** on the date indicated below.

(SUBRECIPIENT)

By _____
Name _____
Title _____

Date: _____

CITY OF PLANO, TEXAS

Thomas H. Muehlenbeck
CITY MANAGER

Date: _____

APPROVED AS TO FORM

Diane C. Wetherbee
CITY ATTORNEY

Acknowledgements

STATE OF TEXAS §
§
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2010, by **(Individual), (Title) of (Name of Recipient Agency), a (Type of Organization, for example, non-profit organization), on behalf of said (Organization).**

Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2010, by **Thomas H. Muehlenbeck, City Manager, of the CITY OF PLANO, TEXAS, a Home-Rule Municipal Corporation, on behalf of said municipal corporation.**

Notary Public, State of Texas

Exhibit A

2010 BUDGET: (INSERT SUBRECIPIENTS NAME)

Exhibit B

INSURANCE REQUIREMENTS

Agency shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the services performed or to be performed hereunder by the Agency, its agents, representatives, employees, volunteers, officers, director, or subcontractors.

The Agency shall maintain insurance with limits not less than \$500,000 per occurrence, \$1,000,000 aggregate and will be as broad as ISO Form Number GL 0002 (Ed 1/72) covering Comprehensive General Liability and ISO Form Number GL 0404 covering Broad Form Comprehensive General Liability, or ISO Commercial General Liability coverage (“occurrence”) form CG 0001). Coverage will include:

- A. Premises - Operations;
- B. Broad Form Contractual Liability;
- C. Broad Form Property Damage; and
- D. Personal Injury

The policy will be endorsed to contain the following provisions: "The City of Plano, its officers, officials, employees, volunteers, Boards and Commissions are to be added as 'Additional Insureds' as respects to liability arising out of any activities performed by or on behalf of the Agency." The policy shall contain no special limitations to the scope of coverage afforded to the City. The Agency's insurance coverage shall be primary and any insurance or self-insurance shall be in excess of the Agency's insurance and shall not contribute with it.

Coverage shall be primary and non-contributory. Primary and non-contributory endorsement must be attached to the original certificate when submitted.

City prefers that insurance shall be placed with insurers with an A.M. Best rating of no less than A: VI or, a Standard & Poors rating of A or better.

The Agency shall furnish the City with a certificate of insurance which shows the coverage provided. The insurance policy will be endorsed to state the coverage shall not be suspended, voided, canceled, non-renewed, 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. All endorsements required shall be attached to the original certificate when submitted.

Exhibit C

AFFIDAVIT OF NO PROHIBITED INTEREST

I, the undersigned, declare and affirm that no person or officer of _____ (herein "Subrecipient") 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 Subrecipient

By:

Signature

Print Name

Title

Date

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2010.

Notary Public, State of _____



Funding Agreement Between the City of Plano and (Insert SUBRECIPIENT's Name)

**U.S. Department of Housing & Urban Development
Community Development Block Grant, CFDA Title 14-218, B-10-MC-48-0035**

This Agreement, entered this 1st day of October, 2010 by and between the City of Plano (herein called the "City") and (herein called "Subrecipient")

WHEREAS, the City has received Federal grants monies to carry out the goals and objectives of the City of Plano's Consolidated Plan.

WHEREAS, the City is in need of assistance to further this program; and

WHEREAS, it is the desire of the parties hereto that Subrecipient engage in the performance of certain activities and in the development of programs related to the City of Plano's Consolidated Plan.

NOW THEREFORE, the parties hereto mutually agree as follows:

I. SCOPE OF SERVICES

A. National Objectives

The Subrecipient certifies that the activities carried out with funds provided under this Agreement will meet the CDBG'S program's National Objective of **(Insert objective, ex. benefiting low-and moderate-income persons, limited clientele)**, as defined in **(Insert reference, ex. 24 CFR Part 570.208(a)(2))**. The activity is eligible for funding under **(Insert reference, ex. 24 CFR 570.201(e))**. This program is an activity being reported with an objective of **(Insert objective, ex. Suitable Living Environment)** and an outcome of **(Insert outcome, ex. Availability/Accessibility (SL-1))** in the Performance Measurements Standards set forth by HUD.

B. Activities

The Subrecipient shall be responsible for administering the **(Insert Project)**, in a manner satisfactory to the City and consistent with any standards required as a condition of providing these funds.

Program Delivery

(Describe project/ Describe the clients served from grant request.)

C. Levels of Accomplishment

The Subrecipient agrees to provide the following levels of program service:

<u>Activity</u>	-	<u>Total Units/Year</u>
Decent, Affordable Housing Units		(insert)

D. Staffing

No staffing funded in this project. **(insert if different)**

E. Conditions of Use

Subrecipient shall use any and all funds furnished by City for purposes set forth in this Agreement and for no other purpose. Subrecipient agrees the expenditure of the funds shall be completed on or before September 30, 2011. Any Grant funds remaining with Subrecipient which are not expended or encumbered on September 30, 2011 will be returned to the City unless otherwise extended in writing. If, during the term of this Agreement, Subrecipient wishes to utilize funds for purposes other than the activities noted above, such change will be allowed only if the proposed change is not in violation of Community Development Block Grant Regulations. Such change may be allowed only after approval by Subrecipient's Board, as evidenced by the official minutes of the board authorizing the change, and by the City Manager. No expenditure of funds in performance with the proposed change is permitted until written approval is executed by the City Manager or his designee.

F. Performance Monitoring

The City will monitor the performance of the Subrecipient against goals and performance standards as required herein once annually or as it deems necessary. Substandard performance as determined by the City will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the City, contract suspension or termination procedures will be initiated. If compliance is not feasible, Subrecipient is obligated to reimburse the City the amount funded for the particular activity.

G. Eligibility of Clients

In accordance with 24 CFR Part 570.208(a)(2)(A), the activity carried out with the funds provided under this agreement **(Insert is or is not)** for a presumed benefit clientele as defined by the U.S. Department of Housing and Urban Development (HUD). All applicable documentation will be maintained by the Subrecipient to document **(Insert limited clientele or income qualification)** eligibility.

II. TIME OF PERFORMANCE

Services of the Subrecipient shall start on the 1st day of October, 2010 and terminate on the 30th day of September, 2012. The term of this agreement and the provisions herein shall be extended to cover any additional time period during which the Subrecipient remains in control of CDBG funds or other assets, including program income. If an extension is needed, written requests should be submitted by August 15, 2012.

III. BUDGET

See Exhibit A for line item budget. In addition, the City may require a more detailed budget breakdown than the one contained herein, and the Subrecipient shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the City. Any amendments to this budget must be approved in writing by the City’s Neighborhood Services Manager before the amendment can be effective and cannot change the scope of the project funded under this contract.

IV. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the City under this contract shall not exceed **(Insert amount)**. Draw downs for the payment of eligible expenses shall be made against the line item budgets specified in Paragraph III herein and in accordance with performance. With the submission of original monthly bills with proper documentation for the services described in Section I.B., the Subrecipient will be reimbursed within 30 days after the Subrecipient has submitted all proper documentation to the City.

ALL REQUESTS FOR FINAL REIMBURSEMENT MUST BE SUBMITTED TO THE CITY NO LATER THAN THREE (3) DAYS AFTER THE LAST DATE OF THE CONTRACT. Payments may be contingent upon certification of the Subrecipient’s financial management system in accordance with the standards specified in OMB Circular A-110.

V. NOTICES

Communication and details concerning this contract shall be directed to the following contract representatives:

City
Christina Day, Manager
Community Services
City of Plano
1520 Avenue K
Plano, Texas 75074
972-941-5262
Fax: 972-941-7396

Subrecipient
(Insert)

VI. SPECIAL CONDITIONS

A. Use of Property

Except as provided in 24 CFR 570.505. (a)-(d), and prior written approval of the City of Plano, Subrecipient may not change the use of the property located at **(Insert)** within five (5) years of the contract close-out date.

B. Obligation to Meet National Objective

If the funding is in excess of \$25,000, the real property that was acquired or improved in whole or in part with CDBG funds, located at **(Insert location)** must continue to meet the National Objective specified in 1A above, until five years after the expiration of the agreement.

VII. GENERAL CONDITIONS

A. General Compliance

The Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)). The Subrecipient also agrees to comply with all other applicable Federal, State and local laws, regulations, and policies governing the funds provided under this contract, including but not limited to the City of Plano's Subrecipient Compliance Manual, as updated. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

B. Independent Contractor

Nothing contained in the Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Subrecipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The Grantee shall be exempt from all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Worker's compensation Insurance, as the Subrecipient.

C. Insurance Requirements

Subrecipient agrees to maintain during the term of this Agreement, or any extension thereof, insurance in the type and amounts as shown in Exhibit B. Such insurance shall be evidenced by certificates, a copy of which shall be provided to the CDBG Administrator at the execution of this Agreement. Insurance provided by Agency is subject to approval by City. The subrecipient shall comply with the bonding and insurance requirements of OMB Circular A-110 Insurance.

D. HOLD HARMLESS AND INDEMNITY

THE AGENCY AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY AND ITS RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY AGENCY'S BREACH OF ANY THE TERMS OR PROVISIONS OF THIS CONTRACT, VIOLATIONS OF LAW OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE AGENCY, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE CONTRACTOR IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF THE CITY, AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS. THE CITY DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY OR OTHER DEFENSES AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

AGENCY AT ITS OWN EXPENSE IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS. 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 AGENCY'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF AGENCY'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. AGENCY SHALL RETAIN DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF AGENCY FAILS TO RETAIN COUNSEL WITHIN THE REQUIRED TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF AND AGENCY SHALL BE LIABLE FOR ALL COSTS INCURRED BY THE CITY.

THE INDEMNIFICATION HEREIN SURVIVES THE TERMINATION OF THE CONTRACT AND/OR DISSOLUTION OF THIS AGREEMENT.

E. Grantee Recognition

The Subrecipient shall insure recognition of the role of the City in providing Community Development Block Grant resources for this contract. All activities, facilities, and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

F. Amendments

The City or Subrecipient may amend this Agreement at any time, provided that such amendments make specific reference to this Agreement and are executed in writing, signed by a duly authorized representative of both organizations. Such amendments shall not invalidate this Agreement nor relieve or release the City or Subrecipient from its obligations under this Agreement.

The City may, in its discretion, amend this Agreement to conform with Federal, State, or Local Governmental guidelines, policies, and available funding amounts, or for other reasons. If such amendments result in a change in the funding or the scope of services, such modifications will be incorporated only by written amendment and will not become effective until signed by both City, and the Subrecipient.

Any request for transfer of funds among the contract budget categories submitted by the Subrecipient will require written approval from the City of Plano, before the transfer can be effective. The Subrecipient may make transfer of CDBG funds between or among budget categories of Exhibit A, Budget, without requiring a formal amendment to this contract provided:

1. The cumulative dollar amount of all transfers among budget categories is equal to or less than ten percent (10%) of the total amount of the budget;
2. The transfer will not change the scope of the project funded under this contract; and
3. The Subrecipient submits to City of Plano, a written statement specifying reason for transfer, request, amount of funds to be transferred, and identification of effected budget categories.

All other transfer of funds will require a formal amendment.

G. Suspension or Termination

1. Failure to Comply with Terms

In accordance with 24 CFR 85.43, if Subrecipient materially fails to comply with any term of this contract, the City may take one or more of the following actions, as appropriate in the circumstances: (1) temporarily withhold cash payments pending correction of the deficiency by the Subrecipient or other more severe enforcement action by the City; (2) disallow (that is,

deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance; (3) wholly or partly suspend or terminate the current award for the Subrecipient's program, (4) withhold further awards for the program, or (5) take other remedies that are legally available.

2. Termination

In accordance with 24 CFR 85.44(a), this contract may be terminated at any time by the City with the consent of Subrecipient, in which case the City and Subrecipient shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated.

In accordance with 24 CFR 85.44(b), this contract may be terminated by Subrecipient upon written notification to the City, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of a partial termination, the City determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the City may terminate the award in its entirety.

In accordance with 24 CFR 85.43, if Subrecipient materially fails to comply with any term of this contract, this contract may be terminated by the City upon written notification to the Subrecipient, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated.

In the event of termination, whether voluntary or involuntary, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Subrecipient under this Agreement shall, at the option of the City, become the property of the City, and the Subrecipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

H. Reversion of Assets

Upon the expiration of this agreement, the subrecipient shall transfer to the City of Plano any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. Any real property under the subrecipient's control that was acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to the subrecipient in the form of a loan) in excess of \$25,000 must be either:

- (i) Used to meet one of the national objectives in §570.208 (formerly §570.901) until five years after expiration of the agreement, or for such longer period of time as determined to be appropriate by the recipient; or
- (ii) Not used in accordance with paragraph (i) of this section, in which even the subrecipient shall pay to the recipient an amount equal to the current market value of the property less

any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of, or improvement to, the property. The payment is program income to the recipient. (No payment is required after the period of time specified in paragraph (i) of this section.)

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

The Subrecipient agrees to comply with OMB Circular A-110 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

The Subrecipient shall administer its program in conformance with OMB Circulars A-122, “Cost Principles for Non-Profit Organizations,” or A-21, “Cost Principles for Educational Institutions,” as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record-Keeping

1. Records to be Maintained

The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR Part 570.506, that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

- a. Records providing a full description of each activity undertaken;
- b. Records demonstrating that each activity undertaken meets the National Objective of the CDBG program of benefiting low/moderate income persons;
- c. Records required to determine the eligibility of activities;
- d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
- f. Financial records as required by 24 CFR Part 570.502, and OMB Circular A-110; and

g. Other records necessary to document compliance with Subpart K of 24 CFR 570.

2. Retention

The Subrecipient shall retain all records pertinent to expenditures incurred under this contract for a period of five (5) years after the termination of this Agreement. Records for non-expendable property acquired with funds under this contract shall be retained for five (5) years after final disposition of such property. Records for any displaced person must be kept for five (5) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five-year period, whichever occurs later.

3. Client Data

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to: client name, address, ethnic breakdown, status (i.e. handicap, female-head of household, elderly), and description of service provided. Such information shall also be made available to City monitors or their designees for review upon request.

4. Disclosure

The Subrecipient understands that client information collected under this contract is private, and the use or disclosure of such information, when not directly connected with the administration of the City's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian, unless otherwise required by law.

5. Property Records

The Subrecipient shall maintain real property inventory records which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform with the "changes in use" restrictions specified in 24 CFR Parts 570.503(b)(8), as applicable.

6. Close-Outs

The Subrecipient's obligation to the City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), final close-out reports and determining the custodianship of records.

7. Audits and Inspections

All Subrecipient records with respect to any matters covered by this Agreement shall be made available to the City, grantor Subrecipient, their designees or the Federal Government, at any time during normal business hours, as often as the City or grantor Subrecipient deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within 30 days after receipt by the Subrecipient. Failure of the Subrecipient to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments.

In accordance with the Single Audit Act of 1984, the Single Audit Act Amendments of 1996 (Public Law 104-156), and revised OMB Circular A-133, subrecipients receiving in excess of \$300,000 in a fiscal year, or \$500,000 for fiscal years ending after December 31, 2003, are required to have an annual independent audit and a copy of the audit is to be forwarded to Community Development Services upon completion.

C. Reporting and Payment Procedures

1. Program Income

The Subrecipient shall report monthly all program income as defined at 24 CFR 570.500(a) generated by activities carried out with CDBG funds made available under this contract. In the event that any program income is derived from the activities specified in this Agreement, such income shall be transferred to the City's Grant Fund.

2. Payment Procedures

The City will pay to the Subrecipient funds available under this contract, based upon information submitted by the Subrecipient and consistent with any approved budget and City policy concerning payments. Payments will be made for eligible expenses actually incurred by the Subrecipient, and not to exceed actual cash requirements. Payments will be adjusted by the City in accordance with program income balances available in Subrecipient accounts. In addition, the City reserves the right to liquidate funds available under this contract for costs incurred by the City on behalf of the Subrecipient.

3. Performance Reports

Subrecipient shall submit to City a quarterly Performance Report in a format prescribed by City and shall include the amount of funds obligated and expended for each of the eligible activity, and number of beneficiaries served – total and by income level.

Subrecipient shall submit a Performance Report quarterly no later than the final day of the following month after the completion of the quarter until all Community Development Block Grant amounts are reported, expended, and all close-out requirements have been met. The Subrecipient shall submit Progress Reports to the City in the form, content, and frequency as required by the City.

D. Procurement

1. Compliance

Subrecipient shall establish procurement procedures to ensure that materials and services are obtained in a cost-effective manner. When procuring for services to be provided under this Agreement Subrecipient shall comply at a minimum with the non-profit procurement standards at 24 CFR 84.40-48.

Purchases of items costing \$25,000 or more require sealed bids. The sealed bid process can be complicated; therefore, the Subrecipient is required to contact the City of Plano Grants Coordinator's office for assistance prior to starting the bid process.

For purchases of items costing between \$3,000 and \$25,000 three (3) written quotes for the item are required. These quotes should be placed in the Project file. If the Subrecipient is unable to obtain three (3) quotes, a list of the vendors contacted should be placed in the file, noting those vendors who did submit quotes. If there is only one vendor who makes the item to be purchased, this should be noted in the file with an explanation of what was done to determine there was only one vendor available.

For purchases costing less than \$3,000, only one quote is required. The sales slip from the store where the item was bought will suffice. Subrecipient is not precluded from obtaining several quotes to obtain the best price, even for low-cost items.

2. OMB Standards

The Subrecipient shall procure all materials, property, or services in accordance with the requirements of OMB Circular A-110, Procurement Standards, and shall subsequently follow Property Management Standards.

IX. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The Subrecipient agrees to comply with all applicable provisions of Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086, and with fair housing and nondiscrimination provisions set forth in 24 CFR 570.601 and 24 CFR 570.602.

2. Nondiscrimination

The Subrecipient will not discriminate against any employee or applicant for employment because of race, color, ancestry, national origin, sex, disability or other handicap, age,

marital/familial status, or status with regard to public assistance. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

3. Access to Records

The Subrecipient shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts with respect to any matters covered by this agreement by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein related to this contract.

4. EEO/AA Statement

The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.

5. Subcontract Provisions

The Subrecipient will include the provisions of Paragraphs X.A., Civil Rights, and B., Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own subrecipients or subcontractors.

B. Employment Restrictions

1. Prohibited Activity

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; and lobbying political patronage, and nepotism activities.

2. Labor Standards

The Subrecipient agrees to comply with the labor standards as set forth in 24 CFR 570.603.

3. “Section 3” Clause

a. Compliance

Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the City, the Subrecipient and any of the Subrecipient’s subrecipients and subcontractors.

The Subrecipient further agrees to ensure that, to the greatest extent feasible, opportunities for training and employment arising in connection with this project be given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

b. Subcontracts

The Subrecipient will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency.

C. Conduct

1. Assignability

The Subrecipient shall not assign or transfer any interest in this contract without the prior written consent of the City thereto; provided, however, that claims for money due or to become due to the Subrecipient from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

2. Subcontracts

a. Approvals

The Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the City prior to the execution of such agreement. Subrecipient shall also comply with 24 CFR 570.609 with regard to debarment, suspension, or ineligibility status of selected subcontractors.

b. Payment

The City shall not be obligated or liable under this Agreement to any party other than the instant subrecipient for payment of any monies or for provision of any goods or services.

c. Monitoring

The Subrecipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

d. Content

The Subrecipient shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

e. Selection Process

The Subrecipient shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the City along with documentation concerning the selection process.

3. Hatch Act

The Subrecipient agrees that no funds provided, nor personnel employed under this contract, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

4. Affidavit of No Prohibited Interest

Subrecipient acknowledges and represents it is aware of all applicable laws, City Charter, and City Code of Conduct regarding prohibited interests and that the existence of a prohibited interest at any time will render the Contract voidable. Subrecipient has executed the Affidavit of No Prohibited Interest, attached and incorporated herein as Exhibit C.

5. Lobbying

The Subrecipient hereby certifies that none of the funds provided under this Agreement shall be used for publicity or propaganda designed to support or defeat legislation pending before the U.S. Congress, a State Legislature, County Commissioners Court, or City Council.

6. Copyright

If this contract results in any copyrightable material or inventions, the City and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

7. Religious Organization

The Subrecipient agrees that funds provided under this contract will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR 570.200(j).

X. ENVIRONMENTAL CONDITIONS

A. Air and Water

The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

1. Clean Air Act, 42 U.S.C. , 7401, et seq.;
2. Federal Water Pollution Control Act, as amended, 33 U.S.C., 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;
3. Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the Subrecipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint

The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

D. Historic Preservation

The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

XI. GENERAL PROVISIONS

A. Article and Section Headings

The Article and Section headings contained herein are for convenience and reference and are not intended to define or limit the scope of any provision of this agreement.

B. Partial Invalidity

If any term, provision, covenant, or condition of this agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

C. Severability

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby, and all other parts of this Agreement shall nevertheless be in full force and effect.

XII. EFFECTIVE DATE

This Agreement shall be effective from and after execution by both parties hereto. **SIGNED** on the date indicated below.

(SUBRECIPIENT)

By _____
Name _____
Title _____

Date: _____

CITY OF PLANO, TEXAS

Thomas H. Muehlenbeck
CITY MANAGER

Date: _____

APPROVED AS TO FORM

Diane C. Wetherbee
CITY ATTORNEY

Acknowledgements

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2010, by **(Individual), (Title) of (Name of Recipient Agency), a (Type of Organization, for example, non-profit organization), on behalf of said (Organization).**

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2010, by **Thomas H. Muehlenbeck, City Manager**, of the **CITY OF PLANO, TEXAS**, a Home-Rule Municipal Corporation, on behalf of said municipal corporation.

Notary Public, State of Texas

Exhibit A

2011 BUDGET: (INSERT SUBRECIPIENTS NAME)

Exhibit B

INSURANCE REQUIREMENTS

Agency shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the services performed or to be performed hereunder by the Agency, its agents, representatives, employees, volunteers, officers, director, or subcontractors.

The Agency shall maintain insurance with limits not less than \$500,000 per occurrence, \$1,000,000 aggregate and will be as broad as ISO Form Number GL 0002 (Ed 1/72) covering Comprehensive General Liability and ISO Form Number GL 0404 covering Broad Form Comprehensive General Liability, or ISO Commercial General Liability coverage (“occurrence” form CG 0001). Coverage will include:

- A. Premises - Operations;
- B. Broad Form Contractual Liability;
- C. Broad Form Property Damage; and
- D. Personal Injury

The policy will be endorsed to contain the following provisions: "The City of Plano, its officers, officials, employees, volunteers, Boards and Commissions are to be added as 'Additional Insureds' as respects to liability arising out of any activities performed by or on behalf of the Agency." The policy shall contain no special limitations to the scope of coverage afforded to the City. The Agency's insurance coverage shall be primary and any insurance or self-insurance shall be in excess of the Agency's insurance and shall not contribute with it.

Coverage shall be primary and non-contributory. Primary and non-contributory endorsement must be attached to the original certificate when submitted.

City prefers that insurance shall be placed with insurers with an A.M. Best rating of no less than A: VI or, a Standard & Poors rating of A or better.

The Agency shall furnish the City with a certificate of insurance which shows the coverage provided. The insurance policy will be endorsed to state the coverage shall not be suspended, voided, canceled, non-renewed, 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. All endorsements required shall be attached to the original certificate when submitted.

Exhibit C

AFFIDAVIT OF NO PROHIBITED INTEREST

I, the undersigned, declare and affirm that no person or officer of _____ (herein "Subrecipient") 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 Subrecipient

By:

Signature

Print Name

Title

Date

STATE OF TEXAS §

§

COUNTY OF COLLIN §

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2010.

Notary Public, State of _____



**FUNDING AGREEMENT BETWEEN THE CITY OF PLANO AND
(Insert SUBRECEIPIENT's Name)**

**U.S. Department of Housing & Urban Development
Home Investment Partnership Program, CFDA #14-239, M-10-MCF-48-0035**

THIS AGREEMENT entered into this 1st day of October, 2010, between the City of Plano (hereinafter referred to as "CITY"), a Texas Home-Rule Municipal Corporation, acting by and through Community Services Division of the Department of Planning, and **(Insert)** (hereinafter, referred to as the "AGENCY").

WHEREAS, City has received certain funds from the U.S. Department of Housing and Urban Development (HUD) under Title II of the National Affordable Housing Act of 1990, (P.L. 10 01-625) hereinafter referred to as "the ACT"; and

WHEREAS, the implementing regulations of "the ACT" at Section 24, Part 92, of the Code of Federal Regulations (Final Rule of the Home Investment Partnership Program), and Subsequent Amendments hereinafter referred to as the "HOME Program", sets forth the requirements for the use of said funds; and

WHEREAS, the City Council of Plano, by resolution, pursuant to "the ACT", adopted a Consolidated Plan to carry out housing activities eligible under the HOME Program; and

WHEREAS, the AGENCY applied for funding from the City of Plano's HOME Program to carry out the acquisition and rehabilitation of housing for sale to low-to-moderate income residents of the City of Plano and hereinafter referred to as the "Project"; and

WHEREAS, the City Council of Plano adopted a budget for the HOME Program Year (2010-2011 beginning October 1, 2010 and ending September 30, 2011 and included therein the award of funds to the AGENCY for funding the "Project"; and

WHEREAS, in consideration of the award of funds by the City Council, the City hereby offers grant assistance to the AGENCY, (subject to the future availability of federal funds) to implement the approved AGENCY "Project" application in accordance with "the ACT" and the "HOME Program"; and

NOW THEREFORE, in consideration of the foregoing and the mutual agreements and covenants hereinafter set forth, the parties hereto legally intending to be bound hereby, do agree for themselves and their respective successors and assigns as follows:

I. PURPOSES/CONSIDERATION

The purpose of this Agreement is to provide terms and conditions under which City shall administer and make available the HOME Funds in an amount not to exceed _____ 00/100 Dollars (\$) pursuant to the HOME Funds. In Consideration of the City providing the above referenced funding, AGENCY shall pay costs associated with affordable housing and abide by the terms and conditions of this Agreement.

II. TERMS AND CONDITIONS OF USE OF HOME FUNDS

- A. The AGENCY agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 92, the Housing and Urban Development regulations, concerning the HOME Investment Partnerships Program (HOME). The AGENCY also agrees to comply with all other applicable Federal, State and Local laws, regulations, and policies, governing the funds provided under this contract, including but not limited to the City of Plano’s Sub-recipient Compliance Manual. The AGENCY further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.
- B. City is providing the total sum of _____ 00/100 Dollars (\$) which must not be less than fifteen percent (15%) of City HOME allocations in the form of a grant from “AGENCY set-aside funds” in accordance with requirements of 24 CFR 92.300.
- C. As operating expenses are not an eligible expense for set-aside funds, the HOME funds grant includes _____ 00/100 Dollars (\$) classified as AGENCY Operating Expenses which will not exceed five percent (5%) of City HOME allocation. These funds may not exceed \$50,000 or fifty percent (50%) of the AGENCY total annual operating expenses for the year, whichever is greater.
- D. AGENCY shall use any and all HOME funds furnished by City under this agreement to provide homeownership housing opportunities for low-to-moderate income persons by acquiring single family pre-owned homes and rehabilitating those home units for purchase and permanent occupancy by HOME eligible low- to moderate-income persons as described in the Scope of Work set forth in Section IV and for no other purposes.
- E. Subsidy limits are set for the HOME Investment. The minimum amount of HOME funds that can be invested is \$1,000 per unit. The Maximum per-unit HOME subsidy limit varies by Participating Jurisdiction. HUD determines the maximum amounts, which are based on the City’s 221(d) (3) program limits for the metropolitan area, each year.
- F. AGENCY agrees that these HOME funds will not be used for any expenditure incurred before October 1, 2010.
- G. AGENCY agrees the expenditure of the HOME funds shall be completed on or before September 30, 2012. Any HOME funds remaining with AGENCY which

are not expended or encumbered on September 30, 2012 will be returned to the City.

- H.** In Consideration of AGENCY's full and satisfactory performance of this Agreement, the City shall reimburse the actual allowable costs incurred by AGENCY in the performance of the Agreement in an amount not to exceed _____00/100 (\$).
- I.** If during the term of this Agreement, AGENCY wishes to utilize HOME funds for purposes other than stated above, such change will be allowed only if the proposed change is not in violation of HOME Regulations. Such change may be allowed only after approval by AGENCY's Board, as evidenced by the official minutes of the board authorizing the change, and by the City Manager. No expenditure of HOME Funds in conformance with the proposed change is permitted until written approval is received from the City Manager.
- J.** The AGENCY shall provide ongoing compliance requirements of HOME assisted properties for the entire affordability period set forth in Section V.E. For homebuyer units this includes monitoring units for principal residency and recapture of funds at time of resale.
- K.** Timely completion of the specified work in this agreement is an integral part of performance. Expenditure of HOME funds is subject to Federal deadlines, which could result in the loss of the Federal funds. By acceptance and execution of this agreement, it is agreed by the AGENCY that the Project will be completed as expeditiously as possible and that the AGENCY will make every effort to ensure that the project will proceed and will not be delayed. Failure to meet these deadlines can result in cancellation of this contract and the revocation of HOME funds. The necessity of timeliness shall cause appropriate provisions to be inserted in all contracts or subcontracts relative to the work tasks required by this agreement.
- L.** AGENCY shall not use these funds to purchase equipment that exceeds \$1,000 in total value.

III. INDEPENDENT CONTRACTOR

It is understood that the City enters into this Agreement with AGENCY for the purposes enumerated in Section II hereof, and it is understood that Agency is an Independent contractor and nothing herein shall be construed to constitute AGENCY as an agent, employee, or representative of the City or as expressing any intention of AGENCY to enter into a joint venture with City.

IV. SCOPE OF WORK

- A.** AGENCY shall purchase, rehabilitate, and sell _____ () single-family homes at market or below prices to eligible low-to moderate income families. Acquisition down payment will not exceed \$_____, and cost of rehab will not exceed \$_____.
- B.** AGENCY can provide direct homebuyer subsidies (down payment assistance to bring loan amounts down to an affordable level for each client. Subsidy not to exceed \$_____.
- C.** Homes shall be rehabilitated in accordance with HOME Program regulations, and AGENCY.
- D.** A maximum of _____ 00/100 Dollars (\$) may be used for administrative purposes, including salaries, benefits, rent, utilities, audit, and other administrative costs, called AGENCY Operating Expenses and shall not exceed five percent (5%) of the City HOME allocation for the grant year.
- E.** It is understood that AGENCY shall provide a specific working budget and realistic timetable as relates to acquisition, construction/rehabilitation, soft costs, development fees and other allowable cost/activities prior to any fund usage. Said budget shall identify all sources and uses of HOME funds, and allocate HOME and non-HOME funds to activities or line items, both as an overall budget which is known as (Exhibit A). An individual unit budget will be submitted prior to fund disbursement for each property acquired, rehabilitated, and sold. Said budget shall include:
1. The line item costs for the purchase, rehabilitation/construction of the houses and how each source of funds is to be utilized in the construction. The rehab/construction will be based on a scope of work explained by Plano Housing Corporation procedures, and performed by a designated inspector. The scope of work shall provide estimates for the cost of rehab or construction.
 2. The permanent sources of funding for the repayment of the construction loan.
 3. The anticipated sources of Temporary or permanent mortgages and any bridge financing that may be necessary.
 4. A detailed development schedule delineating the timeline for predevelopment, construction, sale, and closing of the financing for each housing unit.
 5. The total Project budget unless amended or modified by mutual agreement of the parties.
- F.** The AGENCY shall provide a reconciliation statement prior to closing the sale of each home.
- G.** The Scope of Work will be performed in essentially the manner proposed in the

AGENCY's application and or Agency procedures.

- H. The following timetable will be used as a guide for completing the acquisition agreement:

	<u>Purchase Date</u>	<u>Completion date</u>	<u>Sold Date</u>
Property #1			
Property #2			

V. **HOME PROJECT REQUIREMENTS**

A. **DISBURSEMENT OF FUNDS**

1. Grant funds will be disbursed on a reimbursement basis only. In no event shall the AGENCY request funding until such time that either eligible expenses have been incurred or funds are needed for expenses for eligible AGENCY Project set-aside cost in compliance with 24 CFR 92.301 and that will be expended in accordance with 92.502c.
2. Any expense incurred prior to October 1, 2010 (Grant effective date) is not considered to be an eligible expense.
3. No HOME project costs can be incurred, until the City has conducted an environmental review of the proposed project site as required under 24 CFR Part 58. The environmental review may result in a decision to proceed with, modify or cancel the project.
4. The AGENCY shall provide documentation to the City for each request of HOME Program expenditure under this agreement. The request should be on a City designated form. AGENCY shall attach invoices bills, timesheets, etc. to the form as proof of expenditure. Upon receipt and verification of this documentation and verification that each expense is an eligible HOME expense, the CITY shall arrange for such funding to be paid to AGENCY. All such expenditures shall be in conformance to the approved Project budget. The City reserves the right to withhold payment until adequate documentation has been provided and reviewed. The City also reserves the right to inspect records and Project sites to determine that the reimbursement and compensation requests are reasonable.
5. AGENCY may submit a final invoice upon completion. Final payment shall be made after City has determined that all services have been rendered, files and documentation delivered, and units have been placed in service in full compliance with HOME Regulations, including submission of a completion report, documentation of eligible occupancy (eligible buyer), property standards (final inspection), and long term use restrictions.
6. AGENCY also agrees that failure to expend HOME funds within a reasonable time frame and in an acceptable manner or to complete the project could result

in the repayment of funds in accordance with 24 FR, Sec 92.503 (b)

7. Expenses incurred after the termination date will not be reimbursed under the Agreement and the City shall assume no liability for same. At the time of expiration, and HOME funds on hand and any accounts receivable attributable to the use of HOME funds shall be returned to the City.
8. The HOME funds advanced to the PROJECT will be secured by a note and mortgage, and in the case of a rental project, a deed covenant as required by 24 CFR Part 92.

B. ENVIRONMENTALS

1. Notwithstanding any provision of this agreement, the parties hereto agree and acknowledge that this agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by the CITY of a release of funds from the U.S. Department of Housing and Urban Development under 24 CFR Part 50 and 58.
2. The AGENCY shall not undertake or commit any funds to physical or choice-limiting actions, including property acquisition, demolition, movement, rehabilitation, conversion, repair, or construction prior to the environmental clearance. Any expenditure made prior to the clearance shall not be reimbursed.

C. PROCUREMENT STANDARDS

1. The AGENCY shall establish procurement procedure comply at a minimum with the nonprofit procurement standards at 24 CFR 84.40-.48. AGENCY shall also ensure that minority and women-owned businesses have equal opportunity to bid for materials and services contracts. Purchases of items or services costing \$25,000 or more require sealed bids.
2. For purchase of items costing between \$3,000 and \$25,000, three (3) written quotes for the item are required. These quotes should be placed in the Project file. If AGENCY is unable to obtain three (3) quotes, a list of the vendors contacted should be placed in the file, noting those vendors who did submit quotes. If there is only one vendor who makes the item to be purchased, this should be noted in the file with an explanation of what was done to determine there was only one vendor available. For purchases costing less than \$3,000, only one quote is required. The sales slip from the store where the item was bought will suffice. AGENCY is not precluded from obtaining several quotes to obtain the best price, even for low-cost items.

D. HOMEBUYER ELIGIBILITY

1. AGENCY must assure that purchasers of HOME assisted housing have a gross annual household income that does not exceed eighty percent (80%) of area median income (AMI), adjusted for household size, verification of household

income must be in accordance with 24 CFR 92.203. Verification documentation must not be more than 6 months old when the buyer is determined eligible. These income guidelines may be revised, at which time City will notify AGENCY of the changes. Upon such notification, all new clients must meet the revised guidelines.

2. AGENCY shall collect and maintain project beneficiary information pertaining to household size, income levels, racial characteristics, and the presence of female headed households in order to determine low- and moderate-income benefit in a cumulative and individual manner. Income documentation shall be in a form consistent with HOME requirements as stated in the HUD Technical Guide for Determining Income and Allowances under the HOME Program.
3. AGENCY will use the 24 CFR Part 5 method of calculating income.
4. AMI charts are provided by HUD annually. Current income eligibility guidelines are shown in Exhibit B.
5. Homes purchased by homebuyers must be located in the jurisdiction of the City of Plano.
6. The homebuyer must occupy the home as the principal residence of the recipient of HOME funds throughout the established period of affordability in accordance with 24 CFR 92.254 (a) (4).
7. The homebuyer's monthly housing cost (PITI) does not need to meet initial affordability requirements (e.g., 30% of annually gross income), nor does the PITI need to remain below a fixed percentage of gross monthly income over time. The AGENCY shall lend the HOME funds to the individual buyers in an amount sufficient to make the purchase affordable, but not to exceed \$_____.
8. The homebuyer will have a fee simple title to the property.
9. Ownership may be subject only to mortgages, deeds of trust, deed restrictions, or other debt instruments approved by the City of Plano.

E. AFFORDABILITY PERIOD

1. The HOME program sets affordability periods that relate to the resale of the property. The affordability period is based on the amount of HOME funds provided for the property.

If the homebuyer sells the property within the affordability period, recapture or resale requirements will be placed on the resale of the property.

HOME Funds Provided

Affordability Period

<\$15,000

5 years

\$15,000-\$40,000	10 years
>\$40,000	15 years

2. The AGENCY will track the homeowner for the entire affordability period and keep the City informed of residency and property status.

F. RECAPTURE AND REPAYMENT OF HOME FUNDS

1. The sale of the property by the homeowner during the affordability period triggers repayment of the direct HOME subsidy that the buyer received when he/she originally purchased the home.
2. The City has chosen the Recapture Option as a mechanism to reclaim all or part of proceeds from the sale of the property.
3. The City will use the “reduction during the affordability period (Forgiveness)” method of calculation and “shared insufficient proceeds” as its method of determining the amount of repayment required.
 - a. Under this method the direct HOME subsidy will be prorated and forgiven on a monthly basis. For example a 5 year affordability period will be forgiven at the rate of 1/60 per month; 10 year affordability at 1/120 per month; and 15 year affordability at 1/180 per month. This amount will be deducted from the full direct subsidy. If the proceeds from the sale of the property are sufficient to repay the City for the portion remaining of the original direct subsidy, the City will be paid and the homeowner will get the difference.
 - b. If the sale proceeds are insufficient to repay the City for the remaining portion of the original direct subsidy, the following calculation will be used:

$$\frac{\text{HOME Subsidy}}{\text{HOME Subsidy} + \text{Homeowner Invest.}} \times \text{Net Proceeds} = \text{HOME recapture}$$

4. The Recapture of funds will be enforced by having the homebuyer sign a note and deed of trust at the time of closing and recording the lien (deed of trust) with the Collin County Clerk’s Office. The City will provide this note and deed of trust as the beneficiary.
5. Funds recaptured because housing no longer meets affordability requirements are subject to the requirements on program income.
6. All HOME funds are subject to repayment in the event the Project does not meet all HOME requirements.
7. AGENCY understands that upon the completion of the Project, and HOME funds reserved but not expended under this agreement will revert to the City.
8. The AGENCY shall lend the HOME funds to the individual buyers in an amount sufficient to make the purchase affordable. Any HOME funds that

reduce the price of the property below the fair market value of the Property shall be secured by a HOME note and mortgage as required in 92.254(a)(5)(ii) using the note and mortgage prescribed or approved by the City (and consistent with the method of recapture identified in the City's Consolidated Plan).

G. AGENCY PROJECT PROCEEDS

1. Project proceeds, as defined herein, shall include any fees, program payable to AGENCY which are generated in the provision of housing assistance under this agreement, as well as prior HOME program income and/or proceeds being retained by AGENCY. 24 CFR 92.300 (a).
2. The City of Plano hereby authorizes the AGENCY to retain all project proceeds in conformance with 24 CFR 92.300 (a)(2). Project proceeds are not under the same regulations as program income (recaptured funds).
3. AGENCY proceeds may only be used for HOME eligible activities and other housing projects that benefit low-income families. Even after this written agreement expires, AGENCY proceeds will continue to be used for only HOME eligible activities and other housing projects that benefit low-income families.
4. The City of Plano stipulates that the AGENCY can use the project proceeds for the following activities per CPD Notice 97-9 (IV)(A).
 - a. HOME eligible activities or
 - b. Other low-income housing activities, which may include operational support of the AGENCY (assuming the AGENCY continues to meet its mission of providing affordable housing). This includes operational costs such as rent, salaries, and other affordable housing projects.
5. AGENCY will report quarterly on the use of project proceeds. The proceeds will be kept in a separate account which can be tracked monthly. The three bank statements for the quarter, invoices or bills must be submitted with the quarterly report.
6. AGENCY and the City understand that once the AGENCY proceeds are used, there shall be not further HOME requirements to meet. Funds generated from the use of AGENCY proceeds are not "AGENCY proceeds".

H. REPORTING REQUIREMENTS

1. AGENCY shall provide to the City quarterly reports, on forms provided by the City, which will report information for each quarter of the grant year. The quarters to be reported on will end in December, March, and June, and September. The reports will be due to the City not later than 30 days from the end of the quarter. A final report is required at the end of the grant year. These quarterly will include a report on NET PROCEEDS.

2. All reports shall state the total number of unduplicated households, including the ethnic origin, number in household, income level, disability status, and whether these persons are female head of household. In addition, AGENCY agrees to provide the City information as required to determine program eligibility, to meet national objectives, and to analyze the financial records pertinent to the project.
3. If AGENCY fails to submit said reports, the City will have the option to terminate this Agreement.
4. AGENCY shall also provide to the City one (1) copy of each audit of Agency's financial records which may be performed between the effective date of this Agreement and the expiration of the Agreement, or until such time as all funds have been expended and the scope of work completed.

VI. THE PROPERTY AND PROPERTY STANDARD REQUIREMENTS

A. TYPES OF PROPERTIES

AGENCY must determine that the property is an eligible property. Eligible property types include any property that will serve as the purchaser's principal residence within the city limits of Plano, including:

1. A single family property (one-unit)
2. A two-to-four unit property
3. A condominium unit
4. A cooperative unit
5. A manufactured home

B. VALUE OF PROPERTY

1. AGENCY must determine the "after completion" maximum value of the property prior to any work being performed by using estimates of value, appraisals, or tax assessments.
2. The post project value must not exceed ninety-five (95%) of the median purchase price.
3. If the property does not require rehab the sales price must not exceed ninety-five (95%) of the median purchase price.

C. PROPERTY STANDARDS

If a project is acquisition and rehabilitation, the property must meet local written rehabilitation standards, state and local code requirements, and handicapped accessibility requirements, where applicable.

D. INSURANCE, BONDING REQUIREMENTS, HOLD HARMLESS, AND INDEMNITY

1. Insurance:

- a. Agency agrees to maintain during the term of this Agreement, or any extension thereof, insurance in the type and amounts as show in Exhibit “C”. Such insurance shall be evidenced by certificates, a copy of which shall be provided to the City within ten (10) days of execution of this Agreement. Insurance provided by Agency is subject to approval by City.
- b. The City shall be added as “additional insured” on general liability with respect to the services provided under this contract (See Exhibit C).
- c. Insurance companies, named insured and policy forms shall be subject to the approval of the City of Plano. Such approval shall not be unreasonably withheld. Insurance policies shall not contain endorsements or policy conditions that reduce coverage provided to the City of Plano. AGENCY shall be responsible to City of Plano or Insurance companies insuring City for all costs resulting from both financially unsound insurance companies selected by AGENCY and their inadequate insurance coverage.

2. Bonding - AGENCY shall observe sound business practices with respect to providing such bonding insurance as would provide adequate coverage for activities under this Agreement in compliance with 24 CFR 85.36 (h)..

3. Flood Insurance:

- a. Consistent with Flood Disaster Protection Act of 1973 (42 U.S.C. 4001-4128), HOME funds may not be used with respect to the acquisition, new construction, or rehabilitation of a project located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazard.
 - i. The community in which the area is situated is participating in the National Flood Insurance Program (44 CFR Parts 59-79), or less than a year has passed since FEMA notification regarding such hazards, and
 - ii. Flood Insurance is obtained as a condition of approval of the commitment.
- b. The City shall require and monitor compliance where an area has been identified by FEMA as having special flood hazards that the AGENCY shall be responsible for assuring the flood insurance under the National Flood Insurance Program is obtained and maintained. Copies of records pertaining to flood insurance protection shall be provided to the City upon request.
- c. No payments will be made to the AGENCY until the current certifications of insurance have been provided.

HOLD HARMLESS AND INDEMNITY - THE AGENCY AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY AND ITS RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY AGENCY'S BREACH OF ANY THE TERMS OR PROVISIONS OF THIS CONTRACT, VIOLATIONS OF LAW OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE AGENCY, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE CONTRACTOR IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF THE CITY, AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS. THE CITY DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY OR OTHER DEFENSES AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

AGENCY AT ITS OWN EXPENSE IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS. 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 AGENCY'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF AGENCY'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. AGENCY SHALL RETAIN DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF AGENCY FAILS TO RETAIN COUNSEL WITHIN THE REQUIRED TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF AND AGENCY SHALL BE LIABLE FOR ALL COSTS INCURRED BY THE CITY.

THE INDEMNIFICATION HEREIN SURVIVES THE TERMINATION OF THE CONTRACT AND/OR DISSOLUTION OF THIS AGREEMENT.

E. RECORDS RETENTION

AGENCY shall maintain accurate accounting records which document and justify all expenditures made pursuant to this Agreement. All income qualification

information, all original books of entry and all canceled checks and any other financial records will be retained for no less than five (5) years from August 31 following the program year in which HOME Funds were last expended under this Agreement. All accounting procedures, records, and reports shall be available for inspection by a duly authorized representative of the City or the U.S. Department of Housing and Urban Development.

F. TERMINATION

1. In accordance with 24 CFR 85.43, suspension or termination may occur if the AGENCY materially fails to comply with any term of the award, and that the award may be terminated for convenience in accordance with 24 CFR 85.44.
2. If, through any cause, the AGENCY shall fail to fulfill in timely and proper manner its obligations under this Agreement, or if the AGENCY shall violate any of the conditions, agreements or stipulations of this Agreement, the City shall thereupon have the right to terminate this Agreement by giving written notice to the AGENCY of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, the AGENCY shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder to the date of said termination. Notwithstanding the above, the AGENCY shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Agreement by the AGENCY and the City may withhold any payments to the AGENCY for the purpose of setoff until such time as the exact amount of damages due the City from the AGENCY is determined whether by court of competent jurisdiction or otherwise.

VII. ADMINISTRATION OF THE AGENCY/CITY OBLIGATIONS

A. AGENCY CERTIFICATION

1. Only non-profit organizations that have been certified by HOME participating jurisdictions as a Community Housing Development Organization can receive funds from the minimum fifteen percent (15%) set aside.
2. AGENCY must be certified by the participating jurisdiction regarding Legal Status, Organizational structure, and Capacity and Experience. A HUD checklist will be used to recertify the AGENCY.
3. AGENCY certification must be renewed annually. AGENCY agrees to provide all necessary documentation to the City for the purpose of recertification.

B. MATCH

1. The HOME Program requires that the funds used by the AGENCY be matched by the City of Plano. The City depends upon the donations and volunteerism of

non-profits for this match of (25%) of the total Home funds drawn down for project costs. For every dollar of HOME funds drawn down for a project, there is a \$0.25 match obligation. The AGENCY operating expenses and HOME administrative and planning funds do not require match.

2. Match is a permanent contribution to affordable housing. Match is not leveraging, but the City's contribution to the HOME program - the local, non-federal contribution to the partnership.
3. The City's match credits are a community's non-federal contributions of cash, assets, services, labor and other resource of value to the HOME Program.
4. The AGENCY will provide the City documentation of any source of cash, assets, services, labor and other resources of value to the HOME program that is eligible for match. Documentation will include check copies of any cash donation or grant received, deposit slips confirming deposit, and proof of use of funds.

C. RECORD KEEPING

The City must establish and maintain sufficient records to document that program requirements are met.

D. MONITORING

1. The City may perform periodic on-site monitoring of AGENCY for compliance with the terms and conditions of this agreement and the regulations of 24 CFR 92. If the monitoring reveals deficiencies in the agency's performance, a written report shall be prepared, identifying the deficiencies and establishing a time frame for correcting the deficiencies.
2. The City reserves the right to audit the records of the AGENCY any time during the performance of this agreement and for a period of five (5) years after final payment is made under this agreement.
3. AGENCY will provide reports and access to Project files as requested by the City during the Project and for five (5) years after completion and closeout of this agreement.
4. If required, the AGENCY will provide the City with a certified audit of the AGENCY's records representing the fiscal year during which the Project becomes complete. Whenever the amount of federal funding is at or exceeds \$500,000 pursuant to the requirements of OMB Circular A-133.
5. Access shall be immediately granted to the City, HUD, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers and records of the Agency or its contractors which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

E. DEFAULT

1. If AGENCY fails in any manner to fully perform and carry out any of the terms, covenants, and conditions of the agreement, and more particularly if the AGENCY refuses or fails to proceed with the work with such diligence as will insure its completion within the time fixed by the schedule set forth in Section II, AGENCY shall be in default and notice in writing shall be given to Agency of such default by the City. If agency fails to cure such default within such time as may be required by such notice, City may at its option terminate and cancel the agreement.
2. In the event of such termination, all HOME Funds awarded to AGENCY pursuant to this agreement shall be immediately revoked and any approvals related to the project shall immediately be deemed revoked and canceled. In such event, AGENCY will no longer be entitled to receive any compensation for work undertaken after the date of the termination of this agreement.
3. Such termination shall not affect or terminate any of the rights of City as against the AGENCY then existing, or which may thereafter accrue because of such default, and the foregoing provision shall be in addition to all other rights and remedies available to the City under the law and the note and deed of trust (if in effect), including but not limited to compelling AGENCY to complete the project in accordance with the terms of this Agreement, in a court of equity.
4. The waiver of a breach of any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, or condition hereof.

F. NON-ASSIGNMENT

AGENCY shall not assign any of AGENCY'S obligations or duties under this Agreement without first obtaining written consent from the Community Relations Commission and City Manager.

VIII. UNIFORM ADMISTRATIVE REQUIREMENTS

To the extent applicable to a nongovernmental recipient of federal funds, the AGENCY shall comply with OMB Circulars A-87, A-102, A-110, A-122, A-133, as amended, the Davis-Bacon Act (40 U.S.C. 276a et seq.), as amended, and as supplemented by Department of Labor regulations (CFR 29 Part 5, as amended), the Copeland Anti-Kickback Act (18 USC 874), as amended, and as supplemented by Department of Labor regulations (CFR 29 Part 3, as amended), the Agreement Work Hours and Safety Standards Act (40 USC 327 et seq.), as amended, and as supplemented by Department of Labor regulations (CFR 29 Part 5, as amended); Executive Order 11246 (Equal Opportunity), as amended, and as supplemented by Department of Labor regulations (CFR 41 chapter 60, as amended); and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq., as amended and Section 104 (d) of the Act), and in accordance with CFR 24 Part 42, as amended.

IX. OTHER FEDERAL REQUIREMENTS

A. EQUAL OPPORTUNITY AND FAIR HOUSING.

In accordance with the Program Guidelines and Section CFR 24 92.350 of the HOME Regulations, no person in the United States shall on the ground of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program activity funded in whole or in part from HOME funds. In addition, funds must be made available in accordance with the following:

1. The requirements of the Fair Housing Act (42 U.S.C. 3601-20) and implementing regulations at 24 CFR Part 100; Executive Order 11063, as amended by Executive Order 12259 (CFR 3, 1958 -1963 Comp., P. 652 and 3 CFR,1980 Comp., P. 307) (Equal Opportunity in Housing) and implementing regulations at 24 CFR Part 107; and of the Civil Rights Act of 1964 (42 U.S. C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24CFR Part 1;
2. The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing Regulations at 24 CFR Part 146, and the prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8;
3. The requirements of Executive Order 11246 (3 CFR 1964-65, Comp., p.339) (Equal Employment Opportunity) and the implementing Regulations issued at 41 CFR chapter 60;
4. The requirements of Section 3 of the Housing and Urban Development Act of 1968 (U.S.C. 1701u) that:
 - a. To the greatest extent feasible, opportunities for training and employment arising in connection with the planning and carrying out of any project assisted with HOME funds be given to low-income persons residing within the unit of general local government or the metropolitan area (or non-metropolitan City) as determined by HUD, in which the project is located; and
 - b. To the greatest extent feasible contracts for work to be performed in connection with any such project be awarded to business concerns, including but not limited to individuals or firms doing business in the field of planning, consulting, design, architecture, building construction, rehabilitation, maintenance, or repair, which are located in or owned in substantial part by persons residing in the same metropolitan area (or non-metropolitan City) as the project.
5. The requirements of Executive Orders 11625 and 12432 (concerning Minority Business Enterprise), and 12138 (concerning Women's Business Enterprise).

The AGENCY must make efforts to encourage the use of minority and women's business enterprises in connection with HOME-funded activities. The AGENCY will cooperate with the City in its minority outreach program to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, in the procurement of property and services including, without limitation, real estate firms, construction firms, financial institutions, investment banking firms, underwriters, accountants, and providers of legal services.

When procuring property, goods and services, the DCDLRP may require that the AGENCY follow the City's procurement procedures which reflect applicable State and local laws and regulations and which shall conform to applicable Federal law, regulations and standards. The AGENCY shall consult the DCDLRP on any procurement to assure conformance with applicable laws, regulations, and standards.

B. EQUAL ACCESS

The AGENCY shall provide the services set forth in Section I without discrimination on the basis of race, color, religion, national origin, sex, sexual orientation, marital status, physical handicap, or age.

C. NON-DISCRIMINATION

The AGENCY agrees to post notices containing this policy against discrimination in conspicuous places available to applicants for employment and employees. All solicitations or advertisements for employees, placed by or on the behalf of the AGENCY, will state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, sexual orientation, national origin, physical handicap, age, height, weight, marital status, veteran status, religion and political belief.

D. AFFIRMATIVE MARKETING

The AGENCY must adopt affirmative marketing procedures and requirements for HOME-assisted housing containing five (5) or more housing units. Affirmative marketing steps shall consist of actions to provide information and otherwise attract eligible persons from all racial, ethnic, and gender groups in the housing market area to the available housing and shall comply with the requirements and procedures of 24 CFR 92.351 of the Regulations. The AGENCY shall also comply with the "Affirmative Marketing Procedures" adopted by the City that are attached hereto as Exhibit D.

E. ENVIRONMENTAL REVIEW

The AGENCY will provide information necessary for the DCDLRP to determine the environmental effects of each activity carried out with HOME funds in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA) and the related authorities listed in HUD's implementing regulations at 24

CFR Parts 50 and 58 and shall comply with all requirements and actions for each activity that it carries out with HOME funds, in accordance with the requirements imposed on AGENCY under 24 CFR Part 58.

F. DISPLACEMENT, RELOCATION, AND ACQUISITION

1. The AGENCY must ensure that it has taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted with HOME funds.
2. The AGENCY shall consult the DCDLRP, prior to proceeding with any project activity with HOME funds that may cause temporary or permanent displacement to assure compliance with appropriate relocation requirements as provided in Section 24 CFR 92.353 of the Regulations and in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4201-4655) and 49 CFR Part 24, as amended and the Fair Housing Act (42 U.S.C. 3601-19).
3. If HOME funds are used in a project, the project is subject to the requirements of the Housing and Community Development Act of 1974. This includes the section 104 (d) requirements to provide relocation assistance and replace low/moderate-income housing as described at 24 CFR 570.606 (c) (Entitlement Program).
4. Real Property Acquisition Requirements: The acquisition of real property for a HOME project is subject to the URA and the requirements of 49 CFR Part 24, subpart B.

G. LABOR REQUIREMENTS

1. Section 24 CFR 92.354 of the Regulations requires that any contract for the construction (rehabilitation or new construction) of affordable housing with (twelve) 12 or more units assisted with funds made available under HOME must contain a provision requiring that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276 a-5), will be paid to all laborers and mechanics employed in the development of affordable housing involved, and such agreements must also be subject to the overtime provisions, as applicable, to the Work Hours and Safety Standards Act (40 U.S.C. 327-332).
2. The AGENCY shall comply with regulations issued under these Acts and with other Federal Laws and Regulations pertaining to labor standards and HUD handbook 1344.1 (Federal Labor Standards Compliance in Housing and Community Development Programs), as applicable. The DCDLRP shall require certification as to compliance with the provisions of this section before making any payment under such agreement.

H. LEAD-BASED PAINT

1. In accordance with Section 24 CFR 92.355 of the HOME Regulations as amended, housing assisted with HOME funds constitutes HUD-associated housing for the purpose of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821, et seq.) and is, therefore, subject to 24 CFR Part 35. Unless otherwise provided, the AGENCY shall be responsible for testing and abatement activities.
2. The AGENCY will assure compliance with Federal Regulations in regard to lead-based paint which Regulations require that applicants, owners, and tenants of HUD-associated housing and rehabilitation projects constructed before 1978 be provided with information on the following: that the property may contain lead-based paint; of the hazards of lead-based paint; of the symptoms and treatment of lead-based paint poisoning; of the precautions to be taken to avoid lead-based paint poisoning (including maintenance and removal techniques for eliminating such hazards); of the advisability and availability of blood lead level screening for children under seven years of age; and that in the event lead-based paint is found in the property, appropriate abatement procedures may be undertaken.

I. DEBARMENT AND SUSPENSION

As required by 2 CFR 2424, federal funds shall not be used directly or indirectly to employ, award contracts to, or otherwise engage the services of, or fund any contractor, subcontractor, developer, business, consultant, or any entity during any period of debarment, suspension, or placement in ineligibility status.

X. REVERSION OF ASSETS

Upon expiration of the agreement, the AGENCY will also transfer any remaining unencumbered funds, and any accounts receivable attributable to HOME funds, to the CITY for deposit to the HOME Investment Trust Fund account. Unexpended funds, recaptured funds and repayments under Unexpended funds, recaptured funds and repayments under 24 CFR, 92.252 (a) (4) and 92.254 (a) (5) as well as any interest earned on cash advances from the U.S. Treasury are not program income and shall be promptly remitted to the City for deposit to the HOME Investment Trust Fund Account. AGENCY is to report any funds received.

XI. MISCELLANEOUS

1. Entire Agreement/Amendment - This Agreement and its attachments embody the entire agreement between the parties and may only be modified in writing if executed by both parties.
2. Agency Representation - The undersigned represents and warrants that he or she is the duly authorized representative of AGENCY and that this Agreement has been approved and accepted by the Board of Directors (or equivalent) of the AGENCY.

3. Binding on the Parties - This Agreement shall be binding upon the parties hereto, their heirs, executors, legal representatives, successors, and assigns. Notwithstanding, however, this Agreement shall not be considered fully executed or binding on the City until the same shall have been executed by agency and the City Manager or his designee, and approved and accepted by the City Council of the City of Plano in open meeting as required by law.

4. Notice - All notices or other communication which shall or may be given pursuant to this agreement shall be in writing and shall be delivered by personal services, or by certified or registered mail, return receipt requested, addressed to the other party at the address indicated herein or as the same may be changed from time to time. Such notice shall be deemed given on the day on which personally serviced; or, if by mail, on the fifth day after being posted or the date of actual receipt, whichever is earlier. Notice shall be in writing delivered to the parties as follows:

<u>City</u>	<u>Agency</u>
Christina Day	Insert Name
Community Services	Address
City of Plano, Texas	Phone
P.O. Box 860358	
Plano, TX 75086-0358	
Telephone: 972-941-5262	

5. 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.

6. Waiver/Breach - No waiver or breach of any provision of this Agreement shall constitute a waiver of a subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing.

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

8. Severability - Should any provisions, paragraphs, sentences, words or phrases contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Texas or the City of Plano, Texas, such provisions, paragraphs, sentences, words, or phrases shall be deemed modified to the extent necessary in order to conform with such laws; or, if not modifiable to conform with such laws, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect.

9. Venue - In the event of breach of this Agreement, this Agreement shall be governed by the laws of the State of Texas and exclusive venue for all causes of action shall be instituted and maintained in Collin County, Texas.

10. Availability of Funds - Funding for this agreement is contingent on the availability of HOME Funds and continued authorization for program activities and is subject to amendment or termination due to lack of HOME Funds, or authorization, reduction of HOME Funds, and/or change in regulations.

XII. CONFLICT OF INTEREST

- A. AGENCY warrants and covenants that it presently has no interest and shall not acquire any interest, directly or indirectly, which could conflict in any manner or degree with the performance of its services hereunder. AGENCY further warrants and covenants that in the performance of this agreement, no person having such interest shall be employed.
- B. HOME conflict of interest provisions, as stated in 24 CFR 92.356, as well as the provisions of 24 CFR 85.36 and 24 CFR 84.42, apply to the award of any contracts under this agreement and the selection of households to occupy HOME-assisted units.
- C. No employee, agent, consultant, elected official, or appointed official of AGENCY may obtain a financial interest or unit benefits from a HOME-assisted activity, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. This prohibition includes the following:
 1. Any interest in any contract, subcontract or agreement with respect to a HOME-assisted Project or program administered by AGENCY, or the proceeds hereunder; or
 2. Any unit benefits or financial assistance associated with HOME Projects or programs administered by AGENCY, including occupancy of a rental housing unit in a HOME-assisted rental Project; receipt of HOME tenant-based rental assistance; purchase or occupancy of a homebuyer unit in a HOME-assisted Project; receipt of HOME homebuyer acquisition assistance; or receipt of HOME owner-occupied rehabilitation assistance.
- D. This prohibition does not apply to an employee or agent of the agency who occupies a HOME-assisted unit as the on-site Project manager or maintenance worker.
- E. Prior to the implementation of the HOME-assisted activity, exceptions to these provisions may be requested by agency in writing to the City. AGENCY must demonstrate and certify that the policies and procedures adopted for the activity will ensure fair treatment of all parties, and that the covered persons referenced in this policy will have no inside information or undue influence regarding the award of contracts or benefits of the HOME assistance. City may grant exceptions or forward the request to HUD as permitted by 24 CFR 92.356, 85.36, and 84.42, as they apply.
- F. AGENCY acknowledges and represents that AGENCY is aware of the laws related to prohibited interests found in the City Charter and the City Code of Conduct and

that the existence of a prohibited interest at any time will render the agreement voidable. At the time of execution of this agreement, a duly authorized representative of the AGENCY shall execute the Affidavit of No Prohibited Interest attached and incorporated herein as Exhibit "E".

VIII. EFFECTIVE DATE

This agreement shall be effective from and after execution by both parties hereto. **SIGNED** on the date indicated below:

(SUBRECEPIENT)

By _____
Executive Director

Date: _____

City of Plano, Texas

Thomas H. Muehlenbeck,
City Manager

Date: _____

APPROVED AS TO FORM

Diane C. Wetherbee
City Attorney

Acknowledgements

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2010, by _____, Executive Director of **(Name of Recipient Agency)**, a non-profit corporation, on behalf of said **(Organization)**.

Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2010, Tom Muehlenbeck, City Manager, of the City of Plano, Texas, a Home-Rule Municipal Corporation, on behalf of said Municipal Corporation.

Notary Public, State of Texas

EXHIBIT A

2010 BUDGET: (INSERT SUBRECIENTS NAME)

EXHIBIT B
2010 HUD INCOME LIMITS

<u>HOUSEHOLD SIZE</u>	<u>MAXIMUM INCOME</u>
1 person	\$38,300
2 person	\$43,750
3 person	\$49,200
4 person	\$54,650
5 person	\$59,050
6 person	\$63,400
7 person	\$67,800
8 person	\$72,150

EXHIBIT C

INSURANCE REQUIREMENTS

Agency shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the services performed or to be performed hereunder by the Agency, its agents, representatives, employees, volunteers, officers, director, or subcontractors.

The Agency shall maintain insurance with limits not less than \$500,000 per occurrence, \$1,000,000 aggregate and will be as broad as ISO Form Number GL 0002 (Ed 1/72) covering Comprehensive General Liability and ISO Form Number GL 0404 covering Broad Form Comprehensive General Liability, or ISO Commercial General Liability coverage ("occurrence" form CG 0001). Coverage will include:

- A. Premises - Operations;
- B. Broad Form Contractual Liability;
- C. Broad Form Property Damage; and
- D. Personal Injury

The policy will be endorsed to contain the following provisions: "The City of Plano, its officers, officials, employees, volunteers, Boards and Commissions are to be added as 'Additional Insureds' as respects to liability arising out of any activities performed by or on behalf of the Agency." The policy shall contain no special limitations to the scope of coverage afforded to the City. The Agency's insurance coverage shall be primary and any insurance or self-insurance shall be in excess of the Agency's insurance and shall not contribute with it.

Coverage shall be primary and non-contributory. Primary and non-contributory endorsement must be attached to the original certificate when submitted.

City prefers that insurance shall be placed with insurers with an A.M. Best rating of no less than A: VI or, a Standard & Poors rating of A or better.

The Agency shall furnish the City with a certificate of insurance which shows the coverage provided. The insurance policy will be endorsed to state the coverage shall not be suspended, voided, canceled, non-renewed, 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. All endorsements required shall be attached to the original certificate when submitted.

EXHIBIT D

AFFIRMATIVE MARKETING POLICIES AND PROCEDURES

POLICY

The Developer believes that individuals of similar economic levels in the same housing market areas should have available to them a like range of housing choices regardless of their race, color, religion, sex, age, handicap, familial status, or national origin.

PROCEDURE

The Developer will carry out this policy through affirmative marketing procedures designed specifically for the House on the Corner program as outlined below:

A. Affirmative Marketing

1. The Equal Housing Opportunity logo will be displayed on all materials.
2. The Developer will work closely with diverse community organizations, to ensure that families in need of housing assistance are aware of the opportunities available through this program.

B. Recordkeeping

The Developer will keep records of the following:

1. The racial, ethnic, and gender characteristics of applicants in the ninety (90) days following closing as required by Section 511.71(a)(2).
2. Copies of advertisements materials.

EXHIBIT E

AFFIDAVIT OF NO PROHIBITED INTEREST

I, the undersigned, declare and affirm that no person or officer of PLANO HOUSING CORPORATION (herein "AGENCY") 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 void.

(Insert SUBRECIPIENT Name)

By: _____

Signature

Print Name

Title

Date

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

SUBSCRIBED AND SWORN TO before me this _____ day of _____,
2010.

Notary Public, State of Texas



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular <input type="checkbox"/> Statutory
Council Meeting Date:	06/28/10
Department:	Planning
Department Head	P. Jarrell
Agenda Coordinator (include phone #): Tammy Stuckey - Ext 7156	

CAPTION

Public Hearing and consideration of an Ordinance of the City of Plano amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 62.3± acres out of the G.H. Pegues Survey, Abstract No. 700 and the M.R. Foster Survey, Abstract No. 332, bounded by Bradshaw Drive on the west, Plano's city limit line on the south, extending approximately 2,870± feet east of Bradshaw Drive, and bounded on the north by the Dallas Area Rapid Transit rail line in the City of Plano, Collin County, Texas, from Planned Development-202-Research/Technology Center to Single-Family Residence-6 and Single-Family Residence Attached; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, a publication clause, and an effective date. Applicant: Industrial Developments International. Public Hearing opened on 6/14/10. Item tabled and Public Hearing continued to 6/28/10.

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

This item must be removed from the table.
This item was tabled at the applicant's request at the June 14, 2010 City Council meeting.

List of Supporting Documents: Follow up Memo P&Z 2nd Vice-Chair Report P&Z Staff Report Memo from Gregory Rushin, Chief of Police (Plano) & Jimmy Spivey, Chief of Police (Richardson) Email from Trudy Evans	Other Departments, Boards, Commissions or Agencies
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**CITY OF PLANO
COUNCIL AGENDA ITEM**

<p>Memo from David Kerr, Fire Marshall Memo from Tina Firgens, Planning Manager Maps Ordinance</p>	

DATE: May 18, 2010
TO: Honorable Mayor & City Council
FROM: James Duggan, Chairman, Planning & Zoning Commission
SUBJECT: Results of Planning & Zoning Commission Meeting of May 17, 2010

**AGENDA ITEM NO. 6A - PUBLIC HEARING
ZONING CASE 2010-02
APPLICANT: INDUSTRIAL DEVELOPMENTS INTERNATIONAL**

Request to rezone 62.3± acres bounded by Bradshaw Drive on the west, Plano's city limit line on the south, extending approximately 2,870± feet east of Bradshaw Drive, and bounded on the north by the Dallas Area Rapid Transit rail line, from Planned Development-202-Research/Technology Center to Single-Family Residence-6 and Single-Family Residence Attached.

APPROVED: 5-3 **DENIED:** _____ **TABLED:** _____

LETTERS RECEIVED WITHIN 200 FOOT NOTICE AREA: **SUPPORT:** 2 **OPPOSE:** 0

LETTERS RECEIVED OUTSIDE 200 FOOT NOTICE AREA: **SUPPORT:** 0 **OPPOSE:** 0

PETITION(S) RECEIVED: N/A **# OF SIGNATURES:** N/A

STIPULATIONS:

Approved. The Commissioners who voted in opposition to the request did so based on inconsistency with the Comprehensive Plan, a need to retain commercial zoning on this larger tract of land and given that there is limited undeveloped commercial zoned land in Plano, concerns regarding noise from the nearby gun range, fire department response, inadequacy of the sanitary sewer system, and quality of life concerns.

FOR CITY COUNCIL MEETING OF: June 14, 2010 (To view the agenda for this meeting, see www.planotx.org)

PUBLIC HEARING - ORDINANCE

EH/dc

xc: Doug Johnson, Industrial Developments International
Edward Eckart, Goodwin & Marshall, Inc.

Recommendation of the Planning & Zoning Commission
Zoning Case 2010-02
May 17, 2010 Meeting
Second Vice-Chairman's Report

Agenda Item No. 6A and 6B- Public Hearing

Zoning Case 2010-02 - Request to rezone approx. 62.3 acres from Planned Development -202-Research/Technology Center to Single-Family Residence-6 located at the Plano city limit line and Bradshaw Drive and related Concept Plan.

Applicant: Industrial Developments International

Staff Recommendation: Denial since the request is not consistent with the Comprehensive Plan.

Commission Action: APPROVED 5-3.

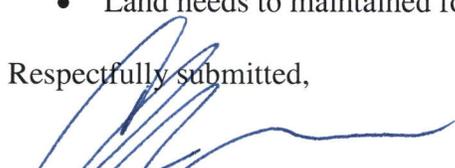
The motion to approve was supported by Chairman Duggan and Commissioners Coleman, Downs, Norton and Hazelbaker. Commissioners Caso, Dry and Perry voted against the motion and supported staff's recommendation to deny the application. Comments made in support of the motion to approve included:

- There is still much undeveloped land for commercial uses.
- There is demand for residential in the area.
- Need for workforce housing.
- Property has been vacant for too long and no demand for commercial uses.

Additional Comments: Commissioners in opposition to the motion cited the following comments:

- The proposed use is not consistent with the Comprehensive Plan.
- Noise from City's gun range not consistent with residential use.
- Response time from fire department a concern.
- Land needs to be maintained for commercial use.

Respectfully submitted,



Christopher J. Caso, AICP
Second Vice Chair
Planning & Zoning Chairman

CITY OF PLANO

PLANNING & ZONING COMMISSION

May 17, 2010

Agenda Item No. 6A

Public Hearing: Zoning Case 2010-02

Applicant: Industrial Developments International

DESCRIPTION:

Request to rezone 62.3± acres bounded by Bradshaw Drive on the west, Plano's city limit line on the south, extending approximately 2,870± feet east of Bradshaw Drive, and bounded on the north by the Dallas Area Rapid Transit rail line, **from** Planned Development-202-Research/Technology Center **to** Single-Family Residence-6 and Single-Family Residence Attached.

REMARKS:

The applicant is requesting to rezone 62.3± acres bounded by Bradshaw Drive on the west, Plano's city limit line on the south, extending approximately 2,870± feet east of Bradshaw Drive, and bounded on the north by the Dallas Area Rapid Transit rail line from Planned Development-202-Research/Technology Center (PD-202-RT) to Single-Family Residence-6 (SF-6) and Single-Family Residence Attached (SF-A). The subject property is currently undeveloped. The RT zoning district is intended to create a low density employment center consisting of office, research and development facilities, and limited assembly operations. RT districts should generally accommodate several users in a campus environment. PD-202-RT was created in 2008 to provide more use options for development of property in the eastern portion of the district where some of the properties are smaller and have more topographic constraints. A number of commercial uses were added to those already allowed in the base RT zoning district.

The requested zoning is divided into two phases, Phase 1 and Phase 2. The applicant proposes to rezone Phase 1 to SF-6, which is 53.6± acres bounded by Bradshaw Drive on the west, Plano Parkway and the Dallas Area Rapid Transit rail line on the north, and Plano's city limit line on the south and extending 2,870± feet east of Bradshaw Drive. The applicant proposes to rezone Phase 2 to SF-A which is 9.0± acres bounded by Bradshaw Drive on the west, Plano Parkway on the south, and the Dallas Area Rapid Transit rail line on the north. The SF-6 district is intended to provide for small-lot, urban, single-family development protected from excessive noise, illumination, odors, visual clutter, and other objectionable influences to family living. The SF-A district is intended

to provide for a variety of residential housing types and densities in the medium density range (five-ten units/acre) on individually platted lots or multiple units on a single lot.

A concept plan, Parkway Heights, Phases 1 & 2, accompanies this request.

Surrounding Land Use and Zoning

The adjacent properties to the west, north and east of these tracts are zoned PD-202-RT. A Texas Power & Light transmission line easement exists to the south of the proposed SF-6 residences and is included within this zoning request. South of this easement is property which lies within the city of Richardson and is developed as single-family residences. To the west are Douglas Otto Middle School and two other vacant properties. The properties to the north, beyond the DART rail line, are partially developed as a religious facility, the Plano Richardson Police Training Facility including the outdoor pistol and rifle firing ranges, and a few single-family residences. To the east is an undeveloped tract owned by Oncor.

Conformance to the Comprehensive Plan

Future Land Use Plan - The Future Land Use Plan designates this property as appropriate for RT uses. This request does not conform to the Future Land Use Plan.

Adequacy of Public Facilities - Water and sanitary sewer services are available via extensions from existing utilities along Plano Parkway; however, the existing sanitary sewer system is insufficient to support residential development for this site. Improvements to the sanitary sewer system would be necessary, including upgrading the existing lift station and sanitary sewer lines since the lines are not sized appropriately to accommodate residential flows, or extending an offsite sewer main to the east to the North Texas Municipal Water District (NTMWD) sewer main located near Park Vista Road.

Traffic Impact Analysis (TIA) - A TIA is not required for single-family zoning requests.

ISSUES:

Conformance to the Economic Development Element of the Comprehensive Plan

The Economic Development Element of the Comprehensive Plan establishes a goal of preserving land in employment centers, such as the RT, for economic development:

“Rezoning requests must be carefully examined to ensure that proposed locations are suitable for residential development and that Plano’s economic viability is not being jeopardized in order to accommodate short-term demand. The availability of undeveloped “greenfield” sites is vital to encourage expansion and relocation of businesses. Therefore, the City should preserve land along the expressway corridors and in the employment centers for future economic development opportunities”.

The RT is a major employment center within the southeastern portion of the city. In order to continue to promote employment opportunities within the city and attract businesses to Plano, nonresidential zoned land in areas such as the RT district, needs to be preserved. The size of this property, particularly the southern portion (53.6± acres), is appropriate for attracting several larger businesses that may want to locate in Plano and have space for future expansion and is the second largest undeveloped tract remaining in the RT district. The largest remaining tract is 70.6± acres owned by Flextronics International located on the south side of Plano Parkway and the west side of North Star Road.

Conformance to the Housing Element of the Comprehensive Plan

The Housing Element of the Comprehensive Plan recognizes that not all residential development will be in a “typical” neighborhood format, with a school and neighborhood park at the center. The plan states that:

“There is an abundance of land zoned for nonresidential uses. Some of these properties are not in a prime location for development and lack the access and visibility required for commercial uses. A reasonable alternative use for these properties may include some form of medium- to high-density housing in an area that is not sized and configured.”

However, in evaluating locations for residential development, the plan also notes the importance of *“ensure(ing) that alternative neighborhood formats provide functional and appropriate environments”* and describes alternative format neighborhoods as containing *“10 to 100 acres of land in irregular shapes, making innovative design critical for the development of functional, cohesive neighborhoods. An urban center is an example of development that might occur in an alternative neighborhood format without typical amenities like neighborhood parks and schools.”*

The proposed rezoning request does not provide for an alternative housing type consistent with what is described in the Comprehensive Plan. A recent example of where the city rezoned nonresidential land to allow for higher density residential uses, that was not a typical neighborhood format (i.e. school and park site near the center), and where the request was consistent with the Housing Element recommendations, is the 120± acres located at the northeast corner of State Highway 190 and Renner Road (Turnpike Commons). This property was rezoned from RT to Planned Development-207-Retail.

Related to this, the Housing Element makes a point that alternative neighborhood formats need to be “functional and appropriate environments.” Neighboring zoning districts and permitted land uses make important contributions towards defining what is considered a functional and appropriate environment. Consideration needs to be given to existing land uses in the area and zoning districts, as well as other permitted uses allowed, within the districts. Specifically for this zoning request, a determination needs to be made as to whether or not the existing and permitted nonresidential uses, given current zoning districts adjacent to the subject property, would contribute to an environment suitable for adjacent residential zoning. Unlike the 7.1± acres located at the southwest corner of Bradshaw Drive and 14th Street that was recently rezoned to

SF-6, this property is located directly across the rail line from the Plano Richardson Police Training Facility outdoor pistol and firing ranges.

Incompatible Zoning Districts and Land Uses

Although the requested single-family residential zoning is consistent with the residential development located in the city of Richardson to the south, it is not consistent with the surrounding PD-202-RT zoning nor is it consistent with other nonresidential uses, including the adjacent Plano Richardson Police Training Facility outdoor pistol and rifle firing ranges within the city of Plano. Depending on ambient noise and weather conditions, gunfire from both the pistol and rifle ranges can be heard from this site. Firing occurs regularly Monday through Saturday and is not typically conducive to a residential environment.

The surrounding properties to the west, north, and east in Plano are zoned PD-202-RT, and provide for existing and future commercial businesses. Businesses locate in commercial districts where comparable uses are allowed and that have like operations such as truck traffic, loading operations, odors, increased noise levels, and lighting. Similarly, residents locating in a residential development have general expectations of a living environment where they can enjoy their home, both inside and outside in their respective yard area. Introducing residential land uses in an area that historically has been zoned for non-residential uses and where businesses are already located creates land use compatibility issues and conflicting interests. When piece meal zoning occurs, this will create inconsistent zoning districts and land use patterns, thus diminishing the integrity of an area whether it is a business, park area or residential neighborhood.

City Services

During 2008, the Planning & Zoning Commission evaluated residential uses within the eastern portion of the Research/Technology Center area. As part of their analysis, the Commission reviewed city services available to the area. A detailed analysis was provided addressing utilities, emergency response times, parks, libraries, environmental waste collection, and schools services. An updated version of the same information was provided more recently to the Commission, during the Commission's work session held on April 5, 2010.

The analysis identifies significant potential city service implications associated with allowing residential uses within the RT area, including:

- Residential uses generate increased sanitary sewer flows when compared to nonresidential uses; therefore, the existing sewer system is insufficiently sized to accommodate residential uses - lines would need to be upgraded and improvements made to existing lift stations, and/or an off-site sewer main being extended to the east to the NTMWD sewer main located near Park Vista Road.
- Based upon existing personnel, equipment and facilities, fire emergency response times would exceed their stated response time goal of 6 minutes, 59 seconds, for 90% of their calls;

- The functions performed at the Plano Richardson Police Training Center create land use incompatibility issues with residential uses given the noise generated at the outdoor gun firing range at this facility; and
- There are no neighborhood parks to service this area and if parks were provided, additional funding resources would have to be identified for land acquisition, operation and maintenance.

Additionally, Plano Independent School District (PISD) has identified that there would be school capacity issues at Schell Elementary School with development of this property for residential uses.

Adjacent Oncor Property

To the east of the subject property is an undeveloped tract currently owned by Oncor. This tract has no frontage on a public street, and the surrounding properties do not contain access easements that would allow Oncor to legally access their property. If development were to occur on Oncor's property, there would not be an opportunity to provide access to Oncor's currently "land locked" site. Consideration will need to be given to providing access through the subject property to Oncor's property.

Summary

The applicant is requesting to rezone 62.3± acres bounded by Bradshaw Drive on the west, Plano's city limit line on the south, extending approximately 2,870± feet east of Bradshaw Drive, and bounded on the north by the Dallas Area Rapid Transit rail line from PD-202-RT to SF-6 and SF-A. The Comprehensive Plan does not support this request for several reasons. The Future Land Use Plan recommends RT and not residential. Rezoning this property to single-family residential is also contrary to the established goal of preserving land in employment centers for economic development. The property does not meet the standards for an alternative neighborhood development; it also does not satisfy the goal of providing a high quality living environment. Although an existing residential subdivision exists to the south in the city of Richardson, current uses located within the city of Plano, specifically the outdoor gun range, as well as other uses permitted within the adjacent RT zoning district are not conducive to a high quality living environment.

RECOMMENDATION:

Staff recommends denial of the proposed rezoning request since the request is not consistent with the Comprehensive Plan.



P.O. Box 860358
Plano, Texas 75086-0358
972-941-7000
Fax. No. 972-941-0099

MEMORANDUM

DATE: June 2, 2010

TO: Bruce D. Glasscock, Deputy City Manager

FROM: Gregory W. Rushin, Chief of Police, Plano
Jimmy L. Spivey, Chief of Police, Richardson

SUBJECT: Proposed Zoning Change for Property South of Police Gun Range

On May 17, 2010 the City of Plano, Planning and Zoning Commission heard zoning case 2010-02, a request to rezone 62.3± acres just south of the Plano/Richardson Police Training Center Gun Range, west of Bradshaw Drive, and just on the north side of Plano's south city limit. The request was to rezone from Planned Development-202-Research/Technology to Single-Family-6 and Single-Family Residence Attached. The Planning and Zoning Commission approved 5-3 the applicant's request for the zoning change. The case has been forwarded to the Plano City Council for finalization on June 14, 2010. The Plano and Richardson Police Departments have concerns regarding the potential for conflict with homeowners who chose to purchase homes in this area if the property is rezoned.

The Plano/Richardson Police Training Center Gun Range is located in the 4900 block of East 14th Street in Plano on property purchased by the City of Plano in 1969. In 1976, the first gun range was constructed on this property and in 1991 a second pistol range replaced the first. Over the ensuing years various projects were built in closer proximity to the Gun Range.

The new pistol range and the remodeled rifle range were completed in September of 2008, and the Gun Range resumed operation at that time. Shortly afterwards complaints on the noise of gun fire began coming in from residents north of the range in Plano and from residents just to the east inside the Murphy city limits. As a result acoustical studies were conducted and acoustical materials were installed that significantly reduced the sound of gun fire coming from the Gun Range. However, it must be understood and emphasized the studies and recommendations provided by the acoustical engineers were based on the existing zoning and existing environment in early 2009. No factors were included for the potential of residential housing on the vacant property south of the Gun Range as it was not zoned residential.

The Plano and Richardson Police Departments have made every effort to be good neighbors in the operation of the Police Gun Range. As mentioned, extensive acoustical materials were installed to reduce the noise of gun fire to "background noise" levels. Additionally, both agencies limit shooting time. Shooting is only allowed Monday through Friday from 8:00 a.m. till 9:00 p.m., Saturday from 8:00 a.m. till 12:00 noon, and no shooting on Sundays. It is absolutely critical for officers to maintain firearm skills and proficiency, and is required by the State commission on officer standards.

Council is urged to consider the potential for unintentional consequences that may result in the rezoning of the property in question. Allowing residential development will result in complaints from persons buying homes in this area. This will place both agencies back in a contentious relationship with residents. The only remaining option to reduce sound further is enclosing both the rifle and pistol range at an estimated cost in excess of \$1,000,000. Neither Richardson nor Plano has funding for such a project. The current zoning of the property in question is compatible with the presence of the Gun Range. Persons working in structures typically associated with the current zoning are not as likely to be impacted.

Again, we advise Council to closely consider these issues.

From: Cindy Pierce
Sent: Wednesday, June 09, 2010 12:26 PM
To: Tom Muehlenbeck; Bruce Glasscock; Greg Rushin; Frank Turner; Alan Upchurch; Phyllis Jarrell
Subject: FW: Barage of Gunfire!

FYI the below message was received via contact of our Webmaster.

From: Melissa Peachey
Sent: Wednesday, June 09, 2010 12:19 PM
To: Cindy Pierce
Subject: FW: Barage of Gunfire!

From: Trudy Evans [REDACTED]
Sent: Wednesday, June 09, 2010 8:48 AM
To: Web Master
Subject: Barage of Gunfire!

It is most disturbing to hear the gunfire all the way into Windy Hills along Dublin Road. It echos all over the neighborhood not to mention the golf course. It was stated months ago that the City of Plano was looking into a better sound barrier and for your information, whatever it was. it has not worked. In fact, the noise is worse.
Please do something about this!
Trudy W. Evans

E-mail message checked by Spyware Doctor (7.0.0.514)
Database version: 6.15180
<http://www.pctools.com/spyware-doctor-antivirus/>



Memorandum

Date: May 14, 2010

To: Hugo Esparza, Fire Chief
Phyllis Jarrell, Director of Planning

From: David Kerr, Fire Marshal

Subject: RT Zoning District

The Fire Department is continuing to evaluate the conversion of the RT district to residential use. As indicated from our earlier response on this issue, we have Fire and EMS response concerns with the proposed rezoning. The fire response issue can be partially mitigated by the installation of residential fire sprinklers. The second issue is a bit more complex and deals with EMS response.

The estimated population of the city is 265,000. The Fire Department responded to 12,464 EMS calls in 2009. The number of calls for service per 1000 population is 47. The estimated number of persons per house hold is 2.72. The estimated number of houses in the proposed IDI property is 230 with an estimated population of 626. The recently approved property in the RT district has 34 lots with a population estimation of 93. The total population increase if both are approved would be 719. The estimated number of EMS responses will be 34 per year for this area. Planning estimates a total of 400 housing units if the RT district west of Rowlett Creek is rezoned to residential. The estimated population for total area would be 1,088 with an EMS response of 51 per year.

In 2009 Fire Station 3 had 905 and EMS responses. If the RT district is rezoned; the estimated EMS responses for Fire Station 3 will increase by 5.6 %.

June 3, 2010

MEMO

TO: Thomas H. Muehlenbeck, City Manager
Frank F. Turner, Deputy City Manager

FROM: Tina M. Firgens, Planning Manager

SUBJECT: Residential Analysis within the Research/Technology Center Area in Southeast Plano

This information is being provided to supplement the staff write-up for Zoning Case 2010-02.

Attached is an analysis that was prepared for the Planning & Zoning Commission's consideration at its work session meeting on April 5, 2010, regarding residential uses within the Research/Technology Center area in southeast Plano. The analysis is a compilation of feedback received from various city departments to better understand the potential service implications (if any) should residential uses be allowed within this area of Plano.

In order to assist the departments with preparing their responses, Planning staff presented two development scenarios for their consideration – Scenario 1 being information provided from the zoning cases submitted for the IDI (Zoning Case 2010-02) and Lawler properties (Zoning Case 2010-03 approved on May 10, 2010), and Scenario 2 taking into consideration rezoning of a larger area including most properties generally located north of the Plano/Richardson city limit and east of Bradshaw Road. In short, the analysis identifies concerns regarding:

- Insufficient sanitary sewer system to accommodate residential flows;
- Fire emergency response times exceeding response time goals;
- Noise generated at the outdoor gun firing range incompatible with residential uses;
- Lack of neighborhood parks to serve the area;
- Potential service impacts for solid waste collection and libraries; and
- Capacity issues for the elementary school that serves the area.

Planning staff will be present at the City Council meeting to address these issues should there be any questions.

(Attachment)

Research/Technology Center District - Residential Analysis

In reviewing the impacts of changing the zoning designation of property in the Research/Technology Center (RT) district to residential, Planning Department staff requested the input from other city departments as well as Plano Independent School District (PISD). Staff requested information based on two scenarios (below). Responses from each of the departments and PISD are provided below.

1. Developers have submitted requests to rezone two separate properties for residential development. This will result in approximately 300 homes being built in the area (221 Single-Family Residence-6 (SF-6) lots and 79 Single-Family Residence Attached (SF-A)).
2. If the Planning & Zoning Commission deems residential as appropriate for this area, staff would suggest that they look at rezoning the surrounding properties as well to provide some continuity and achieve benefits of massing. In this scenario, this might include most properties generally located north and east of Bradshaw Rd. This could result in a total of approximately 98 acres of residential development (equivalent to approximately 400 SF-6 lots).

Engineering Department

Staff has analyzed the sewer capacities issues in the RT area east of Los Rios Boulevard. The analysis indicated that the existing commercial land use currently creates capacity issues with the existing lift station and gravity sewer lines. The land use change to residential would significantly increase the sewer needs and a new line would need to be extended east and south of the DART railroad across Rowlett Creek to connect to an existing North Texas Municipal Water District sewer main. We would also have to increase the capacity of the existing lift station and some of the gravity lines.

Fire Department

We have reviewed the proposal to rezone portions of the RT Zoning district to residential use. Residential use presents some unique response issues for the Fire Department. In the case of fire response, residential properties of this size are not required to be fire sprinkled, where as commercial properties in the RT District will be fire sprinkled. Emergency Medical Service (EMS) responses are higher in residential districts and this location presents some response issues. If the RT District were rezoned to residential, a study of the location of Fire Station No. 3 would be needed. Fire Station No. 3 may need to be relocated south to provide adequate response time coverage for this zoning district and the panhandle section in far east Plano. The Murphy Fire Department is currently providing first response in the panhandle area.

The call volume to this district is expected to increase if residential development is considered. We cannot provide the maximum response time standard of 6:59 minutes or less to this portion of the city for EMS response from the current location of Fire

Station No. 3. Should the area develop residentially, we would recommend that all homes in the area be fire sprinkled. While this will reduce the fire impact, it will not help the increase in response time for EMS calls.

Libraries

Residential use would have a slight impact on services mainly due to the distance from Harrington Library. If 400-800 homes are built with two people per home, there is the potential of 800-1600 people. In Harrington Library service population area, approximately 85% apply for a library card and approximately 41% of those cards are active users (use the library at least once a year). This would result in approximately 258-516 active cards. Given the distance from the library, the numbers may be less. Harrington Library has 40,272 registered users and 16,508 active users as of February 28, 2010.

Parks and Recreation Department

Scenario 1

1. The current Park Master Plan does not include any neighborhood park facilities in the area due to the planned RT district land use. The smaller site to the west currently falls within Park Fee Service Area 1. The larger property located in the eastern portion of the district does not currently fall within a Park Fee Service Area and no park fees will be collected. If residential zoning is approved for the property the City of Plano should consider adding it to Park Fee Service Area 1.
2. The fees collected for 221 SF-6 lots and 79 SF-Attached lots would be \$140,241. Park Fee Service Area 1 has a current balance of \$136,000. These funds came primarily from the neighborhood development east of Brand Road. These neighborhoods combined could only fund a portion of a typical neighborhood park. There are many variables in land prices, available acres of land, and extent of facilities provided; but it is likely that an additional \$400,000 to \$700,000 in bond funds would be needed to provide neighborhood park facilities in this area depending on land cost and availability.
3. Neighborhood parks typically serve 6,000 to 7,000 residents within a one square mile area. These two developments would likely result in 800 to 900 residents. The existing residential development east of Brand Road currently has an estimated 1,141 residents. The total number of residents served would be much less than typical for neighborhood park facilities.
4. The Douglas Otto Middle School site may provide an opportunity to create a small neighborhood park area adjacent to the school. Middle schools do not typically have playgrounds and picnic shelters, but they do have open sports fields that can serve as community practice space. If residential zoning in the area is approved, the City of Plano should move forward with discussions with PISD about the use of this property. Location of neighborhood park facilities

adjacent to a major thoroughfare is not generally desirable but could be accommodated with fencing adjacent to the roadway.

5. The existing overhead utility easement could provide a way to link the neighborhood east of Brand Road to the middle school site and any potential neighborhood park area. If residential zoning is approved, the City of Plano should pursue acquiring an easement or ownership of the power line easement from the middle school site to the Murphy city limit line. The City of Murphy has indicated some interest in making a trail connection to Plano via this power line easement.
6. If property is not available adjacent to the middle school site, it may be more difficult to provide neighborhood park facilities in the area. However, there is additional undeveloped property in the area that could be available.
7. The Park Master Plan and Park Fee Ordinance should be updated to reflect residential development in this area if it is approved.
8. There is an existing 20 acre parcel of undeveloped park land along the east side of Rowlett Creek south of 14th Street. This property is entirely in the flood plain and it could not have a playground or picnic shelter on the property. It was acquired for the purpose of connecting the Rowlett Creek Greenbelt between Plano and Richardson. The power line easement could provide an opportunity to connect adjacent residential properties to the greenbelt.

Scenario 2

1. It would be beneficial from a park perspective if additional property in the area is also zoned residential. This would increase the potential to collect Park Fee Revenue in the area and reduce the amount of bond funds needed to provide neighborhood park facilities. It would also create a greater need for the facilities and help the expenditure to be beneficial to a larger number of residents.

Additional Comment

The smaller site to the west currently falls within Park Fee Service Area 1. There are no neighborhood park facilities planned in the area. The nearest neighborhood park facilities are at Shoshoni Park which is outside of our recommended service range for neighborhood parks. *If we collect the fees we are required to provide access to neighborhood park facilities.* The fees collected by this isolated development would not be sufficient to fund a neighborhood park within reasonable access to this development. If this site proceeds as residential without any other residential development in the area, we may need to consider removing this site from Park Fee Service Area 1.

Police Department

We have reviewed the proposal to rezone a portion of the RT district for residential use. With regard to Calls for Service, this location does not appear to present any significant problems. The potential increase in call volume is approximately 210 calls for service per year. This potential workload increase can be absorbed with our current staffing levels.

Most potential impacts on residential development would come from the functions performed at the Plano/Richardson Police Training Center. This facility is located on property purchased by the City of Plano in 1969. In 1976, the first gun range was constructed on this property. The second pistol range and the first rifle range, along with the Police Training Center main building were constructed on this property in 1991. The first two gun ranges were relatively isolated, but over the years homes, businesses, and schools have been constructed in closer proximity to the gun range.

The primary impact on any residences built in close proximity to the Police Training Center will be from operation by Plano and Richardson on the pistol range and rifle range. The new pistol range and the remodeled rifle range were completed in September of 2008. Shortly afterwards, complaints on the noise of gun fire began coming in from residents north of the range in Plano and from residents just to the east inside the Murphy city limits. The new pistol range and remodeled rifle range continue to have a down range direction of nearly due south pointing toward the residential area in Richardson. The new pistol range has twelve shooting lanes, like the old range, but it sports a vastly different baffling system. The new overhead angled baffling system increases the operational safety level of the range. However, it is to a great extent still an open air range, so sound can be heard. It is important to note that extensive acoustical materials have been added to the pistol range since it opened and it has dramatically reduced the sound of the gun fire coming from the range. Additionally, Training Center policy restricts the hours of shooting. Shooting is only allowed Monday through Friday from 8:00 a.m. to 9:00 p.m. On Saturday shooting is allowed from 8:00 a.m. till 12:00 noon, and no shooting on Sundays. It is important to note shooting does not occur on a daily basis but does occur at fairly regular intervals, as it is necessary for officers to practice with their issued weapons. Further, both police departments have instituted patrol rifle programs, and the sound of rifle fire is generally louder than that of pistols.

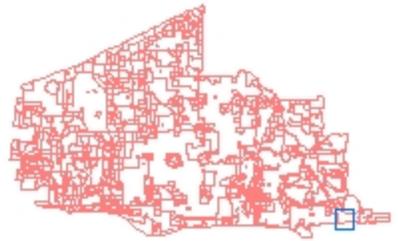
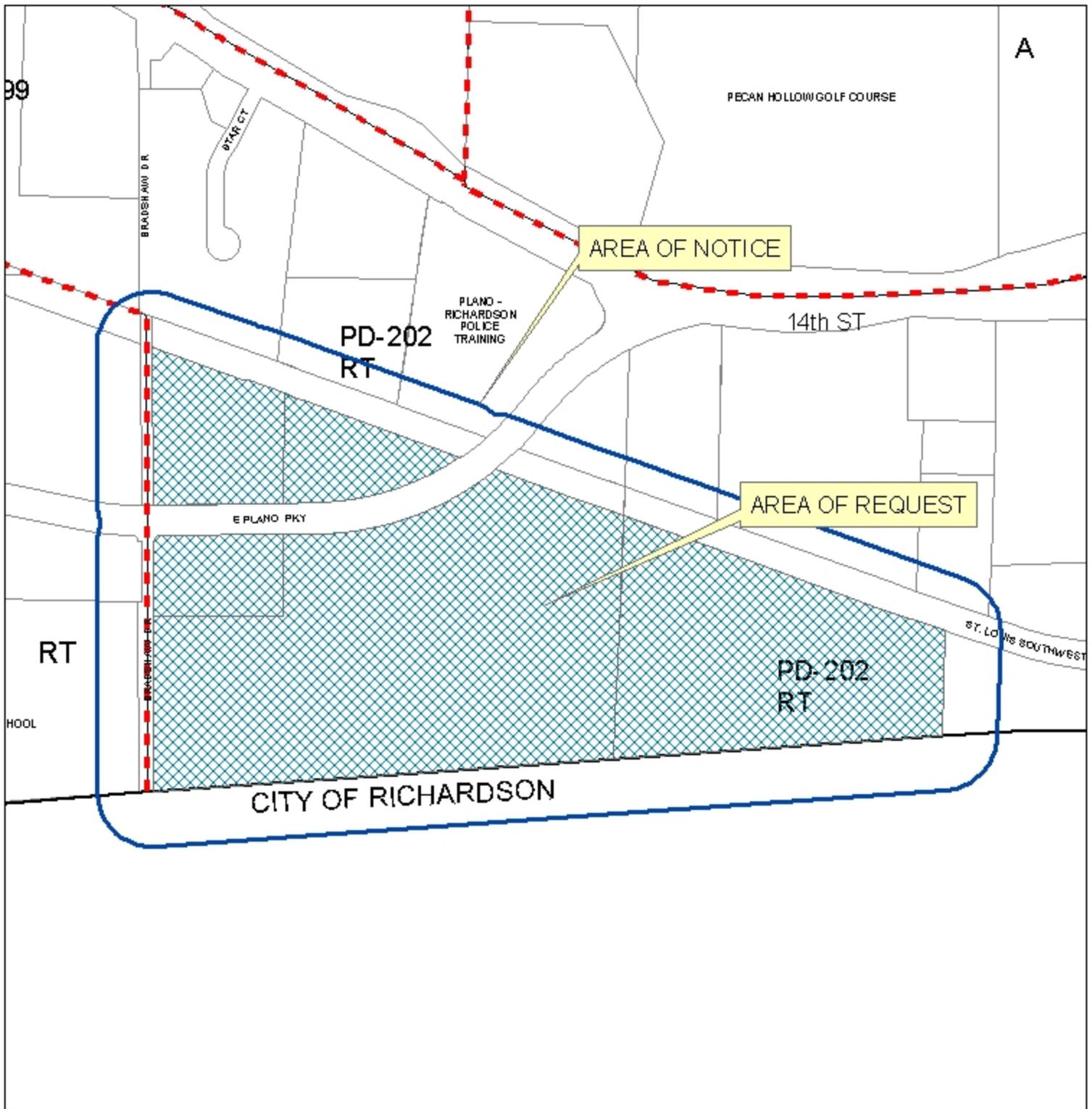
As noted, the acoustical work has dramatically lowered the sound of gun fire, to the background noise level in many instances. But, some noise can still be heard by residents in the vicinity, especially outdoors. If homes are built closer to the firing range, the noise experienced by those residents will likely be louder.

Sustainability and Environmental Waste Services

Most homes (400 range) could be serviced by existing drivers, but if it is on the high-end and recycling continues to increase, it could require an additional driver and maybe even a truck. The annual costs for a driver would be \$47,957 (includes benefit costs) and an automated truck would be \$39,542 (does not include the garage maintenance & fuel).

Plano Independent School District

In reviewing the two scenarios, the smaller site to the west would be zoned Dooley Elementary, Armstrong Middle School, and McMillen High School; all these schools have sufficient capacity to absorb any additional students resulting from this development. The properties to the east are zoned Schell Elementary, Otto Middle School, and Williams High School; development of these properties as residential will most likely cause capacity issues at the elementary campus (Schell).

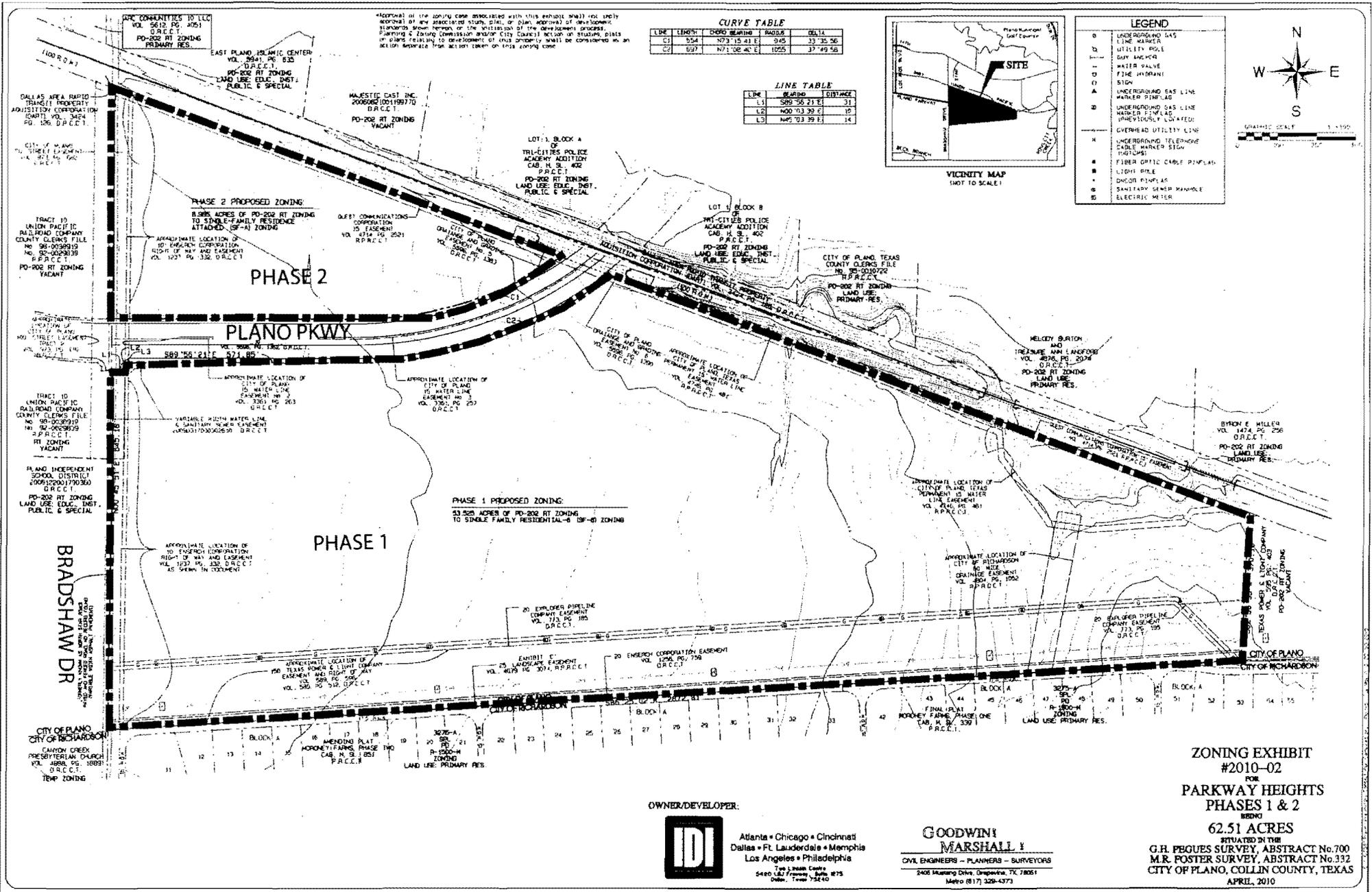


Zoning Case #: 2010-02

Existing Zoning: PLANNED DEVELOPMENT-202-RESEARCH/TECHNOLOGY CENTER



○ 200' Notification Buffer

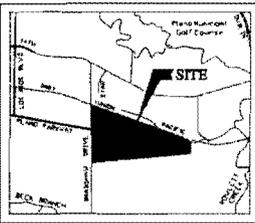


CURVE TABLE

LINE	LENGTH	CHORD BEARING	RADIUS	DELTA
C1	154	S73°15'41"E	345	33°25'56"
C2	537	N71°02'42"E	1055	37°49'58"

LINE TABLE

LINE	BEARING	DISTANCE
L1	S89°56'21"E	31
L2	N00°03'39"E	10
L3	N85°03'39"E	14



LEGEND

- 0 UNDERGROUND GAS LINE MARKER
- 1 UTILITY POLE
- 2 GUY ANCHOR
- 3 WATER VALVE
- 4 FINE MESH NET
- 5 SIGN
- 6 UNDERGROUND GAS LINE MARKER PINFLAG
- 7 UNDERGROUND GAS LINE MARKER PINFLAG (PREVIOUSLY LOCATED)
- 8 OVERHEAD UTILITY LINE
- 9 UNDERGROUND TELEPHONE CABLE MARKER SIGN (PUSHOUT)
- 10 FIBER OPTIC CABLE PINFLAG
- 11 120KV POLE
- 12 UNDER PINFLAG
- 13 SANITARY SEWER MANHOLE
- 14 ELECTRIC METER



ARC COMMUNITIES TO LLC
VOL. 5612 PG. 405
D.P.C.C.T.
PD-202 RT ZONING
PRIMARY RES.

EAST PLANO ISLAMIC CENTER
VOL. 5641 PG. 533
D.P.C.C.T.
PD-202 RT ZONING
LAND USE EDUC. INST.
PUBLIC & SPECIAL

*Approval of the zoning case associated with this exhibit shall not imply approval of any associated plat, or plan approval of development. Reviewers, herein, of the exhibition of the development process. Planning & Zoning Commission and/or City Council action on studies, plats or plans resulting in development of lands primarily shall be considered as an action separate from action taken on this zoning case.

MAJESTIC EAST INC.
20060821001199770
D.P.C.C.T.
PD-202 RT ZONING
VACANT

LOT 1, BLOCK A
OF
TRI-CITIES POLICE
ACADEMY ADDITION
CAB. N. S. 402
P.P.C.C.T.
PD-202 RT ZONING
LAND USE EDUC. INST.
PUBLIC & SPECIAL

LOT 1, BLOCK B
OF
TRI-CITIES POLICE
ACADEMY ADDITION
CAB. N. S. 402
P.P.C.C.T.
PD-202 RT ZONING
LAND USE EDUC. INST.
PUBLIC & SPECIAL

CITY OF PLANO, TEXAS
COUNTY CLERKS FILE
NO. 20100772
H.P.A.C.C.T.
PD-202 RT ZONING
LAND USE
PRIMARY RES.

HELICOY BURTON
AND
TREASURE ANN LANGFORD
VOL. 4874 PG. 258
D.P.C.C.T.
PD-202 RT ZONING
LAND USE
PRIMARY RES.

BYRON E. HULLER
VOL. 4474 PG. 258
D.P.C.C.T.
PD-202 RT ZONING
LAND USE
PRIMARY RES.

PHASE 2 PROPOSED ZONING:
8.905 ACRES OF PD-202 RT ZONING
TO SINGLE-FAMILY RESIDENCE
ATTACHED (SF-A) ZONING

PLANO PKWY

PHASE 1

PHASE 1 PROPOSED ZONING:
33.928 ACRES OF PD-202 RT ZONING
TO SINGLE-FAMILY RESIDENTIAL-4 (SF-4) ZONING

APPROXIMATE LOCATION OF
CITY OF PLANO
50' WATER LINE
EASEMENT NO. 3
VOL. 3301 PG. 263
D.P.C.C.T.

APPROXIMATE LOCATION OF
CITY OF PLANO
50' WATER LINE
EASEMENT NO. 3
VOL. 3302 PG. 257
D.P.C.C.T.

APPROXIMATE LOCATION OF
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60' WIDE
CONTIGUOUS EASEMENT
VOL. 4804 PG. 1050
H.P.A.C.C.T.

APPROXIMATE LOCATION OF
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VOL. 4804 PG. 1050
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APPROXIMATE LOCATION OF
10' ENSERCH CORPORATION
RIGHT-OF-WAY AND EASEMENT
W/L 1073 PG. 332 D.P.C.C.T.
AS SHOWN IN FOOTNOT

20' ENSERCH PIPELINE
COMPANY EASEMENT
VOL. 713 PG. 105
D.P.C.C.T.

20' ENSERCH PIPELINE
COMPANY EASEMENT
VOL. 713 PG. 105
D.P.C.C.T.

APPROXIMATE LOCATION OF
PD. TEXAS POWER & LIGHT COMPANY
EASEMENT AND RIGHT-OF-WAY
VOL. 589 PG. 406
VOL. 589 PG. 512 D.P.C.C.T.

EXHIBIT C
25' LANDSCAPE EASEMENT
VOL. 4010 PG. 304 H.P.A.C.C.T.

20' ENSERCH CORPORATION EASEMENT
VOL. 1296 PG. 798
D.P.C.C.T.

ZONING EXHIBIT
#2010-02

FOR
PARKWAY HEIGHTS
PHASES 1 & 2

BEING
62.51 ACRES

SITUATED IN THE
G.H. BEQUES SURVEY, ABSTRACT No. 700
M.R. POSTER SURVEY, ABSTRACT No. 332
CITY OF PLANO, COLLIN COUNTY, TEXAS

APRIL, 2010

OWNER/DEVELOPER:



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The IDI Group Corp. 1215
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BRADSHAW DR

DALLAS AREA RAPID
TRANSIT PROPERTY
ACQUISITION CORPORATION
10471 VOL. 3424
PG. 126 D.P.C.C.T.

CITY OF PLANO
70' WIDE EASEMENT
VOL. 3123 PG. 182
D.P.C.C.T.

TRACT 10
UNION PACIFIC
RAILROAD COMPANY
COUNTY CLERKS FILE
NO. 98-0009393
NO. 98-0009393
H.P.A.C.C.T.
PD-202 RT ZONING
VACANT

TRACT 10
UNION PACIFIC
RAILROAD COMPANY
COUNTY CLERKS FILE
NO. 98-0009393
NO. 98-0009393
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PD-202 RT ZONING
VACANT

PLANO INDEPENDENT
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PD-202 RT ZONING
LAND USE EDUC. INST.
PUBLIC & SPECIAL

CITY OF RICHARDSON
CANDON GREY
PRESBYTERIAN CHURCH
VOL. 4884 PG. 1889
D.P.C.C.T.
THE ZONING

APPROXIMATE LOCATION OF
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APPROXIMATE LOCATION OF
CITY OF RICHARDSON
60' WIDE
CONTIGUOUS EASEMENT
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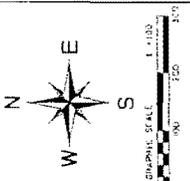
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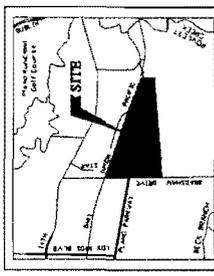
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LEGEND

1	LINE MARKED GAS
2	UTILITY TOLERANCE
3	UNDERGROUND GAS LINE
4	UNDERGROUND WATER MAIN
5	UNDERGROUND SANITARY
6	UNDERGROUND TELEPHONE
7	UNDERGROUND CABLE TELEVISION
8	UNDERGROUND FIBER OPTIC CABLE
9	UNDERGROUND LIGHT POLE
10	UNDERGROUND POWER POLE
11	UNDERGROUND WATER MAIN
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98	UNDERGROUND CABLE TELEVISION
99	UNDERGROUND FIBER OPTIC CABLE
100	UNDERGROUND LIGHT POLE



SP-A USABLE OPEN SPACE

REQUIRED	PROVIDED	DEFICIENCY
32.31	33.30	0.99

CURVE TABLE

LINE	LENGTH	CHORD BEARING	ANGLE	CHORD	OFFSET
1	100.00	N 0° 00' 00" E	90.00	100.00	0.00
2	100.00	E 0° 00' 00" S	90.00	100.00	0.00
3	100.00	S 0° 00' 00" W	90.00	100.00	0.00
4	100.00	W 0° 00' 00" N	90.00	100.00	0.00

LINE TABLE

LINE	BEARING	LENGTH	STATION
1	N 0° 00' 00" E	100.00	0+00
2	E 0° 00' 00" S	100.00	1+00
3	S 0° 00' 00" W	100.00	2+00
4	W 0° 00' 00" N	100.00	3+00

NOTES

1. ALL IMPROVED STREETS SHOWN ARE SO PUBLIC R.O.M.'S UNLESS OTHERWISE NOTED.
2. PRIVATE OPEN SPACES SHALL BE MAINTAINED BY THE HOA.
3. ALL LOTS WILL BE FRONT CURB.

HALESTIC EAST INC.
 6000 EAST 17TH ST
 DALLAS, TX 75244
 PO BOX 21 ZONING VACANT

LOT 1, BLOCK A
 100.00' x 100.00'
 100.00' x 100.00'
 100.00' x 100.00'
 100.00' x 100.00'

PHASE 1

PHASE 2

PHASE 3

PHASE 4

PHASE 5

PHASE 6

PHASE 7

PHASE 8

PHASE 9

PHASE 10

PHASE 11

PHASE 12

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PHASE 99

PHASE 100



CONCEPT PLAN
PARKWAY HEIGHTS
PHASES 1 & 2
62.51 ACRES

SITUATED IN THE
 G.H. FERGUS SURVEY, ABSTRACT NO. 700
 M.R. POSTER SURVEY, ABSTRACT NO. 332
 CITY OF PLANO, COLLIN COUNTY, TEXAS
 APRIL, 2010

GOODWIN MARSHALL & ASSOCIATES
 CIVIL ENGINEERS - PLANNERS - SURVEYORS
 2405 MURPHY DR., SUITE 200
 MCKINNEY, TEXAS 75069
 PHONE (972) 574-4373

Atlanta • Chicago • Cincinnati
Dallas • Ft. Lauderdale • Memphis
Los Angeles • Philadelphia
 5410 Lee Avenue, Suite 276
 Dallas, Texas 75240



OWNER/DEVELOPER:

1. All easements shall be shown as shown on the site plan.
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ZC 2010-02

An Ordinance of the City of Plano amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 62.3± acres out of the G.H. Pegues Survey, Abstract No. 700 and the M.R. Foster Survey, Abstract No. 332, bounded by Bradshaw Drive on the west, Plano's city limit line on the south, extending approximately 2,870± feet east of Bradshaw Drive, and bounded on the north by the Dallas Area Rapid Transit rail line in the City of Plano, Collin County, Texas, from Planned Development-202-Research/Technology Center to Single-Family Residence-6 and Single-Family Residence Attached; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, a publication 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 28th day of June, 2010, for the purpose of considering rezoning 62.3± acres out of the G.H. Pegues Survey, Abstract No. 700 and the M.R. Foster Survey, Abstract No. 332, bounded by Bradshaw Drive on the west, Plano's city limit line on the south, extending approximately 2,870± feet east of Bradshaw Drive, and bounded on the north by the Dallas Area Rapid Transit rail line in the City of Plano, Collin County, Texas, from Planned Development-202-Research/Technology Center to Single-Family Residence-6 and Single-Family Residence Attached; 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 28th day of June, 2010; and

WHEREAS, the City Council is of the opinion and finds that such rezoning would not be detrimental to the public health, safety, or general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. The Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended so as to rezone 62.3± acres out of the G.H. Pegues Survey, Abstract No. 700 and the M.R. Foster Survey, Abstract No. 332, bounded by Bradshaw Drive on the west, Plano's city limit line on the south, extending approximately 2,870± feet east of Bradshaw Drive, and bounded on the north by the Dallas Area Rapid Transit rail line in the City of Plano, Collin County, Texas, from Planned Development-202-Research/Technology Center to Single-Family Residence-6 and Single-Family Residence Attached, said property being described in the legal description on Exhibit "A" attached hereto.

Section II. It is directed that the official zoning map of the City of Plano (which is retained in electronic record format) be changed to reflect the zoning classification established by this Ordinance.

Section III. All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section IV. The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

Section V. Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section VI. It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable, and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

Section VII. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED THIS THE 28TH DAY OF JUNE, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

ZC 2010-02
Legal Description for Phase I Tract

BEING a tract of land situated in the G.H. Pegues Survey, Abstract No. 700 and the M. R. Foster Survey, Abstract No. 332, City of Plano, Collin County, Texas, being a portion of that tract of land as described in deed to Industrial Developments International (Texas), L.P. recorded in Volume 4982, Page 1642, Deed Records, Collin County, Texas (DRCCT) and being more particularly described as follows:

BEGINNING at railroad spike set at the location of a "PK" nail with shiner previously found (now obliterated) in Bradshaw Drive (formerly North Star Road - a non dedicated variable width right-of-way) at the southwest corner of said Industrial Developments International (Texas), L.P. tract (hereafter referred to as IDI tract, the apparent northwest corner of the amending plat of Moroney Farms, Phase Two, an addition to the City of Plano, Collin County, Texas as recorded in Cabinet N, Slide 851, Plat Records Collin County, Texas, and the apparent northeast corner of a tract of land as described in deed to Canyon Creek Presbyterian Church, recorded in Volume 4888, Page 18889, DRCCT, from which a "PK" nail with shiner found at the apparent southeast corner of a tract of land as described in deed to Arlington Independent School District, recorded in 200612001790360, DRDCT bears South, 32° 19' West, 4.25 feet, a "PK" nail with shiner previously found at the apparent southeast corner of said Church tract bore South, 00° 45' 51" West, 1,056.76 feet (Deed 1056.77 feet) and a "PK" nail with shiner previously found at the apparent westerly most southwest corner of said Moroney Farms, Phase Two bore South, 00° 45' 41" West, 377.10 feet (Plat 377.14 feet);

THENCE North, 00° 45' 51" East, within said Bradshaw Drive, along the west line of said IDI tract, a distance of 645.16 feet to a "PK" nail with shiner found at an angle point in the west line of said IDI tract, from which a "PK" nail with shiner found bears South, 82° 03' 13" West, 5.51 feet;

THENCE North, 00° 16' 08" East, within said Bradshaw Drive along the west line of said IDI tract, at a distance of 39.20 feet passing a 1/2" rebar found, said point being 1.07 feet to the east of line, at a distance of 39.35 feet passing a "PK" nail with shiner found at the apparent northeast corner of said Arlington I.S.D. tract, said point being 1.82 feet to the west of line, continuing a total distance of 266.14 feet to a "PK" nail set at the intersection with the south line of Plano Parkway (right-of-way varies per Volume 5596, Page 1362, DRCCT), from which a 5/8" rebar found at the northwest corner of said IDI tract bears North, 00° 16' 08" East, 708.80 feet and a 1/2" rebar with a red plastic cap stamped "W.A.I." previously found, bore North, 89° 56' 21" West, 29.26 feet;

THENCE along the south line of said Plano Parkway, traversing said IDI tract, as follows:

South 89° 56' 21" East, at a distance of 0.78 feet passing a 1/2" rebar with a red plastic cap stamped "W.A.I." previously found, continuing a total distance of 30.77 feet (Right-Of-Way Deed 35.28 feet) to a 1/2" rebar with a yellow plastic cap stamped "Goodwin & Marshall" set (hereafter referred to a 1/2" rebar capped set) at the location of 1/2" rebar with a plastic cap stamped "W.A.I." previously found (now obliterated);

Legal Description for Phase I Tract (cont.)

North, 00° 03' 39" East, a distance of 10.00 feet (Right-Of-Way Deed 10.00 feet) to a 1/2" rebar capped set at the location of 1/2" rebar with a plastic cap stamped "W.A.I." previously found (now obliterated);

North, 45° 03' 39" East, a distance of 14.14 feet (Right-Of-Way Deed 14.14 feet) to a 1/2" rebar capped set at the location of 1/2" rebar with a plastic cap stamped "W.A.I." previously found (now obliterated);

South, 89° 56' 21" East, a distance of 571.85 feet (Right-Of-Way Deed 571.85 feet) to a 1/2" rebar capped set at the location of 1/2" rebar with a plastic cap stamped "W.A.I." previously found (now obliterated) at the point of curvature of a curve to the left, having a radius of 1,055.00 feet;

Northeasterly, along said curve, having a central angle of 37° 49' 58", an arc distance of 696.62 feet (Right-Of-Way Deed 696.95 feet) and a chord that bears North, 71° 08' 40" East, 684.04 feet to a 1/2" rebar capped set at the intersection with the southwesterly line of a tract of land as described in deed to Dallas Area Rapid Transit Acquisition Corporation (DART), recorded in Volume 3424, Page 126, DRCCT, from which a 5/8" rebar found at the northwest corner of said IDI tract bears North, 69° 33' 31" West, 1,341.09 feet;

THENCE South, 69° 33' 31" East, departing the southerly line of said Plano Parkway, along the southwesterly line of said DART tract and the north line of said IDI tract, a distance of 1,725.04 feet to a 1/2" rebar found at the northeast corner of said IDI tract and the northwest corner of a tract of land as described in deed to Texas Power & Light Company, recorded in Volume 595, Page 403, DRCCT, from which a one-inch steel pipe found bears North, 28° West, 0.69 feet;

THENCE South 02° 56' 55" West, departing the southwesterly line of said DART tract, along the east line of said IDI tract and the west line of said Texas Power & Light Company tract, a distance of 370.16 feet (TP&L Deed 369.00 feet) to a 1/2" rebar with a red plastic cap stamped "F-D" found at the southeast corner of said IDI tract, the southwest corner of said Texas Power & Light Company tract, and an angle point in the north line of Moroney Farms, Phase One, an addition to the City of Plano, Collin County, Texas as recorded in Cabinet M, Slide 339, Plat Records, Collin County, Texas;

THENCE South, 86° 25' 02" West, along the north line of said Moroney Farms, Phase One and the south line of said IDI tract, at a called distance of 1,010.89 feet passing the northwest corner of said Moroney Farms, Phase One and the northeast corner of said Moroney Farms, Phase Two, continuing along the south line of said IDI tract and the north line of said Moroney Farms Phase Two, a total distance of 2,872.81 feet (Plats 2872.68 feet) the POINT OF BEGINNING and CONTAINING 2,331,564 square feet or 53.525 acres of land, save and except any rights to the public or others within and along said Bradshaw Drive.

ZC 2010-02
Legal Description for Phase 2 Tract

BEING a tract of land situated in the G.H. Pegues Survey, Abstract No. 700, City of Plano, Collin County, Texas, being a portion of that tract of land as described in deed to Industrial Developments International (Texas), L.P., recorded in Volume 4982, Page 1642, Deed Records, Collin County, Texas (DRCCT) and being more particularly described as follows:

COMMENCING at a railroad spike set at the location of a "PK" nail with shiner previously found (now obliterated) in Bradshaw Drive (formerly North Star Road - a non dedicated variable width right-of-way) at the southwest corner of said Industrial Developments International (Texas), L.P. tract (hereafter referred to as IDI tract) and the apparent northwest corner of the amending plat of Moroney Farms, Phase Two, an addition to the City of Plano, Collin County, Texas as recorded in Cabinet N, Slide 851, Plat Records, Collin County, Texas;

THENCE North, 00° 45' 51" East, within said Bradshaw Drive, along the west line of said IDI tract, a distance of 645.16 feet to a "PK" nail with shiner found at an angle point in the west line of said IDI tract;

THENCE North, 00° 16' 08" East, within said Bradshaw Drive, along the west line of said IDI tract, a distance of 396.14 feet to a 1/2" rebar with yellow plastic cap stamped "Goodwin & Marshall" set (hereafter referred to as 1/2" rebar capped set) at the intersection with the north line of Plano Parkway (right-of-way varies per Volume 5596, Page 1362, DRCCT), being the POINT OF BEGINNING of the herein described tract of land, from which a 1/2" rebar with a red plastic cap stamped "W.A.I." previously found bore North, 89° 56' 21" West, 15.70 feet;

THENCE North, 00° 16' 08" East, within said Bradshaw Drive, along the west line of said IDI tract, a distance of 578.80 feet to a 5/8" rebar found at the northwest corner of said IDI tract, said point lying in the southwesterly line of a tract of land as described in deed to Dallas Area Rapid Transit Acquisition Corporation (DART), recorded in Volume 3424, Page 126, DRCCT, from which a "PK" nail found (now obliterated) bore South 60° 06' 19" East, 0.17 feet, a "PK" nail with shiner found bears North, 87° 13' 28" East, 0.63 feet, and a 3/4" rebar in concrete found bears North, 69° 33' 31" West, 52.01 feet;

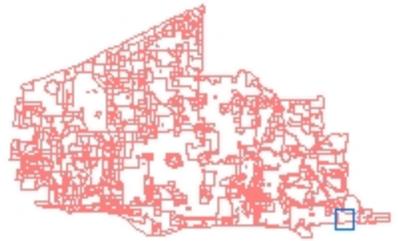
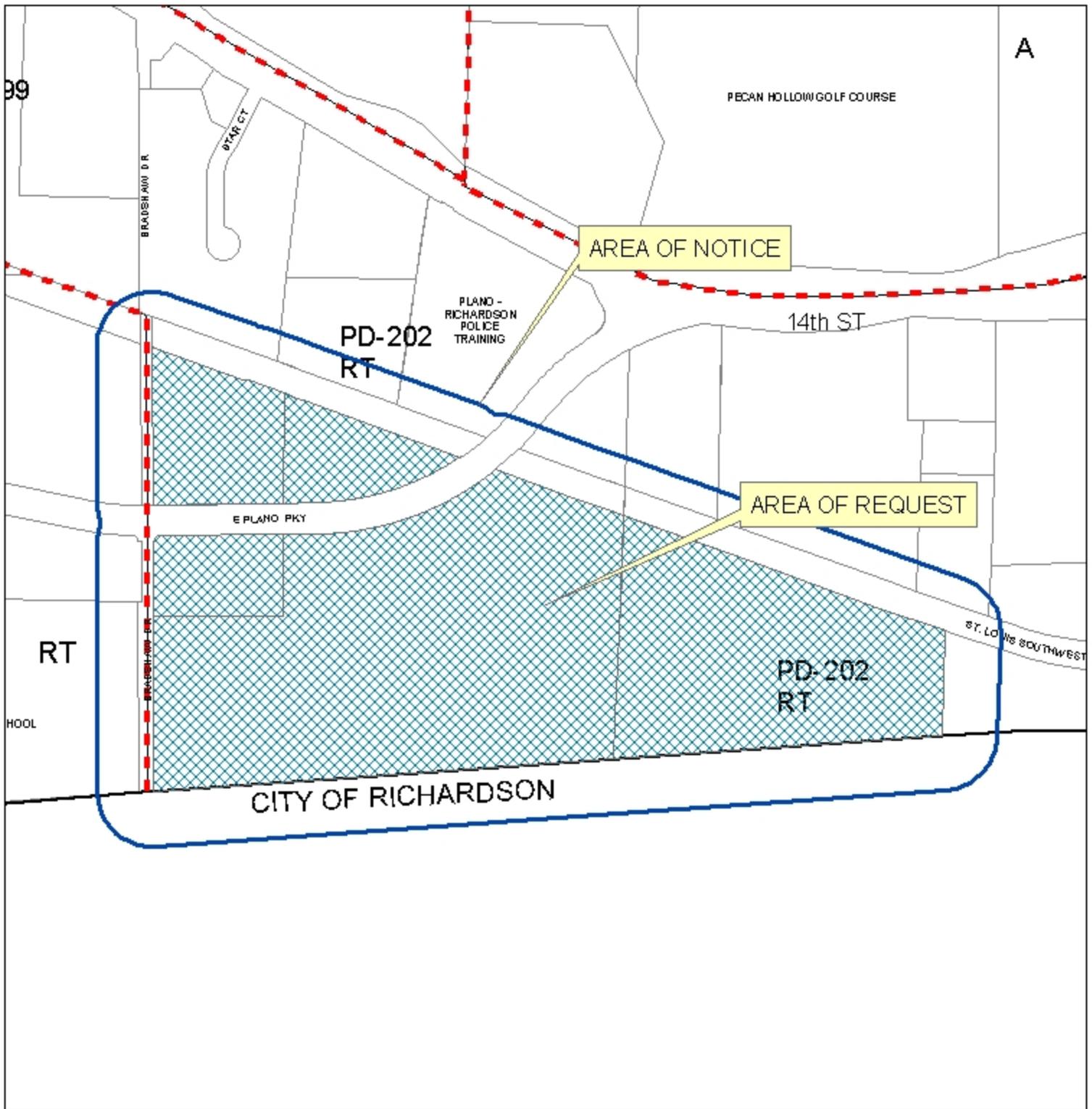
THENCE South, 69° 33' 31" East, departing said Bradshaw Drive, along the southwesterly line of said DART tract and the north line of said IDI tract, a distance of 1,208.65 feet to a 1/2" rebar capped set at the intersection with the northerly line of said Plano Parkway, from which a 1/2" rebar found at the northeast corner of said IDI tract bears South 69° 33' 31" East, 1,857.48 feet;

THENCE departing the southwesterly line of said DART tract, along the northerly line of said Plano Parkway, traversing said IDI tract, as follows:

Southwesterly, along a non tangent curve to the right, having a radius point that bears North 33° 32' 17" West, 945.00 feet, a central angle of 33° 35' 56", an arc distance of 554.16 feet (Right-Of-Way Deed 554.48 feet) and a chord that bears South, 73° 15' 41" West, 546.25 feet to a 1/2" rebar capped set at the location of

Legal Description for Phase 2 Tract (cont.)

a 1/2" rebar with a red plastic cap stamped "W.A.I." previously found (now obliterated) at the point of tangency;
North, 89° 56' 21" West, a distance of 612.15 feet (Right-Of-Way Deed 615.82 feet) to the POINT OF BEGINNING and CONTAINING 391,401 square feet or 8.985 acres of land, save and except any rights to the public or others within and along said Bradshaw Drive.

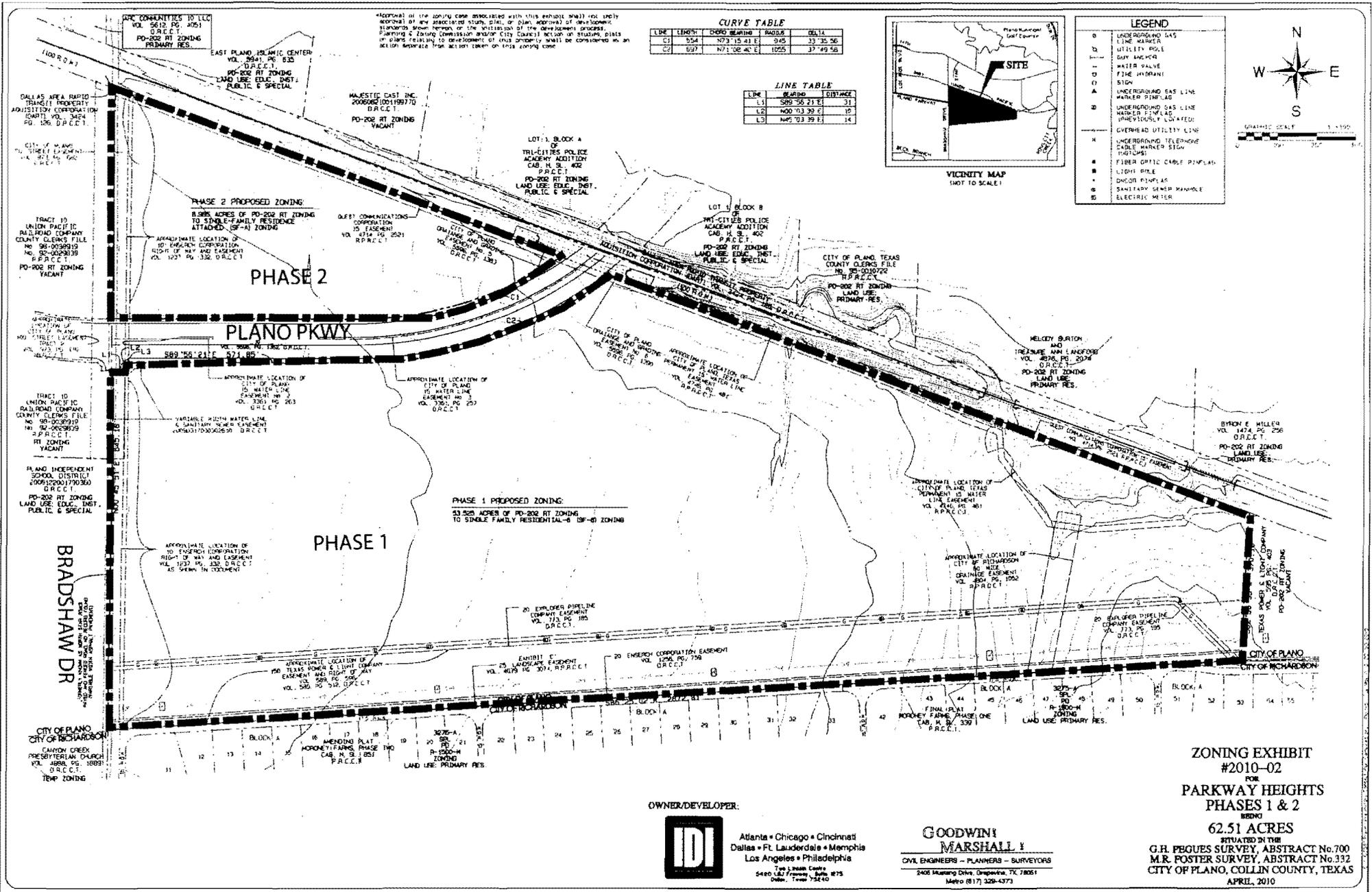


Zoning Case #: 2010-02

Existing Zoning: PLANNED DEVELOPMENT-202-RESEARCH/TECHNOLOGY CENTER



○ 200' Notification Buffer

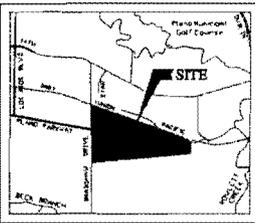


CURVE TABLE

LINE	LENGTH	CHORD BEARING	RADIUS	DELTA
C1	154	S73°15'41"E	345	33°25'56"
C2	537	N71°02'42"E	1055	37°49'58"

LINE TABLE

LINE	BEARING	DISTANCE
L1	S89°56'21"E	31
L2	N00°03'39"E	10
L3	N85°03'39"E	14



LEGEND

- 0 UNDERGROUND GAS LINE MARKER
- 1 UTILITY POLE
- 2 GUY ANCHOR
- 3 WATER VALVE
- 4 FINE MESH NET
- 5 SIGN
- 6 UNDERGROUND GAS LINE MARKER PINFLAG
- 7 UNDERGROUND GAS LINE MARKER PINFLAG (PREVIOUSLY LOCATED)
- 8 OVERHEAD UTILITY LINE
- 9 UNDERGROUND TELEPHONE CABLE MARKER SIGN (PUSHOUT)
- 10 FIBER OPTIC CABLE PINFLAG
- 11 120KV POLE
- 12 UNDER PINFLAG
- 13 SANITARY SEWER MANHOLE
- 14 ELECTRIC METER



ARC COMMUNITIES TO LLC
VOL. 5612 PG. 405
D.P.C.C.T.
PD-202 RT ZONING
PRIMARY RES.

EAST PLANO ISLAMIC CENTER
VOL. 5641 PG. 533
D.P.C.C.T.
PD-202 RT ZONING
LAND USE EDUC. INST.
PUBLIC & SPECIAL

*Approval of the zoning case associated with this exhibit shall not imply approval of any associated utility, water, or plan approval of development. Reviewers, herein, of the exhibition of the development process. Planning & Zoning Commission and/or City Council action on studies, plans or plans resulting in development of lands primarily shall be considered as an action separate from action taken on this zoning case.

MAJESTIC EAST INC.
2006082100119970
D.P.C.C.T.
PD-202 RT ZONING
VACANT

LOT 1, BLOCK A
OF
TRI-CITIES POLICE
ACADEMY ADDITION
CAB. N. S. 402
P.P.C.C.T.
PD-202 RT ZONING
LAND USE EDUC. INST.
PUBLIC & SPECIAL

LOT 1, BLOCK B
OF
TRI-CITIES POLICE
ACADEMY ADDITION
CAB. N. S. 402
P.P.C.C.T.
PD-202 RT ZONING
LAND USE EDUC. INST.
PUBLIC & SPECIAL

CITY OF PLANO, TEXAS
COUNTY CLERKS FILE
NO. 20100772
H.P.A.C.C.T.
PD-202 RT ZONING
LAND USE
PRIMARY RES.

HELICOY BURTON
AND
TREASURE ANN LANGFORD
VOL. 5674 PG. 256
D.P.C.C.T.
PD-202 RT ZONING
PRIMARY RES.

BYRON E. HULLER
VOL. 5474 PG. 256
D.P.C.C.T.
PD-202 RT ZONING
PRIMARY RES.

PHASE 2 PROPOSED ZONING:
8.905 ACRES OF PD-202 RT ZONING
TO SINGLE-FAMILY RESIDENCE
ATTACHED (SF-A) ZONING

PLANO PKWY

PHASE 1

PHASE 1 PROPOSED ZONING:
33.928 ACRES OF PD-202 RT ZONING
TO SINGLE-FAMILY RESIDENTIAL-4 (SF-4) ZONING

APPROXIMATE LOCATION OF
CITY OF PLANO
50' WATER LINE
EASEMENT NO. 3
VOL. 330 PG. 263
D.P.C.C.T.

APPROXIMATE LOCATION OF
CITY OF PLANO
50' WATER LINE
EASEMENT NO. 3
VOL. 330 PG. 263
D.P.C.C.T.

APPROXIMATE LOCATION OF
CITY OF PLANO
60' WIDE
CONTIGUOUS EASEMENT
VOL. 5804 PG. 1050
H.P.A.C.C.T.

APPROXIMATE LOCATION OF
CITY OF RICHARDSON
60' WIDE
CONTIGUOUS EASEMENT
VOL. 5804 PG. 1050
H.P.A.C.C.T.

APPROXIMATE LOCATION OF
10' ENSERCH CORPORATION
RIGHT-OF-WAY AND EASEMENT
W/ 100' PG. 332 D.P.C.C.T.
AS SHOWN IN FOOTNOT

20' ENSERCH PIPELINE
COMPANY EASEMENT
VOL. 713 PG. 105
D.P.C.C.T.

20' ENSERCH PIPELINE
COMPANY EASEMENT
VOL. 713 PG. 105
D.P.C.C.T.

APPROXIMATE LOCATION OF
PD. TEXAS POWER & LIGHT COMPANY
EASEMENT AND RIGHT-OF-WAY
VOL. 589 PG. 406
VOL. 589 PG. 512 D.P.C.C.T.

EXHIBIT C
25' LANDSCAPE EASEMENT
VOL. 400 PG. 304 H.P.A.C.C.T.

20' ENSERCH CORPORATION EASEMENT
VOL. 1296 PG. 798
D.P.C.C.T.

BRADSHAW DR

ZONING EXHIBIT
#2010-02
FOR
PARKWAY HEIGHTS
PHASES 1 & 2
BEING
62.51 ACRES

SITUATED IN THE
G.H. PEQUES SURVEY, ABSTRACT No. 700
M.R. POSTER SURVEY, ABSTRACT No. 332
CITY OF PLANO, COLLIN COUNTY, TEXAS
APRIL, 2010

OWNER/DEVELOPER:



Atlanta • Chicago • Cincinnati
Dallas • Ft. Lauderdale • Memphis
Los Angeles • Philadelphia

GOODWIN
MARSHALL

CIVIL ENGINEERS - PLANNERS - SURVEYORS
2408 Mustang Drive, Irving, TX 76051
Metro (817) 329-4373

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Dallas, Texas 75240