

CITY COUNCIL

1520 AVENUE K



DATE: 7/26/2010
CALL TO ORDER: 7:00 p.m.
INVOCATION: Jessie Prince, Executive Pastor
Grace Outreach Center
PLEDGE OF ALLEGIANCE: Cub Scout Pack 754
Riddle and Borchardt Elementary Schools

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: ADA Awareness Day Presentation: Bruce Glasscock - 20 Year Anniversary</p> <p><u>OATHS OF OFFICE</u> <u>DART Board of Directors</u> Faye Moses Wilkins</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
	<p><u>Approval of Minutes</u></p>	
(a)	<p>June 28, 2010 - Firing Range Field Trip June 28, 2010 - Council Meeting June 29, 2010 - Joint City ACC Meeting</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>	
(b)	<p>Bid No. 2010-157-B, for Plano Public Safety Communications Air Conditioning Improvements, to Denali Construction Services, in the amount of \$78,091 and authorizing the City Manager to execute all necessary documents.</p>	
(c)	<p>Bid No. 2010-149-C for a one (1) year contract to purchase tires for Warehouse Inventory from A to Z Tire & Battery Inc., Blagg Tire & Service, GCR Tire Center, Southern Tire Mart, Tire Centers, LLC, & Wingfoot Commercial Tire Systems, LLC in an estimated amount of \$333,715 and authorizing the City Manager to execute all necessary documents.</p>	
	<p>Purchase from an Existing Contract</p>	
(d)	<p>To approve the purchase of six (6) Heil Automated Side Loader Bodies in the amount of \$636,830 and three (3) Heil Rear Loader Bodies in the amount of \$224,172 totaling \$861,002 from Heil of Texas, through an existing contract/agreement with TASB/Buyboard, and authorizing the City Manager to execute all necessary documents. (TASB/Buyboard contract #280-07)</p>	
(e)	<p>To approve the purchase of six (6) Crane Carrier Automated Side Loader Chassis in the amount of \$935,470 and three (3) Crane Carrier Rear Loader Chassis in the amount of \$486,417 totaling \$1,421,887 from Bond Equipment Co. through an existing contract/agreement with TASB/Buyboard, and authorizing the City Manager to execute all necessary documents. (TASB/Buyboard contract #281-07)</p>	
	<p>Approval of Contract: (Purchase of products/services exempt from State of Texas Competitive Bid Laws)</p>	
(f)	<p>To approve an Engineering Services Contract by and between the City of Plano and Burgess & Niple, Inc. in the amount of \$162,485 for I/I Program (2010) Pittman Creek Basin and authorizing the City Manager to execute all necessary documents.</p>	
	<p>Approval of Contract Modification</p>	
(g)	<p>To approve a Second Modification to a professional services agreement by and between the City of Plano, Texas and RCC Consultants, Inc. in the amount of \$49,954.00 through an existing agreement 2008-157-I with RCC Consultant for Phase III Implementation Services for Mobile Data Project; authorizing the City Manager to execute all necessary documents.</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
(h)	<p>To approve the Third Modification of the contract by and between the City of Plano and Hay Group, Inc. (Contract No. 2006-154-C) for Employee Benefits Consulting Services to increase the contract 25% from \$110,000 to \$137,500 and authorizing the City Manager to execute all necessary documents.</p> <p>Approval of Change Order</p>	
(i)	<p>To ARK Contracting Services, LLC, increasing the contract by \$102,693 for Erosion Control Briarwood – Eight Locations, Change Order No. 2. Original Bid No. 2010-31-B.</p> <p>Approval of Expenditure</p>	
(j)	<p>To approve of the purchase of library materials for Plano Public Library System (PPLS) in the amount of \$200,000 from Baker and Taylor through an existing contract/agreement with Texas State Contract 715-N1 Print Materials and Multimedia; and authorizing the City Manager to execute all necessary documents.</p> <p>Adoption of Resolutions</p>	
(k)	<p>To approve the terms and conditions of an agreement by and between North Texas Municipal Water District and the City of Plano; authorizing its execution by the City Manager; and providing an effective date.</p>	
(l)	<p>To nominate Denbury Onshore , LLC, to the Office of the Governor, Economic Development and Tourism through the Texas 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.</p>	
(m)	<p>To approve the terms and conditions of an Interlocal Agreement by and between the City of Plano, Texas and Texas Department of Transportation (“TxDOT”) for participation in the Scofflaw Program in accordance with Section 702.003 of the Texas Transportation Code for the collection of outstanding warrant fees; authorizing its execution by the City Manager; and providing an effective date.</p>	
(n)	<p>To approve the terms and conditions of an Easement for Encroachments by and between Legacy North PT MFA III, L.P. and the City of Plano; authorizing its execution by the City Manager; and providing an effective date.</p>	
(o)	<p>To approve the terms and conditions of an Interlocal Agreement by and between the City of Plano and the North Central Texas Council of Governments for Traffic Signal Retiming; authorizing its execution by the City Manager to execute any documents deemed necessary; and providing an effective date.</p>	
(p)	<p>To authorize the naming of the program room at the W. O. Haggard, Jr. Library the Richard D. Tobin, Jr. Program Room in memory of Mr. Richard D. Tobin, Jr. and to honor Mr. Tobin’s years of service and dedication to Plano Public Library System, and providing an effective date.</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
(q)	To terminate the Interlocal Cooperation Agreement by and between the City of Plano, Texas and the City of Allen, Texas for library automation services; approving its execution by the City Manager; and providing an effective date.	
(r)	To terminate the Interlocal Cooperation Agreement by and between the City of Plano, Texas and the City of Allen, Texas for library courier services; approving its execution by the City Manager; and providing an effective date.	
	<u>Adoption of Ordinances</u>	
(s)	To repeal Ordinance No. 2009-5-26, entitled "Health Categories and Fees", and replacing it with this ordinance, to be entitled "Health Categories and Fees" to amend Animal Services and Health fees; providing a repealer clause, a severability clause, and an effective date.	
(t)	To amend a section of Ordinance No. 2008-9-35 codified as Section 18-25, Article I of Chapter 18, Solid Waste, of the City of Plano Code of Ordinances to revise the service fee schedule for the collection of solid waste for downtown properties; and providing a repealer clause, a savings clause, a severability clause, and an effective date.	
(u)	To repeal Ordinance No. 2009-9-26; establishing the number of certain classifications within the Police and Fire Departments for fiscal year 2009-10; establishing the authorized number and effective dates of such positions for each classification effective October 1, 2009, December 1, 2009, and August 1, 2010 respectively; establishing a salary plan for the Police and Fire Departments effective September 28, 2009; and providing a repealer clause, a severability clause and an effective date.	
(v)	To repeal Section 12-104.5 and enacting a new Section 12-104.5 to Chapter 12 (Traffic Code) of the City of Plano Code of Ordinances regulating the parking of motor vehicles in certain designated public parking lots within the Business Government district; providing a fine for criminal penalties not to exceed \$200.00 for each offense; and providing a repealer clause, a severability clause, a savings clause, a publication clause, and an effective date.	
(w)	To abandon all right, title and interest of the City, in and to the remainder of that Variable Width Drainage Easement recorded in Volume 2242, Page 945 of the Deed Records of Collin County, Texas and being situated in the Collin Country School Survey, Abstract No. 150, which is located within the city limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such easement to the abutting property owner, Pizza Hut of America, Inc., to the extent of its interest; authorizing the City Manager or his authorized designee, to execute any documents deemed necessary; and providing an effective date.	

ITEM NO.	EXPLANATION	ACTION TAKEN
	<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)	<p>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 Advocare International, LP., a Delaware Limited Partnership; authorizing its execution by the City Manager; and providing an effective date.</p>	
(2)	<p>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 Women of Faith, Inc., a Delaware corporation; authorizing its execution by the City Manager; and providing an effective date.</p>	
(3)	<p>Public Hearing and consideration of an Ordinance as requested in Zoning Case 2010-07 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to amend Planned Development-377-Retail/General Office on 22.7± acres out of the William Beverly Survey, Abstract No. 75, located at the northeast corner of Plano Parkway and Custer Road in the City of Plano, Collin County, Texas, to increase the maximum height allowed for church steeples; 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: Messiah Lutheran Church</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
(4)	<p>Consideration of an Ordinance to repeal Section 14-6, Drug Paraphernalia, of Article I, In General, of Chapter 14, Offenses-Miscellaneous of the Code of Ordinances of the City of Plano, Texas and adopting a new Article X, Illegal Smoking Products and Ingestion Devices to Chapter 14, Offenses-Miscellaneous to prohibit the use, purchase, possession and sale of illegal smoking products containing certain plant, plant products or derivatives, chemical compounds applied to plants, and plant products and their derivatives or other substances, and ingestion devices used in connection with the illegal smoking products; dispensing with a culpable mental state and providing a penalty; providing an affirmative defense for authorized medical use or use in landscaping; and providing a repealer clause, a severability clause, a savings clause, and an effective date.</p>	
(5)	<p>Consideration of a Resolution to approve the terms and conditions of a Management Services Agreement by and between the City of Plano and the Boys and Girls Club of Collin County to operate and manage the Douglass Community Center; authorizing its execution by the City Manager; and providing and effective date.</p> <p><u>Municipal Center is wheelchair accessible. A sloped curb entry is available at the main entrance facing Municipal Avenue, with specially marked parking spaces nearby. Access and special parking are also available on the north side of the building. Training Room A/Building Inspections Training Room are located on the first floor. Requests for sign interpreters or special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary at 972-941-7120.</u></p>	



**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:		07/26/2010		
Department:		City Manager's Office		
Department Head		Thomas Muehlenbeck		
Agenda Coordinator (include phone #): Melinda White X7548, Cindy Pierce X5161				
CAPTION				
Proclamation: ADA 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	



**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:		07/26/2010		
Department:		City Manager's Office		
Department Head		Thomas Muehlenbeck		
Agenda Coordinator (include phone #): Melinda White X7548, Cindy Pierce X5161				
CAPTION				
Presentation: Bruce Glasscock - 20 Year Anniversary				
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
FIELD TRIP TO PLANO/RICHARDSON
POLICE FIRING RANGE
JUNE 28, 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

The Plano City Council met at 2:35 p.m. on Monday, June 28, 2010 at the Plano Municipal Center, 1520 K Avenue, Plano, Texas. All Council Members were present with the exception of Mayor Pro Tem Dunlap, Deputy Mayor Pro Tem Miner and Council Members LaRosiliere and Callison. Mayor Dyer was present at Otto Middle School.

The following stops were made for the Council to hear the sound generated by gunfire activity at the Plano/Richardson Firing Range and the properties within the vicinity. The Council toured the range and received information regarding the acoustical design features, the history of the range, hours of operation and sessions conducted.

Plano/Richardson Police Training Academy
4912 14th St
Plano, TX 75074

5104 14th Street
Plano TX 75074

Intersection of Hosington Drive and Sabetha Way
Plano, TX 75094

Intersection of Hattington Lane and Crestfield Drive
Richardson, TX 75082

Otto Middle School
504 North Star Road
Plano, TX 75074

Plano/Richardson Police Firing Range – Tour of the Range
4840 E. Plano Parkway
Plano, TX 75074

The Council returned to the Plano Municipal Center, ending the session at 4:35 p.m.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, City Secretary

**PLANO CITY COUNCIL
PRELIMINARY OPEN MEETING
June 28, 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 5:07 p.m., Monday, June 28, 2010, in Training Room A of the Municipal Center, 1520 K Avenue. All Council Members were present with the exception of Council Member LaRosiliere. 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 6:17 p.m.

Consideration and action resulting from Executive Session discussion:

No items were brought forward.

Discussion and Direction Regarding K2

Police Chief Rushin spoke to the recent popularity of K2 which is sold as incense and smoked by users. He advised regarding active ingredients, availability, effects and officer contacts with subjects believed to be under the influence. Chief Rushin spoke to the use of Salvia, its effect and availability. He reviewed state legal initiatives addressing the products, and proposed ordinances in other area cities.

Chief Rushin spoke to considerations when crafting an ordinance including the lack of state field or lab tests, penalties, and lack of consistency state-wide. He spoke to the current strategy of utilizing existing laws, working with the state and private labs to develop testing procedures, providing officer/citizen education, supporting state legislative efforts and incident monitoring.

Chief Rushin responded to Council Member Smith, stating that without an ordinance, sales cannot be controlled and that enforcement is difficult without lab tests. City Attorney Wetherbee advised regarding the difficulties in prosecution without confirmation, spoke to the cost and complexity of developing tests and stated that she would bring forward additional information regarding other area proposed ordinances and enforcement options.

Presentation by North Texas Municipal Water District Board

North Texas Municipal Water District Executive Director Jim Parks provided an operational status report of the services provided to Plano including the sources of water and their levels, the impact of zebra mussels on algae growth, planning for water use and capacity, continuing efforts to obtain permits for construction of a new reservoir in Fannin County, and updates to the state water plan. He spoke to conversion of water treatment from chlorine to ozone with completion in 2014 at an estimated cost of \$160 million and the impact to the water rate for construction and operating costs. Mr. Parks spoke to the District's wholesale price being the lowest in the area, reviewed the wastewater system condition and assessments and spoke to an anticipated net zero increase in cost. He advised regarding increases in solid waste costs as a result of fuel cost and debt service and responded to the Council regarding the addition of a fourth transfer station.

Discussion and Direction Regarding Masonic Cornerstone Program for Municipal Buildings

Deputy Mayor Pro Tem Miner spoke to consideration of a *Masonic Cornerstone Program* for municipal buildings at no cost to the City reflecting the history of masonry construction. City Manager Muehlenbeck advised that currently only the Municipal Court has a cornerstone in place. The Council discussed implementation on a case-by-case basis. Upon a motion made by Deputy Mayor Pro Tem Miner and seconded by Council Member Davidson, the Council voted 7-0 to bring individual requests forward to the Council for consideration.

Discussion and Direction Regarding Live Green in Plano Calendar

Director of Sustainability & Environmental Services Nevil spoke to calendars providing information to citizens regarding services, events, and schedules and reducing the number of telephone calls to the department. Council Member Harris spoke to budget constraints and Mayor Dyer spoke to providing a limited number at public locations rather than mailing to all households. City Manager Muehlenbeck spoke to printing 20,000, watching the response for a year and reporting back to the Council. Ms. Nevil spoke to providing additional utility bill flyers and promotion on the web site.

Council items for discussion/action on future agendas

Mayor Dyer spoke to further consideration of information regarding K2.

Consent and Regular Agendas

Nothing further was discussed. Mayor Dyer adjourned the Preliminary Meeting directly into the regular session at 7:11 p.m.

Phil Dyer, Mayor

ATTEST:

Diane Zucco, City Secretary

PLANO CITY COUNCIL
June 28, 2010

COUNCIL MEMBERS

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

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 directly from the Preliminary Open Meeting into the Regular Session on Monday, June 28, 2010, at 7:11 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 LaRosiliere.

Mayor Dyer presented a proclamation recognizing Scleroderma Awareness Day. He further administered an oath of office to incoming Plano Housing Authority member Jeanine Boehl.

Comments of Public Interest

No one appeared to speak.

Consent Agenda

Upon a motion made by Deputy Mayor Pro Tem Miner and seconded by Council Member Harris, the Council voted 7-0 to approve and adopt all items on the Consent Agenda as recommended and as follows:

Approval of Minutes (Consent Agenda Item "A")

June 14, 2010 - CPR/AED Training
June 14, 2010

Approval of Expenditures

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

Rejection of all Bids for Bid No. 2010-76-B Best Value Bid for Two (2) Communications Shelters for the Public Safety Communications Department. (Consent Agenda Item "B")

Rejection of all Bids for Bid No. 2010-132-B Fire Station No. 7 Replacement of Under Floor Piping. (Consent Agenda Item "C")

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. (Consent Agenda Item "D")

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. (Consent Agenda Item "E")

Purchase from an Existing Contract

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) (Consent Agenda Item "F")

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). (Consent Agenda Item "G")

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

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. (Consent Agenda Item "H")

To approve an 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. (Consent Agenda Item "I")

Approval of Contract Modification

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. (Consent Agenda Item “J”)

Approval of Change Order

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. (Consent Agenda Item “K”)

Adoption of Resolutions

Resolution No. 2010-6-13(R): 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. (Consent Agenda Item “L”)

Resolution No. 2010-6-14(R): 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. (Consent Agenda Item “M”)

Resolution No. 2010-6-15(R): 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. (Consent Agenda Item “N”)

Resolution No. 2010-6-16(R): 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. (Consent Agenda Item “O”)

Resolution No. 2010-6-17(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 construction of Plano Parkway from east of Los Rios to 14th Street; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “P”)

Resolution No. 2010-6-18(R): 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. (Consent Agenda Item “Q”)

Resolution No. 2010-6-19(R): 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. (Consent Agenda Item “R”)

Adoption of Ordinances

Ordinance No. 2010-6-20: To amend specific sections of Ordinance No2004-9-28 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. (Consent Agenda Item “S”)

Ordinance No. 2010-6-21: 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. (Consent Agenda Item “T”)

END OF CONSENT

Resolution No. 2010-6-22(R): 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. (Regular Agenda Item “1”)

Plano Economic Development Board Director of Business Retention and Expansion Hamm advised that Rapid Tooling, Inc. would occupy no less than 14,300 square feet of existing commercial space and transfer or create up to 27 full-time jobs by July 1, 2010 with up to an additional 4 full-time jobs by July 1, 2011. She advised that the terms of the agreement run from July 1, 2010 through June 30, 2020 in an amount of up to \$15,500.

Resolution No. 2010-6-22(R) (cont'd)

Upon a motion made by Council Member Davidson and seconded by Council Member Callison, the Council voted 7-0 to approve the terms and conditions of an Economic Development Incentive Agreement by and between the City of Plano and Rapid Tooling, Inc. and further to adopt Resolution No. 2010-6-22(R).

Public Hearing and adoption of Resolution No. 2010-6-23(R): 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. (Regular Agenda Item "2")

Community Services Manager Day advised that the plan includes proposed use of more than \$1.9 million in funds for 2010-11 and spoke to the application process, public hearings and decision-making of the Community Relations Commission. She advised that recommendations are tied to the goals established by the Council in the 2010-14 Consolidated Plan and support decent housing, suitable living conditions and economic opportunity. Ms. Day advised that Staff and the Commission request approval as submitted.

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 adopt the 2010-2011 Action Plan and Resolution No. 2010-6-23(R).

Resolution No. 2010-6-24(R): 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. (Regular Agenda Item "3")

Upon a motion made by Mayor Pro Tem Dunlap and seconded by Council Member Davidson, the Council voted 7-0 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 and further adopting Resolution No. 2010-6-24(R).

Resolution No. 2010-6-25(R): 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. (Regular Agenda Item "4")

Resolution No. 2010-6-25(R) (cont'd)

Upon a motion made by Mayor Pro Tem Dunlap and seconded by Council Member Smith, the Council voted 7-0 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 and further to adopt Resolution No. 2010-6-25(R).

Public Hearing and adoption of Ordinance No. 2010-6-26 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. (Regular Agenda Item "5")

Upon a motion made by Mayor Pro Tem Dunlap and seconded by Deputy Mayor Pro Tem Miner, the Council voted 7-0 to remove the item from the table.

Director of Planning Jarrell advised that the item requests a change in zoning to allow for 171 single-family and 59 townhomes and spoke to consideration as it relates to the Comprehensive Plan. She spoke to water/sewer service as insufficient for residential development and the applicant's plans to resolve this concern. Ms. Jarrell stated that the Planning and Zoning Commission recommends approval as submitted, citing the demand for housing in the area.

Mayor Dyer opened the Public Hearing. Doug Johnson, representing the applicant, spoke to the location's proximity to fire stations, eleven acres available to dedicate as open space, establishment of a hike and bike trail, minimal impact on the school system, property available for a future rail station, and anticipated tax revenues. He spoke to the lack of demand for retail/technology zoned properties, reviewed the concept plan and plans for sound absorption in housing units. Citizen of the City Richard Simmons spoke to home purchasers' responsibilities for determining surrounding uses. Citizen of the City Alan Smith stated support for the Retail/Technology (R/T) District, but spoke in favor of changing zoning to residential and to including strong requirements for building construction and deed restrictions. Citizen of the City Shep Stahel spoke to his advocacy of the R/T District and changes to the economy resulting in a decline of this development in the area. He spoke in support of rezoning, citing the relocation of large companies and the construction of Otto Middle School as factors.

Ordinance No. 2010-6-26 (cont'd)

Kevin Ware, representing the applicant, spoke to assessment of noise levels including traffic, trains (representing largest contributor), and infrequent use of the firing range. Plano Police Chief Rushin advised that the firing range is used extensively throughout the year for several hours per day including under darkness and Richardson Police Chief Spivey spoke to use by officers and SWAT team members. Fred Phillips of Ryland Homes spoke to conversations with area homeowners regarding noise levels and compared the site to those near airports or hospitals. Deputy Mayor Pro Tem Miner spoke to development of patio homes rather than townhomes and Mr. Phillips advised that he expects most residents will be owners rather than renters and spoke to disclosure of the firing range at the time of contract signature which would follow the title transfer. No one else appeared to speak for or against the request. The Public Hearing was closed.

Ms. Jarrell responded to Mayor Dyer, advising that Schell Elementary would serve the area and spoke to other locations without a neighborhood school/park and stated that there is no open space requirement for single family zoning. She advised that the TXU easement is being proposed as an open space area maintained by the homeowners association and that there is no requirement for fencing along the railway, but that the feature may be added.

City Manager Muehlenbeck spoke to the City's tax base made up of 50% residential and 50% commercial/industrial, the cost to the City to serve the area if developed as residential, calls received regarding noise levels at the firing range, and the request eroding the ability to have the land pay for itself and keep existing taxes low. He spoke to demands for space and leaving areas for development of retail and commercial corporate headquarters.

Deputy Mayor Pro Tem Miner spoke to the possibility of revenue enhancements, to residential locations in the proximity of airports, and in support of the request. Mayor Pro Tem Dunlap spoke to the land being vacant for a period of time, its distance from major thoroughfares, topography conducive to small industrial or residential uses, amenities in the area, gun range noise levels, future development of the Cottonbelt rail line, movement away from commercial uses and in support of residential development.

Council Member Harris spoke to concerns raised by various City departments, non-compliance with the Comprehensive Plan, retaining the ability to add commercial development, consideration of long-term impact, and in opposition to the request.

Mayor Dyer spoke regarding the lack of market demand for R/T properties, the confidence of the developer in the product and buyers' responsibility to be aware of neighboring uses. City Attorney Wetherbee advised that the City cannot require certain conditions such as disclosure of the gun range. Council Member Davidson spoke to the gun range noise, but stated that the middle school changed the dynamics of the area and spoke to the benefits of residential development.

Ordinance No. 2010-6-26 (cont'd)

A motion was made by Mayor Pro Tem Dunlap and seconded by Deputy Mayor Pro Tem Miner to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, 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 as requested in Zoning Case 2010-02 and as recommended by the Planning and Zoning Commission. The Council voted 6-1 in favor with Council Member Harris voting in opposition. The motion carried.

The Council provided direction to Staff to bring back further discussion regarding remaining R/T zoned properties.

Mayor Dyer spoke to the Council's meeting schedule in July and adjourned the meeting at 8:53 p.m.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, City Secretary

**PLANO CITY COUNCIL
ARTS OF COLLIN COUNTY COMMISSION, INC.
FRISCO AND ALLEN CITY COUNCILS
JOINT MEETING
June 29, 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

Call to Order and Announce a Quorum is Present

Arts of Collin County Commission, Inc. President Baggett welcomed those in attendance and opened the meeting. Mayors Dyer, Terrell, and Maso of the Cities of Plano, Allen, and Frisco, called the joint worksession to order at 7:05 p.m., Tuesday, June 29, 2010, at Plano Centre, 2000 East Spring Creek Parkway, Windhaven Room, Plano, Texas. All Plano Council members were in attendance with the exception of Council Members Callison and LaRosiliere.

Receive Brief History of the Arts of Collin County

Frisco Mayor Maso spoke to the factors leading to a study for a performing arts center including population/job growth, increased size of school districts, increased percentage of college graduates, influx of families, impact on quality of life and economic development and benefits of collaboration. He spoke to recognition received by Collin County as one of the best places/fastest growing areas in the country and to the 2002 Feasibility Study and Report including involvement of over 100 people. Mayor Terrell spoke to the history of the center including the passage of bond elections, approval of by-laws, hiring of an architect, site selection, design, and donations/pledges. He spoke to bids received in 2009 indicating a current cost of \$66.1 million as a cost reduction from original estimates. Mayor Dyer reviewed bond elections supporting the project and spoke to commitment by the cities with costs calculated based on a per capital formula. Arts of Collin County Executive Director Simpson reviewed the site selection process.

Receive Project Update on Arts of Collin County

Mr. Simpson reviewed the current status including the level of donations, reduction of construction costs, road completion at the site, press exposure, grass roots involvement and in-kind gifts. He reviewed the contribution agreement, advising that it will need completion no matter when bonds are sold, could spell out phasing of bond sales and must be approved by each Council. Mr. Simpson reviewed donations and an anticipated break-even point in 2014 with current pledges and spoke to many being contingent on ground breaking. He spoke to other funding sources including foundations or corporate naming rights. Mr. Simpson spoke to the impact of uncertainty, the total current cost of \$66 million, revenue sources, cash flow during construction (\$11 million for 2010/11; \$24 million for 2011/12; and \$23 million for 2012/13) and an opening of Summer 2013 if construction were started in December 2010.

Kevin Cain of Hunt Construction Company spoke to development of the guaranteed maximum price which should hold through 2010. He spoke to construction cost trends including flat labor and overhead costs and slight increases in materials. Michael Tingley of boora Architects spoke to project goals to involve the community, develop the finest center in America, establish an arts park, create community focus, a pedestrian environment using sustainable design and providing a vision for the future. Mr. Simpson spoke to the economic benefits of the arts hall including job creation, new spending, sales/hotel taxes, and balancing the needs of non-profits. He spoke to additional positive impacts including involvement of Collin College, sculpture garden donations, art gallery exhibits, involvement of Dallas Arboretum and a county grant for a six-city trail. ACC President Baggett reviewed the vision statement, articles of incorporation and bylaws. Mr. Simpson advised that he would check with Collin County regarding providing the ACC checkbook online and spoke to advantages of moving forward rather than waiting. He provided information on operations/maintenance costs and the impact should additional cities participate.

Discussion and Direction by Owner City Councils and Board of Directors

Mayor Pro Tem Dunlap spoke regarding citizen support, the opportunity for regional partnership, synergy, an economic engine and each city determining their position. Mr. Simpson spoke to the gap of \$10 million and receiving input from the cities to move forward. Mr. Baggett spoke to possible creation of an ad-hoc committee with representation from each city. Frisco Council Member Fallon spoke to their Council's consensus not to move forward with bond sales at this time. Frisco Mayor Maso spoke regarding issues facing their city, his commitment to the project, but stated uncertainty regarding the timeframe.

Plano City Manager Muehlenbeck spoke to Plano and Allen being in a position to issue debt, uncertainty in developing a budget when trying to determine timing of a bond sale and revisiting O/M costs. Plano Mayor Dyer reaffirmed his support for moving forward as did other Plano Council Members. Frisco City Manager Purefoy spoke to potential increases in the tax rate and reviewing bond sales during Summer 2011. Frisco Mayor Maso spoke to continuing private fund raising and moving forward at a later time.

ACC Executive Director Simpson spoke to cash flow during construction, staging costs over three years, the importance of partnerships and getting commitment from all parties. ACC President Baggett spoke regarding consideration of the contribution agreement and thanked those in attendance.

Nothing further was discussed. Mayors Dyer, Terrell, and Maso of the Cities of Plano, Allen, and Frisco, adjourned the meeting at 9:35 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:		7/26/2010		
Department:		Purchasing		
Department Head		Mike Ryan		
Agenda Coordinator (include phone #): Dianna Wike X 5512				
CAPTION				
Bid No. 2010-157-B, for Plano Public Safety Communications Air Conditioning Improvements, to Denali Construction Services, in the amount of \$78,091.00, and authorizing the City Manager or his 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	543,061	825,000	78,000	1,446,061
Encumbered/Expended Amount	-543,061	-123,554	0	-666,615
This Item	0	-78,091	0	-78,091
BALANCE	0	623,355	78,000	701,355
FUND(S): CAPITAL RESERVE				
COMMENTS: Funds are included in the Capital Reserve Fund. This item, in the amount of \$78,091, will leave a current year balance of \$623,355 for the Municipal Center project. STRATEGIC PLAN GOAL: Air conditioning improvements for city facilities relate to the City's Goal of Financially Strong City with Service Excellence.				
SUMMARY OF ITEM				
Staff recommends bid of Denali Construction Services, in the amount of \$78,091.00, be accepted as the lowest responsive, responsible bid, and conditioned upon timely execution of any necessary contract documents. This is for Plano Public Safety Communications Air Conditioning Improvements.				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Bid Recap				
Memorandum				



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

July 12, 2010

Dianna Wike
Buyer Supervisor

**RE: Bid Opening for 2010-157-B Plano Public Safety
Communications Air-Conditioning Improvements**

Dianna,

I have reviewed the bids submitted and verified references for the Public Safety Communications air-conditioning improvements. I recommend award of the bid to the lowest responsive, responsible bid, which also meets specifications, to Denali Construction Service in the amount of \$78,091.00.

The bid amount is within the \$86,000 budgeted amount for the project, and funding for the project is in CRF account number 54424.

Please contact me if you have any questions.

Thanks,

Richard Medlen
Facilities Maintenance Superintendent

cc: Jim Razinha
Melody Morgan
Bruce Shaulis
Todd Luxem
Elizabeth Dorrance

CITY OF PLANO

Bid NO. 2010-157-B PLANO PUBLIC SAFETY COMMUNICATIONS AIR CONDITIONING IMPROVEMENTS BID RECAP

Bid opening Date/Time: July 1, 2010 @ 3:00pm

Number of Vendors Notified: 1912

Vendors Submitting "No Bids": 0

Number of Bid Submitted: 6

Denali Construction Services	\$ 78,091.00
Environmental Techniques	\$ 86,795.00
Gulf Energy Systems, Inc.	\$ 96,670.00
Berger Engineering Company	\$ 98,983.00
GMR Heating and Air LLC	\$101,498.10
DMI Corp.	\$120,830.00

Bids Evaluated Non-Responsive to Specification: 0

Recommended Vendor(s):

Denali Construction Services

Dianna Wike

Dianna Wike, Buyer Supervisor

July 12, 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:		7/26/10			
Department:		Purchasing/ICAD			
Department Head		Mike Ryan/Bob Smeby			
Agenda Coordinator (include phone #): Earl Whitaker x7074					
CAPTION					
Bid No. 2010-149-C for a one (1) year contract to purchase tires for Warehouse Inventory from A to Z Tire & Battery Inc., Blagg Tire & Service, GCR Tire Center, Southern Tire Mart, Tire Centers, LLC, & Wingfoot Commercial Tire Systems, LLC in an estimated amount of \$333,715 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:	2009-10 and 2010-11	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	1,300,000	278,715	1,578,715	
Encumbered/Expended Amount	0	-1,259,110	0	-1,259,110	
This Item	0	-55,000	-278,715	-333,715	
BALANCE	0	-14,110	0	-14,110	
FUND(s): MUNICIPAL WAREHOUSE					
COMMENTS: Funds are included in the FY 2009-10 adopted budget to purchase Tires for Warehouse Inventory in the amount of \$55,000 for this fiscal year. The overage will be covered from savings in other accounts. The amount to be spent in FY 2010-11 is \$278,715, which will be made within approved budget appropriations. STRATEGIC PLAN GOAL: Providing Inventory purchases relates to the City's Goal of a "Financially Strong City with Service Excellence."					
SUMMARY OF ITEM					
Staff recommends approval of a one (1) year contract to purchase tires for Warehouse Inventory from A to Z Tire & Battery in the estimated amount of \$18,670 (Items: 2, 7, 8, 12, 16, 20, 22) and Blagg Tire & Service in the estimated amount of \$241,421 (Items: 5, 6, 10, 11, 13, 14, 15, 17, 18, 19, 21, 23, 25, 28, 29, 34, 36, 37, 38, 41) and GCR Tire Center in the estimated amount of \$1,318 (Items: 9, 31, 35) and Southern Tire Mart in the estimated amount of \$50,046 (Items: 3, 4, 24, 26, 27, 30, 39) and Tire Centers, LLC in the estimated amount of \$1,047 (Item: 33) and Wingfoot Commercial Tire Systems in the estimated amount of \$21,213 (Items: 1, 40) for a total estimated amount of \$333,715. (2010-149-C)					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
Award Memo, Bid Recap			NA		



MEMORANDUM

DATE: July 9, 2010
TO: Earl Whitaker, Purchasing Buyer
FROM: Bob Smeby, Inventory Control/Asset Disposal Supervisor

SUBJECT: Bid # 2010-149-C Tires -New

It is the recommendation from ICAD based on inventory requirements and from Fleet Services based on specifications to award the bid to the following suppliers.

A to Z Tire & Battery
Items 2, 7, 8, 12, 16, 20, 22 \$18,670.00

Blagg Tire and Service
Items 5, 6, 10, 11, 13, 14, 15, 17, 18, 19, 21, 23, 25, 28, 29, 34, 36, 37, 38, 41
\$241,421.35

GCR Tire Center
Items 9,31,35 \$1317.80

Southern Tire Mart
Items 3, 4, 24, 26, 27, 30, 39 \$50,046.25

Tire Centers, LLC
Item 33 \$1047.40

Wingfoot Commercial Tire Systems
Items 1, 40 \$21,212.60

Total Amount: \$333,715.40

The specifics of this bid are on file with the Purchasing Division.

Bob Smeby
Inventory Control/Asset Disposal Supervisor

CITY OF PLANO

BID NO. 2010-149-C
Tires - New

BID RECAP

Bid opening Date/Time: June 21, 2010 prior to 10:00 am

Number of Vendors Notified: 1115

Vendors Submitting "No Bids": 1

Number of Bids Submitted:6

A to Z Tire & Battery, Inc.

Blagg Tire & Service

GCR Tire Center

Southern Tire Mart

Tire Centers, LLC

Wingfoot Commercial Tire Systems, LLC

Bids Evaluated Non-Responsive to Specification: 0

Recommended vendors based on lowest responsive, responsible bidder, per line item:

A to Z Tire & Battery, Inc.

Items: 2, 7, 8, 12, 16, 20, 22

\$18,670.00

Blagg Tire & Service

Items: 5, 6, 10, 11, 13, 14, 15, 17, 18, 19, 21, 23, 25,
28, 29, 34, 36, 37, 38, 41

\$241,421.35

GCR Tire Center

Items: 19, 31, 35

\$1,317.80

Southern Tire Mart

Items: 3, 4, 24, 26, 27, 30, 39

\$50,046.25

Tire Centers, LLC

Items: 33

\$1,047.40

Wingfoot commercial Tire Systems, LLC

Items: 1, 40

\$21,212.60

Totals:

\$333,715.40

Earl S. Whitaker

Earl S. Whitaker
Buyer

July 12, 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:	7/26/10
Department:	Purchasing/Fleet
Department Head	Mike Ryan/Reid Choate
Agenda Coordinator (include phone #): Earl Whitaker x7074	

CAPTION

To approve the purchase of six (6) Heil Automated Side Loader Bodies in the amount of \$636,830 and three (3) Heil Rear Loader Bodies in the amount of \$224,172, totaling \$861,002 from Heil of Texas, through an existing contract/agreement with TASB/Buyboard, and authorizing the City Manager to execute all necessary documents. (TASB/Buyboard contract #280-07)

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2009-10 and 2010-11	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	1,250,000	1,500,000	2,750,000
Encumbered/Expended Amount	0	0	0	0
This Item	0	-530,691	-330,311	-861,002
BALANCE	0	719,309	1,169,689	1,888,998

FUND(S): EQUIPMENT REPLACEMENT FUND (ERF)

COMMENTS: Funds are included in the FY 2009-10 adopted budget to purchase five (5) Heil Automated Side Loader Bodies in the amount of \$530,691, per TASB/Buyboard contract #280-07. Remaining balance will be used for purchase of five (5) Side Loader Chassis (separate agenda item). The remaining one (1) Heil Automated Side Loader Body and three (3) Heil Rear Loader Bodies in the combined amount of \$330,311 are all early replacements that will be funded from FY 2010-11 Proposed Budget appropriations in the Equipment Replacement Fund. Remaining balance will be used for purchase of one (1) Side Loader Chassis and three (3) Rear Loader Chassis (separate agenda item).

STRATEGIC PLAN GOAL: Providing equipment purchases relates to the City's Goal of a "Financially Strong City with Service Excellence."

SUMMARY OF ITEM

Staff recommends the purchase of six (6) Heil Automated Side Loader Bodies in the amount of \$636,830 and three (3) Heil Rear Loader Bodies in the amount of \$224,172, totaling \$861,002 from Heil of Texas through an existing contract/agreement with TASB/Buyboard. Five (5) of the 22 yard Rapid Rails are scheduled replacements in Cost Center 748/Environmental Collections, for Units 04902, 04903, 04906, 04908, and 04910 in the approved FY09-10 Equipment Replacement Fund and one (1) is for an approved early replacement in Cost Center 748/Environmental Collections for Unit 05900 in the FY10-11 Equipment Replacement Fund. Two (2) of the 20 yard Rear Loaders are for approved early replacements in Cost Center 748/Environmental Collections, for Units 02902 and 03912, and one (1) is for approved early replacements in Cost Center



CITY OF PLANO COUNCIL AGENDA ITEM

751/Special Waste, for Unit 03910. The City is authorized to purchase from a Local Cooperative Organization pursuant to Section 271 subchapter F of the Local Government Code and by doing so satisfies any State Law requiring local governments to seek competitive bids for Items. (TASB/Buyboard contract #280-07 / City of Plano Internal Contract No. 2010-190-I)

List of Supporting Documents:
Award Memo

Other Departments, Boards, Commissions or Agencies
NA



MEMORANDUM

Date: June 30, 2010
To: Earl Whitaker
From: Reid Choate, Fleet Manager
Subject: Refuse Truck Replacements

It is the recommendation of Fleet Services to purchase six (6), Heil 22 yard Rapid Rail refuse bodies in the amount of \$636,830 and three (3) Heil 20 yard Power Pack Rear Loader bodies in the amount of \$224,172, from Heil of Texas, through the TASB/Buyboard contract # 280-07.

Five (5) of the 22 yard Rapid rails are scheduled replacements in Cost Center 748/ Environmental Collections, for Units 04902, 04903, 04906, 04908 and 04910 in the approved FY09-10 Equipment Replacement Fund and one is for an approved early replacement in Cost Center 748/ Environmental Collections for Unit 05900 in the FY10-11 Equipment Replacement Fund. Two (2) of the 20 yard Rear Loaders are for approved early replacements in Cost Center 748/ Environmental Collections, for Units 02902 and 03912 and one (1) is for approved early replacements in Cost Center 751/ Special Waste, for Unit 03910.

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



**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:	7/26/10
Department:	Purchasing/Fleet
Department Head	Mike Ryan/Reid Choate
Agenda Coordinator (include phone #): Earl Whitaker x7074	

CAPTION

To approve the purchase of six (6) Crane Carrier Automated Side Loader Chassis in the amount of \$935,470 and three (3) Crane Carrier Rear Loader Chassis in the amount of \$486,417, totaling \$1,421,887 from Bond Equipment Co. through an existing contract/agreement with TASB/Buyboard, and authorizing the City Manager to execute all necessary documents. (TASB/Buyboard contract #281-07)

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2009-10 and 2010-11	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	1,250,000	1,500,000	2,750,000
Encumbered/Expended Amount	0	0	0	0
This Item	0	-779,225	-642,662	-1,421,887
BALANCE	0	470,775	857,338	1,328,113

FUND(S): EQUIPMENT REPLACEMENT FUND (ERF)

COMMENTS: Funds are included in the FY 2009-10 adopted budget to purchase five (5) Crane Carrier Automated Side Loader Chassis in the amount of \$779,225, per TASB/Buyboard contract #281-07. Remaining balance will be used for purchase of five (5) Side Loader Bodies (separate agenda item). The remaining one (1) Crane Carrier Automated Side Loader Chassis and three (3) Crane Carrier Rear Loader Chassis in the combined amount of \$642,662 are all early replacements that will be funded from FY 2010-11 Proposed Budget appropriations in the Equipment Replacement Fund. Remaining balance will be used for purchase of one (1) Side Loader Body and three (3) Rear Loader Bodies (separate agenda item).

STRATEGIC PLAN GOAL: Providing equipment purchases relates to the City's Goal of a "Financially Strong City with Service Excellence."

SUMMARY OF ITEM

Staff recommends the purchase of six (6) Crane Carrier Automated Side Loader Chassis in the amount of \$935,470, and three (3) Crane Carrier Rear Loader Chassis in the amount of \$486,417 totaling \$1,421,887 from Bond Equipment Co. through an existing contract/agreement with TASB/Buyboard. Five (5) of the regular cab chassis are scheduled replacements in Cost Center 748/Environmental Collections, for Units 04902, 04904, 04906, 04908, and 04910 in the approved FY09-10 Equipment Replacement Fund and one (1) is for an approved early replacement in Cost Center 748/Environmental Collections for Unit 05900 in the FY10-11 Equipment Replacement Fund. Two (2) of the Crew Cab Chassis are for approved early replacements in Cost Center 748/Environmental Collections, for Units 02902 and 03912, and one (1) is for approved early



CITY OF PLANO COUNCIL AGENDA ITEM

replacements in Cost Center 751/Special Waste, for Unit 03910. The City is authorized to purchase from a Local Cooperative Organization pursuant to Section 271 subchapter F of the Local Government Code and by doing so satisfies any State Law requiring local governments to seek competitive bids for Items. (TASB/Buyboard contract #281-07 / City of Plano Internal Contract No. 2010-189-I)

List of Supporting Documents:
Award Memo

Other Departments, Boards, Commissions or Agencies
NA



MEMORANDUM

Date: June 30, 2010
To: Earl Whitaker
From: Reid Choate, Fleet Manager
Subject: Refuse Truck Chassis Replacements

It is the recommendation of Fleet Services to purchase six (6), Crane Carrier LET2-26 regular cab refuse chassis in the amount of \$935,470 and three (3) Crane Carrier LET2-26 Crew Cab refuse chassis in the amount of \$486,417, from Bond Equipment Co., through the TASB/Buyboard contract # 281-07.

Five (5) of the regular cab chassis are scheduled replacements in Cost Center 748/ Environmental Collections, for Units 04902, 04904, 04906, 04908 and 04910 in the approved FY09-10 Equipment Replacement Fund and one is for an approved early replacement in Cost Center 748/ Environmental Collections for Unit 05900 in the FY10-11 Equipment Replacement Fund. Two (2) of the Crew Cab Chassis are for approved early replacements in Cost Center 748/ Environmental Collections, for Units 02902 and 03912 and one (1) is for approved early replacements in Cost Center 751/ Special Waste, for Unit 03910.

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



**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:	07/26/10
Department:	Public Works & Engineering
Department Head:	Alan L. Upchurch
Agenda Coordinator (include phone #):	Irene Pegues (7198) Project No. 6000

CAPTION

To approve Engineering Services Contract by and between the City of Plano and Burgess & Niple, Inc. in the amount of \$162,485 for I/I Program (2010) Pittman Creek Basin and authorizing the City Manager to execute all necessary documents.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2009-10	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	500,000	200,000	700,000
Encumbered/Expended Amount	0	-11,087	0	-11,087
This Item	0	-162,485	0	-162,485
BALANCE	0	326,428	200,000	526,428

FUND(S): SEWER CIP

COMMENTS: Funds are included in the 2009-10 Sewer CIP. This item, in the amount of \$162,485, will leave a current year balance of \$326,428 for the Inflow/Infiltration program project.

STRATEGIC PLAN GOAL: An engineering study for the inflow/ infiltration program relates to the City's Goal of Financially Strong City with Service Excellence.

SUMMARY OF ITEM

This agreement with Burgess & Niple, Inc. is for engineering study for Inflow/Infiltration Program (2010) Pittman Creek Basin. It includes the flow monitoring study of the sanitary sewer system for Pittman Creek Sanitary Sewer Basin. The contract fee is for \$ 162,485.00 and is detailed as follows:

Preparatory Work & Mobilization	\$1,750.00
Installation, Initial Calibration and Removal of Flow Meters/Rain Gauges	\$12,150.00
Maintenance and Calibration of Flow Meters/Rain Gauges	\$90,450.00
Data Management & Processing	\$27,810.00
Project Administration and Management, Supervision & QA/QC	\$10,500.00
Data Evaluation, Analysis and Report	\$19,825.00
TOTAL	\$162,485.00

Funding is available from the 2009-10 Sewer Community Investment Program. Staff feels the fee is reasonable for this project.



**CITY OF PLANO
COUNCIL AGENDA ITEM**

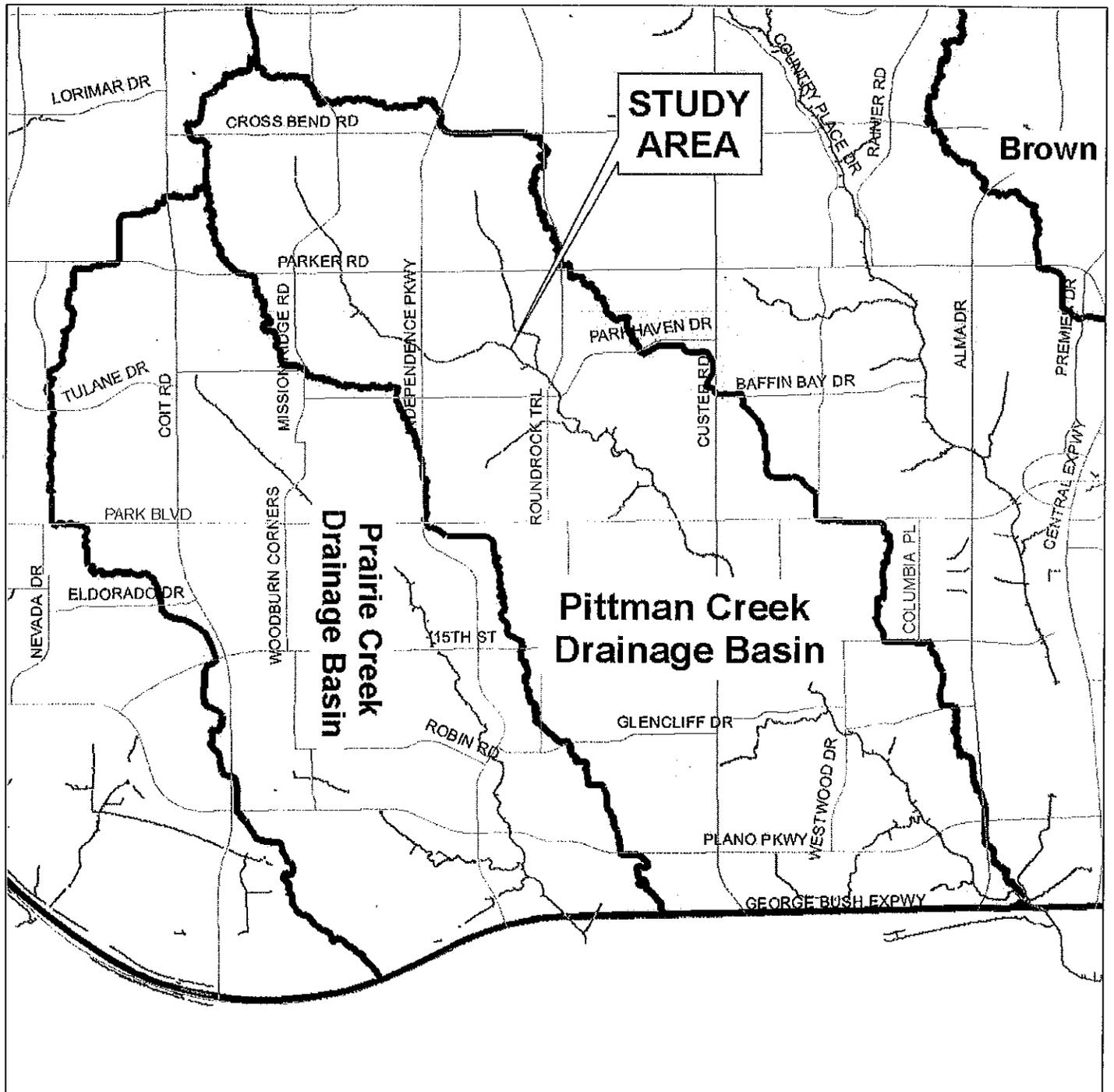
<p>List of Supporting Documents: Location Map; Engineering Services Agreement</p>	<p>Other Departments, Boards, Commissions or Agencies N/A</p>
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PITTMAN CREEK BASIN



2,000 Feet

1 inch = 3,000 feet



I/I PROGRAM (2010) – PITTMAN CREEK BASIN

PROJECT NO. 6000

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 **BURGESS & NIPLE, INC.**, an **OHIO** Corporation, licensed to do business in the State of Texas, 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 **I/I PROGRAM (2010) – PITTMAN CREEK BASIN** 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

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:

Burgess & Niple, Inc.
11117 Shady Trail
Dallas, TX 75229
Attn: Charles Wilmut

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.

F. Effective Date:

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

SIGNED on the date indicated below.

BURGESS & NIPLE, INC.

An Ohio Corporation, Licensed to do
Business in the State of Texas

DATE: 07/13/2010

BY: Charles Wilmut
Charles Wilmut, P.E.
VICE PRESIDENT

CITY OF PLANO, TEXAS

DATE: _____

BY: _____
Thomas H. Muehlenbeck
CITY MANAGER

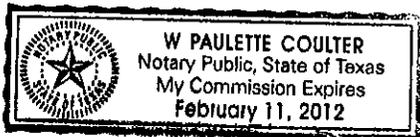
APPROVED AS TO FORM:

Diane C. Wetherbee
CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the 13th day of July, 2010, by **CHARLES WILMUT, P.E., VICE PRESIDENT**, of **BURGESS & NIPLE, INC.**, an **OHIO** corporation licensed to do business in the State of Texas, 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**

**I/I PROGRAM (2010) PITTMAN CREEK BASIN
PROJECT NUMBER 6000
CIP NUMBER 34-48847**

PROJECT DESCRIPTION

This project will consist of flow monitoring study of the existing sanitary sewer system for the Pittman Creek basin.

BASIC SERVICES

The investigation objectives and goals will be achieved through the performance of the following tasks.

Task 1 – Preparatory Work and Mobilization

1. Collect and review existing information including: reports, maps, flow records, water records, maintenance records and other pertinent information.
2. Printing of all field forms.
3. Preparation of equipment to be assigned and transported to the project site.
4. Hold a project kick-off meeting prior to commencement of any work to ensure that all work is conducted in the most efficient and economic manner; with proper liaison between Burgess & Niple and city personnel, and; following all safety procedures.
5. Plan for traffic and pedestrian control to ensure public safety and convenience.
6. Plan for OSHA confined space entry procedures.

The compensation for this task will be on a “lump sum” basis.

Task 2 – Installation, Calibration and Removal Flow Meters/Rain Gauges

Install 15 velocity/depth recorders at strategic manholes in the Plano Pittman Creek basin to monitor wastewater flow through the sub-basins. Three continuous monitoring rainfall gauges will be also installed within the study area to obtain the rainfall data. The proposed locations for temporary flow meters are given below:

Burgess and Niple Metering Basin Designation	City of Plano Metering Basin Designation	City of Plano Manhole Identification Number	Address
1	GB	2342	1500 Plano Parkway
2	GA	2330	1600 Plano Parkway
3	GC	4007	1917 Edgewater Drive
4	GD	4227	1515 Rio Grande Drive
5	GE	4203	2104 Monticello Circle
6	GB	4011	1600 Janwood Drive
7N	GE	4129	1820 Greenway Drive
7S	GE	4116	1804 Greenway Drive
8	GF	4215	1829 Rustic Drive
9	GF	16526	2004 Willowbrook Way
10	GI	12716	3525 Teakwood Lane
11	GI	6339	3524 Canoncita Lane
12	GG	12741	2817 Roundrock Trail
13	GG	12739	3517 Deep Valley Trail
14	GH	18291	2701 Parkhaven Drive

The compensation for this task will be on a “per meter” basis.

Task 3 – Maintenance of Flow Meters/Rain Gauges

The meters will be checked frequently, approximately weekly. Data will be downloaded and any necessary maintenance or repair will be performed at those site visits.

Tests using portable velocity meters (PVM's) will be performed periodically on the meters at different times of the day to acquire calibration points throughout the range of flow.

The flow metering equipment will be maintained and data collected for a period of ninety (90) days to cover representative dry weather and wet weather flow in an effort to monitor three or more significant rainfall events. Metering can be suspended after 60 days at the option of the City's project manager.

The compensation for this task will be on a “per meter-day” basis.

If, for any reason, dry and wet weather flows cannot be established during the basin metering period of 90 days, flow measurement may be extended at the City's direction (see Table 1 for extended metering rates).

Task 4 – Flow Data Management, Tabular Listing and Preliminary Evaluation

This task consists of processing the flow data from the 15 metering stations and presenting the results in the form of a report, including the following information:

1. Tabulation of flow data for the ninety day period showing average dry weather flow, two-hour peak dry weather flow, 24 hour maximum wet weather flow and two-hour peak wet weather flow.
2. Hydrographs showing hourly flow in graphical form, diurnal variations and peak flows.
3. Relationship between peak inflow and rainfall intensity (Q vs. I) for the study area.
4. Evaluation of flow balancing during the metering period to verify meter performance

The compensation for this task will be on a “per meter-day” basis.

Task 5 – Administration, Management, Supervision, QA/QC and Project Meetings

This task consists of project administration and management, scheduling of field tasks, general management and supervision of field personnel, and quality assurance/control of field work and data management activities. Additionally, it will include:

1. Prepare agenda and attend a project start-up meeting.
2. Conduct general administration and periodic meetings as necessary with City's staff.
3. Prepare monthly status reports of progress.
4. Perform internal project control procedures on a monthly basis including schedule, budget, and quality control review.
5. Public Relations - B&N will communicate with any members of the public encountered during the installation, calibration or maintenance of the meters to answer questions and/or refer them to the appropriate city contact.

The compensation for this task will be on a “lump sum” basis.

Task 6 – Review of Historical Data, Engineering Evaluation and Report

This task consists of evaluating and analyzing the data collected from flow monitoring, review of historical study and rehabilitation data and

recommendations for further system evaluation work to achieve system performance improvement goals. **Five (5) copies of the draft report** will be prepared for submittal to the City for review and comments.

Five (5) copies of the Final Report incorporating the City's comments from the review of the draft report will be furnished. One original copy of the field reports with photographs of the flow monitoring sites will also be provided with the final report. An electronic copy (i.e. CD-ROM) of the Final Report, with all field data input into a Microsoft Access Database, will be included in Microsoft Office 2003 format. Updated graphical/mapping files will be furnished in the same format as provided by the City at the start of the project.

The compensation for this task will be on a "lump sum" basis.

INFORMATION AND SERVICES TO BE PROVIDED BY THE CITY OF PLANO

The City shall provide the following information and services:

1. One GIS coverage of the sewer system in the study area showing sewer lines and manholes with ID numbers.
2. Liaison with City officials to provide effective coordination and cooperation between the fire, police, utility departments and the Engineer, as necessary during execution of field tasks.
3. Access to manholes and lift stations.
4. Assistance by City personnel, knowledgeable of manhole and cleanout locations, in locating buried or hidden manholes or cleanouts.
5. Expose for entry, manholes that require excavation, cutting of pavement, and/or have lids fastened or frozen in place.
6. Assistance in acquiring population and water consumption data for the study area.

EXHIBIT B SCHEDULE

TASK	MONTH 1				MONTH 2				MONTH 3				MONTH 4				MONTH 5				MONTH 6				MONTH 7											
	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4				
1. PREPARATORY WORK AND MOBILIZATION																																				
2. INSTALLATION, INITIAL CALIBRATION AND REMOVAL OF FLOW MONITORS/RAIN GAUGES																																				
3. MAINTENANCE AND CALIBRATION OF FLOW METERS AND RAIN GAUGES																																				
4. DATA MANAGEMENT AND PROCESSING																																				
5. PROJECT ADMINISTRATION AND MANAGEMENT, SUPERVISION AND QA/QC																																				
6. DATA EVALUATION, ANALYSIS AND REPORT																																				
CITY REVIEW OF DRAFT REPORT																																				
FINAL REPORT																																				

EXHIBIT "C"

COMPENSATION FOR SERVICES AND TERMS OF PAYMENT

The total price to cover all services described under the Scope of Work will be computed based on the unit prices shown in Table 1 and quantities of work completed as authorized by the City including the lump sum tasks amounts being established by percent of completion. Tasks listed as "per each" or "Per Meter Day" are estimated. Quantities found in field investigation may vary and will be performed and charged by the unit price shown in Table 1 in an amount not to exceed the total proposal cost. Work on these items exceeding the total proposal cost will not be performed without prior authorization by the City of Plano.

Invoices will be rendered monthly and are due within thirty (30) days of receipt. Table 1 delineates the unit price for each task.

Task	Task Description	Unit	Unit Price	Estimated Quantities	Total Price
1.	Preparatory Work & Mobilization	Lump Sum	\$1,750.00	1	\$1,750.00
2.	Installation, Initial Calibration and Removal of Flow Meters/Rain Gauges	Per Each	\$810.00	15	\$12,150.00
3.	Maintenance and Calibration of Flow Meters/Rain Gauges	Per Meter Day	\$67.00	1,350	\$90,450.00
4.	Data Management & Processing	Per Meter Day	\$20.60	1,350	\$27,810.00
5.	Project Administration and Management, Supervision & QA/QC	Lump Sum	\$10,500.00	1	\$10,500.00
6.	Data Evaluation, Analysis and Report	Lump Sum	\$19,825.00	1	\$19,825.00
TOTAL					\$162,485.00

Extended metering (if required) \$65.00/meter-day

Costs include traffic and pedestrian control using the Texas Manual of Uniform Traffic Devices to ensure public safety and convenience and provisions for confined space entry in compliance with OSHA requirements.

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

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.

ENGINEERING

City of Plano - Insurance Checklist

("X" means the coverage is required.)

<u>Coverages Required</u>	<u>Limits (Figures Denote Minimums)</u>
<input checked="" type="checkbox"/> 1. Workers' Compensation & Employers' Liability	Statutory limits of State of Texas \$100,000 accident \$100,000 disease \$500,000 policy limit disease
<input type="checkbox"/> 2. For Future Use	
<input type="checkbox"/> 3. City Approved Alternative Workers' Comp. Program	\$150,000 medical, safety program
<input checked="" type="checkbox"/> 4. General Liability	Complete entry No. 26 Minimum \$500,000 each occurrence \$1,000,000 general aggregate
<input checked="" type="checkbox"/> 5. General aggregate applies per project (CGL)	
<input checked="" type="checkbox"/> 6. Premises/Operations	
<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

15. Motor Carrier Act Endorsement

16. Professional Liability \$1,000,000 each occurrence
\$2,000,000 aggregate

17. Garage Liability \$ _____ BI & PD each occurrence

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

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

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

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

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

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

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

25. Other Insurance Required:

INSURANCE AGENT'S STATEMENT

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

26. The above policy(s) carry the following deductibles: Auto - \$1,000
Professional - \$100,000

Full limits of coverage available for:

General Liability Professional Liability
Automobile Liability

27. Liability policies are (indicate):

OCCURRENCE All other policies CLAIMS MADE BY PL policy

[Signature]
Signature

7/13/10
Date

Brian Grimmer
Wells of Pennsylvania, Inc
Insurance Agent (Print)
Broker

Burgess & Niple, Inc.
Name of Insured

7/13/10
Date



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
07/09/2010

Page 1 of 2

PRODUCER Willis of Pennsylvania, Inc. 26 Century Blvd. P. O. Box 305191 Nashville, TN 37230-5191	877-945-7378	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
INSURED Burgess & Niple, Inc. 5085 Reed Road Columbus, OH 43220		INSURERS AFFORDING COVERAGE
		NAIC#
		INSURER A: Illinois National Insurance Company 23817-001
		INSURER B: Illinois National Insurance Company 23817-010
		INSURER C: North River Insurance Company 21105-001
		INSURER D: Insurance Company of the State of Pennsylv 19429-002
		INSURER E: Continental Casualty Company 20443-010

COVERAGES

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

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> <u>Contractual Liability</u> <input checked="" type="checkbox"/> <u>Independent Contrs.</u> GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	4360775	7/1/2010	4/1/2011	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	3976452	7/1/2010	4/1/2011	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
C	EXCESS / UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ 10,000	5530934853	7/1/2010	4/1/2011	EACH OCCURRENCE \$ 15,000,000 AGGREGATE \$ 15,000,000 \$ \$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under SPECIAL PROVISIONS below	026149154	7/1/2010	4/1/2011	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
E	OTHER Professional Liability	AEH008215011	7/1/2010	4/1/2011	\$10,000,000 Per Claim \$10,000,000 Aggregate \$500,000 Deductible

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
 Re: Project #6000 - Pittman Creek I/I Evaluation Program. CIP #34-48847.
 The Umbrella policy does not sit over the Professional Liability coverage.

Certificate holder is included as an Additional Insured under the General Liability policy as required by written contract. A Waiver of Subrogation is provided for the Workers Compensation policy in favor of the Certificate holder as required by written contract and where allowable by law.

CERTIFICATE HOLDER	CANCELLATION
City of Plano 1520 Avenue K, Suite 250 Plano, TX 75074 <i>07-15-10</i> 	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE

IMPORTANT

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

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

DISCLAIMER

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

EXHIBIT "E"

AFFIDAVIT OF NO PROHIBITED INTEREST

I, the undersigned declare and affirm that no person or officer of **BURGESS & NIPLE, 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.

Burgess & Niple, Inc.
Name of Consultant

By: Charles Wilmut
Signature

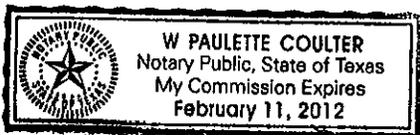
Charles Wilmut
Print Name

Vice President
Title

07/13/2010
Date

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

SUBSCRIBED AND SWORN TO before me this 13th day of July, 2010.



W Paulette Coulter
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:		7/26/2010		
Department:		Purchasing		
Department Head		Mike Ryan		
Agenda Coordinator (include phone #): Sharron Mason x7247				
CAPTION				
Second Modification to a professional services agreement by and between the City of Plano, Texas and RCC Consultants, Inc. in the amount of \$49,954.00 through an existing agreement 2008-157-I with RCC Consultant for Phase III Implementation Services for Mobile Data Project; 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	722,859	17,000,000	6,277,141	24,000,000
Encumbered/Expended Amount	-722,859	-16,809,292	0	-17,532,151
This Item	0	-49,954	0	-49,954
BALANCE	0	140,754	6,277,141	6,417,895
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 modification, in the amount of \$49,954, will leave a current year allocation of \$140,754 for the Radio System Infrastructure Replacement project.</p> <p>STRATEGIC PLAN GOAL: Consulting services 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				
The city is currently under contract with RCC Consultants for Radio System Replacement and Upgrade in the amount of \$505,383. (H-GAC #EN11-04). The City identified additional needs in the amount of \$63,685 under Phase II which allowed the replacement of police and fire data system procurement assistance. This is Phase III - Implementation Services for Mobile Data Project in the amount of \$49,954.00.				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Professional Services Agreement w/RCC Consultants, Inc. Quote dated 07/07/10				

THE STATE OF TEXAS § Second Modification of Contract
§ By and Between City of Plano and
COUNTY OF _____ § RCC Consultants, Inc.

THIS SECOND MODIFICATION OF Contract (hereinafter "Second Modification") is made and entered into on this the _____ day of _____, 2010 by and between **RCC CONSULTANTS, INC.** (hereinafter "Contractor"), 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 January 30, 2008 (hereinafter "Agreement") for consulting services related to the Radio System Replacement/Upgrade Project (hereinafter "Services"); and

WHEREAS, City and Contractor executed the First Modification on October 31, 2008.

WHEREAS, City and Professional desire to amend such Agreement and First Modification in certain respects as set forth herein in this Second 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 and First Modification shall remain unchanged and shall remain in full force and effect. In the event of any conflict or inconsistency between the provisions set forth in this Second Modification, First Modification and the Agreement, priority of interpretation shall be in the following order: Second Modification, 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 II. Scope of Services and section IV. Compensation/Expenses are hereby modified to include the additional services and compensation set forth in Exhibit A-2 attached hereto and made a part hereof by reference.

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 corporation.

Notary Public, State of Texas



July 7, 2010

Mr. Ron Goldsmith
Radio Systems Manager
Public Safety Communications
925 22nd Street, Suite 100
Plano, Texas 75074
RE: Quote for Phase III Implementation Services for Mobile Data Project

Dear Ron:

This letter references our recent discussions related RCC Consultants, Inc. (RCC) support for the implementation phase of the mobile data project for the City of Plano, TX. The implementation phase of the project is anticipated to be approximately one year based on the vendor proposed schedule. We have been able to reduce our costs significantly for this phase of the project by leveraging our local resources (Jim Baron) who is currently under contract supporting the voice radio project.

The purpose of Phase III is to successfully install and test the new system prior to system cutover. The enclosed workplan outlines the services RCC has proposed for this effort. In the event that the City needs additional services outside of the enclosed scope of work, upon request, RCC will provide a cost estimate and task order for such services at that time. The RCC activities in this proposal consist of approximately one day (8 hours) of oversight assistance per month for an implementation period of twelve (12) months. We have also included time for the kickoff meeting and design review (1 day each) along with 40 hours to provide support for system acceptance testing, which includes functional, coverage, throughput and reliability testing. The proposal includes trips for project kickoff, design review and system testing, as well as two additional trips as needed throughout the project.

Accordingly, the tasks listed below describe the implementation activities for the MDC implementation of the project.

WORK PLAN

Task 1—Project Kickoff and Coordination

The purpose of Task 1 will be to formally begin the implementation phase of the new wireless data system. The process will begin with an implementation project kickoff meeting held in Plano with the City's project team, RCC Consultants, and the selected vendors' representatives. The purpose of the kickoff meeting will be to accomplish the following:

- Determine who will be involved from each of the participating agencies throughout project implementation

RCC Consultants, Inc.

2425 Millcreek Court • Tallahassee, FL 32308-4375 tel (850) 224-4451 • fax (850) 224-3059

EXHIBIT A-2
PAGE 1 OF 6

- Discuss and agree on the scope of work contained in the contractual document
- Review and agree upon the implementation schedule and milestones to be completed along the way
- Review and discuss payment terms tied to milestone performance

Task 2—Attend & Participate in Detailed Design Review Meeting with the Vendor

A detailed system design review will be conducted with the vendor to thoroughly discuss their proposed system and configuration prior to the ordering and manufacturing of equipment and software. Specific details about features, capabilities, and functions to be provided by the systems will be discussed in detail to avoid "project surprises" later in the project. This is budgeted as a one-day meeting.

Task 3—Monitor Vendor Progress

RCC will assist the City in monitoring the work performance of the selected vendor and will review monthly project status reports reflecting the progress and issues that have arisen during the past month. Approximately 6 hours per month are allotted for on-going monitoring of vendor progress, review of status reports and client/vendor communications. These hours include one two-day trip on site.

Task 4—Issue Tracking and Resolution

RCC will work with the City team and vendor to monitor, track, and help resolve integration issues that may arise during system implementation. A total of 40 hours are allocated for issue tracking and resolution, including one two-day trip on-site if needed.

Task 5—Assist the City in Acceptance Testing of the New System

RCC personnel will work closely with the City's project team to help ensure that the new system and equipment is appropriately tested prior to system acceptance. The system will be tested to ensure that it meets the performance criteria stated in the Request for Proposals. Acceptance testing consists of a functional test, a coverage test, a throughput test, and a 90-day reliability test.

Functional testing will ensure that all interfaces are operational, and connectivity is established between the various systems, including the ability to roam between the various sites. Throughput testing will be performed to ensure that the system is capable of handling the specified amount of data passing through the system and still provide an acceptable level of performance. Wireless data system coverage performance will be field tested and verified to ensure that the level of radio coverage requested by the City has actually been delivered. RCC has extensive hands-on experience in this area, and has conducted wireless data system analysis and testing in over 200 U.S. cities.

Prior to final acceptance, a 90 day performance test will be completed without a major system failure to ensure that the new systems are stable and ready for use by the City. The results of the acceptance testing program will be presented to the City's project team. The vendor will be provided a list identifying discrepancies that require correction.

Task 6 – Closeout

Once all project deliverables have been successfully provided and all milestones completed, including any discrepancies identified during testing, RCC will recommend that the City grant system acceptance.

PROJECT SCHEDULE

Upon completion of negotiations with the vendor and approval by the City, RCC will begin coordination activities in preparation for project kickoff. Based on the current schedule, the project is anticipated to begin in late January/early February, with a target completion at the end of 2010.

PAYMENT SCHEDULE

It is anticipated that the inspection task will be completed in a one month time period, however, the invoicing may span two separate months depending on when the activities are initiated. Payments are due within thirty (30) days of invoice. Payments not paid within 30 days will be assessed a late fee of 1.5% per month.

CHANGE ORDERS AND REIMBURSABLE EXPENSES

Costs for this project reflect the scope of work outlined in the work plan offered by RCC in this quotation. The City may elect to increase or decrease the scope of work proposed, at which time the final fee will be negotiated between the City and RCC and adjusted accordingly.

Should the City, at any time during the project, desire services that are outside the agreed upon scope of work, RCC will prepare a quotation outlining the estimated effort, resources required, and cost for the requested service. Upon approval of the quotation, RCC will provide the desired services at the agreed upon cost.

RCC has assumed that the selected vendor will successfully complete the acceptance testing program the first time and that re-testing of any of the acceptance tests will not be needed. RCC has assumed that implementation will be fully completed within 12 months. To help minimize costs, RCC has not included any "contingency" time or fees in the cost proposal. In the event that such retesting is needed, or the implementation time exceeds 12 months, upon request from the City, RCC will provide a cost proposal to add such time and support to the project.

Anticipated expenses¹ necessary for the execution of the project have been estimated as part of RCC's price proposal.

¹ Expenses can include lodging, meals, airfares, rental equipment, rental vehicles, highway mileage at the most current Federal mileage rate, printing, inordinate copying costs, and shipping.

PROFESSIONAL FEES

Professional Fees and Expenses for Phase III Implementation: \$49,954.00

RCC CONSULTANTS, INC. TECHNICAL SERVICES CONTRACT			December 18, 2009	
Mobile Data City of Plano, TX Implementation				
Direct Engineering Expenses				
	Hours	Rate	Subtotal	
Vice President	11	\$ 250.00	\$	2,750.00
Director	202	\$ 200.00	\$	40,400.00
Director		\$ 200.00		
Total	213		\$	43,150.00
Travel and Per Diem Expenses				
		Rate	Subtotal	
5 Round Trip Airline Fares			\$	2,500.00
13 Days Rental Vehicle		\$ 100.00	\$	1,300.00
13 Man Days Per Diem at		\$ 175.00	\$	2,275.00
Total			\$	6,075.00
General and Administrative Fee				
		12%	\$	729.00
			\$	729.00
Total				\$ 49,954.00

PROPRIETARY & CONFIDENTIAL

Hours by Task for Phase III Implementation:

RCC CONSULTANTS, INC. TECHNICAL SERVICES CONTRACT Mobile Data City of Plano, TX Implementation		December 18, 2009
TASK	DESCRIPTION	HOURS
1	Project Kickoff and Coordination	17
2	Design Review	17
3	Monitor Vendor Progress and Status	74
4	Issue Tracking and Resolution	42
5	Acceptance Testing	
5.1	Functional Testing	7
5.2	Coverage Testing	39
5.3	Throughput Testing	7
5.4	Reliability Testing	5
6	Closeout	5
*ON-SITE TASKS	TOTAL	213

PROPRIETARY & CONFIDENTIAL

PRICING ASSUMPTIONS FOR PHASE III IMPLEMENTATION

1. Professional fees are based on the estimated hours and expenses included in the pricing for the Scope of Work defined in this proposal. These may be adjusted by agreement by both parties if additional hours are needed and/or the scope of work is modified. Travel expenses or additional hours required for unforeseen circumstances beyond RCC's control would be billed on a time and materials basis.
2. Any meetings required beyond those specifically addressed in RCC's work plan would be provided at the same rates for time and expenses as quoted herein.
3. RCC proposes to provide invoices on a monthly basis, based on the work performed during that month. Payments are due within thirty (30) days of invoice. Payments not paid within 30 days will be assessed a late fee of 1.5% per month.
4. Travel and travel-related expenses are estimated and are subject to a 12 percent General and Administrative fee. Airfare prices are based on two-week advanced notice. Travel, expenses or additional hours required for unforeseen circumstances beyond RCC's control would be billed on a time and materials basis.
5. In order to be more responsive to project requirements, RCC respectfully reserves the right to move professional fees and expenses between project tasks as needed to complete the scope of work, as long as the total amount billed to the Client does not exceed the contract amount.

PROPRIETARY & CONFIDENTIAL

RCC will be pleased to discuss this quotation for professional services with you at your convenience. We look forward to continuing our work the City of Plano, Texas.

Sincerely,

Michael Weins

Michael Weins
Director, Public Safety Information Systems
RCC Consultants, Inc.

EXHIBIT A-2
PAGE 6 OF 6



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:		7/26/2010		
Department:		Purchasing		
Department Head		Mike Ryan		
Agenda Coordinator (include phone #): Sharron Mason x7247				
CAPTION				
To approve the Third Modification of the contract by and between the City of Plano and Hay Group, Inc. (Contract No. 2006-154-C) for Employee Benefits Consulting Services to increase the contract 25% from \$110,000 to \$137,500, and authorizing the City Manager or his authorized designee 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: 2009-10	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	3,080,464	0	3,080,464
Encumbered/Expended Amount	0	-1,990,362	0	-1,990,362
This Item	0	-27,500	0	-27,500
BALANCE	0	1,062,602	0	1,062,602
FUND(S): HEALTH CLAIMS FUND				
<p>COMMENTS: Expenditures will be made in the Health Claims Fund within approved budget appropriations. This item, in the amount of \$27,500 (increases the original contract by 25%), modifies the existing contract for additional consulting services. This will leave a current year balance of \$1,062,602 for other contractual professional services.</p> <p>STRATEGIC PLAN GOAL: The consulting services for the self-funded health plan relates to the City's Goal of Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
<p>Council awarded Contract No. 2006-154-C for Employee Benefits Consulting Services to Hay Group, Inc. in the amount of \$85,000 on 11/13/06 for an initial term of 3 years with two (2) City optional one (1) year renewal. As we anticipate implementation of this legislation and begin making procedural changes to ensure the City of Plano's compliance, we believe it may be necessary to request assistance from the Hay Group more frequently than usual. This modification will reflect a 25% increase from \$110,000 to \$137,500 to include the new federal mandates.</p>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Contract Mod Memo and Third Mod Agreement				

Memorandum

To: Tom Muehlenbeck, City Manager
From: LaShon Ross, Deputy City Manager
Date: July 5, 2010
Re: Third Modification to Contract No. 2006-154-C

Several months ago, we began working with the Hay Group to ensure the City of Plano thoroughly understands the requirements and impact of the recently enacted federal healthcare reform (Patient Protection and Affordability Care Act). To date, we have communicated with the Hay Group by phone, e-mail, and in person on several occasions as we consider the specific application of this legislation.

As we anticipate implementation of this legislation and begin making procedural changes to ensure the City of Plano's compliance, we believe it may be necessary to request assistance from the Hay Group more frequently than usual. I am requesting that the City's contract with the Hay Group (#2006-154-C) be modified to reflect a 25% increase. This will change the schedule of fees from \$110,000 to \$137,500 to include the new federal mandates.

The City was able to negotiate a \$50,000 decrease in this contract for the current calendar year. So, even with the increased need for services, we will still realize savings from the original amount of the contract.

Thanks for your consideration.

THE STATE OF TEXAS § Third Modification of Contract
§ **By and Between City of Plano and**
§ **Hay Group, Inc.**
COUNTY OF COLLIN §

THIS THIRD MODIFICATION OF Professional Services Agreement (hereinafter Third Modification") is made and entered into on this the ____ day of _____, 2010, by and between **HAY GROUP, INC.**, a Delaware corporation (hereinafter "Professional"), 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 Professional entered into an Agreement on November 29, 2006 (hereinafter "Agreement") for consulting services (hereinafter "Services"); and

WHEREAS, City and Professional executed the First Modification on January 30, 2008, to revise certain services and fees.

WHEREAS, City and Professional executed the Second Modification on March 5, 2009, to revise certain services and fees.

WHEREAS, City and Professional desire to amend such Agreement, First Modification, and Second Modification in certain respects as set forth herein in this Third 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, First Modification and Second Modification 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 Third Modification, Second Modification, First Modification and the Agreement, priority of interpretation shall be in the following order: Third Modification, Second Modification, 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, **Exhibit "A-1"** as referenced in the Second Modification executed on March 5, 2009, is hereby modified to read in its entirety as follows:

EXHIBIT "A-1"

SCOPE OF SERVICES/SCHEDULE OF FEES

January 1, 2010 – December 31, 2010

Ongoing Consulting	\$ 137,500.00
<ul style="list-style-type: none">- Rates, Funding, and Budget Analysis- Analysis of Vendor Renewals- Claims Tracking and Quarterly Reports- Vendor Liaison and Performance Reviews- Legislative Issues and Compliance- Meetings with Human Resources as Needed- Presentation of Annual Plan Analysis to Executives, Department Managers and City Council- Day-to-Day Issue Resolution- Open Enrollment Meeting (up to 10)- Legislative Mandates including "Patient Protection and Affordable Care Act"	

The hourly rate will be as follows:

Senior Consultant - \$500.00
Consultant - \$375.00
Associate - \$295.00

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

HAY GROUP, INC., a Delaware corporation

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

CITY OF PLANO, TEXAS

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

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 20__ by _____, _____ of **HAY GROUP, INC.**, a Delaware 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 _____, 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

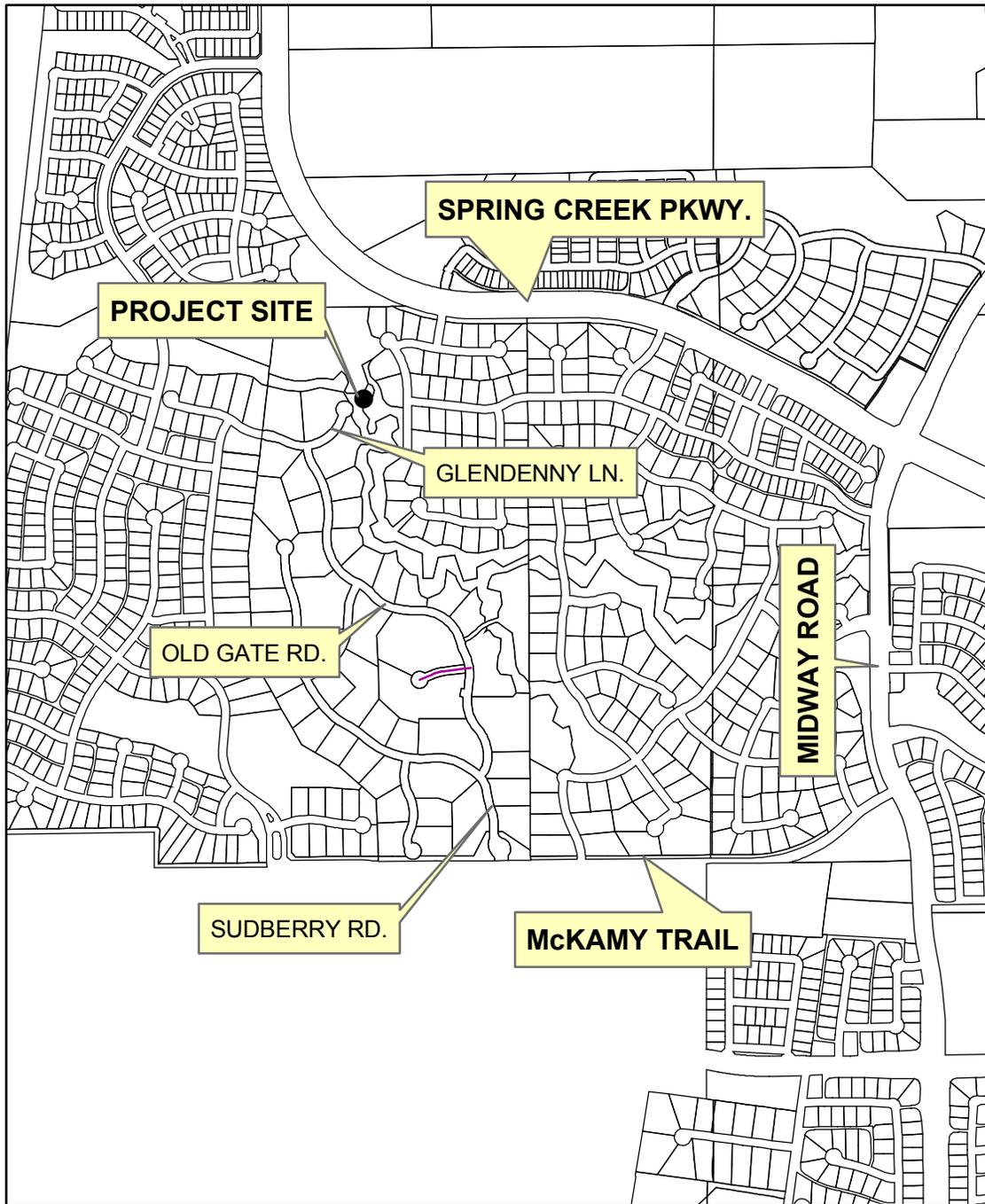


**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		07/26/10		
Department:		Public Works & Engineering		
Department Head:		Alan L. Upchurch		
Agenda Coordinator (include phone #):		Irene Pegues (7198)		Project No. 5518
CAPTION				
To ARK Contracting Services, LLC, increasing the contract by \$102,693 for Erosion Control Briarwood – Eight Locations, Change Order No. 2. Original Bid No. 2010-31-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	0	351,000	0	351,000
Encumbered/Expended Amount	0	-248,131	0	-248,131
This Item	0	-102,693	0	-102,693
BALANCE	0	176	0	176
FUND(S): SEWER CIP				
<p>COMMENTS: Funds are included in the 2009-10 Sewer CIP. This change order, in the amount of \$102,693, will leave a current year balance of \$176 for the Sewer Erosion Control project.</p> <p>STRATEGIC PLAN GOAL: Sewer erosion control relates to the City's Goals of Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
<p>This change order, in the amount of \$102,693.00, is for installing a gabion wall in the drainage channel area just north of the north end of Glendenny Lane to protect an existing sanitary sewer line in the channel area.</p> <p>Staff recommends approval of Change Order No. 2. The contract total will be \$1,090,160.40, which includes change orders of 12.83% of the original contract amount of \$966,155.40. The change order also includes 35 additional working days for a total of 195 working days, an increase of 21.88% over the original contract amount of 160 working days.</p> <p>Funds are included in the 2009-2010 Sewer Community Investment Program.</p>				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Location Map; Change Order No. 2		N/A		

GLENDENNY LANE SITE MAP

PROJECT No. 5518



CITY OF PLANO
PUBLIC WORKS & ENGINEERING DEPT.

950 475 0 950 Feet



1 inch = 1,000 feet

CHANGE ORDER NO. 2

EROSION CONTROL BRIARWOOD – EIGHT LOCATIONS

PROJECT NO. 5518

PURCHASE ORDER NO. 103777

CIP NO. 70108

BID NO. 2010-31-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 **ARK CONTRACTING SERVICES, LLC** for the **EROSION CONTROL BRIARWOOD - EIGHT LOCATIONS PROJECT**, dated January 11, 2010.

B. DESCRIPTION OF CHANGE

The change order is for the following:

Installation of a gabion wall along the western drainage channel bank just north of the north end of Glendenny Lane. The wall is approximately 158 feet long. The purpose of the wall is to protect an existing sanitary sewer in the creek area. This work shall be performed in accordance with the terms and conditions of the existing contract. The item for "Remove and Salvage Concrete Blocks" will include putting the blocks on wood timbers on the cul-de-sac adjacent to the work area to be picked up by City forces. Contractor shall load City's trucks.

CONTINUED ON NEXT PAGE

C. EFFECT OF CHANGE

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

ITEM NO.	ITEM DESCRIPTION	ORIGINAL QUANTITY	REVISED QUANTITY	UNIT	UNIT PRICE	AMOUNT OF CHANGE
D1	Sodding (C16)*	0	27	SY	\$5.00	\$135.00
D2	Seeding **	0	375	SY	\$5.00	\$1,875.00
D3	Erosion Control **	0	1	LS	\$9,325.00	\$9,325.00
D4	3' x 3' PVC Gab Bask. (C5)*	0	146	CY	\$180.00	\$26,280.00
D5	12" PVC Gab Matt (A119)*	0	44	CY	\$188.00	\$8,272.00
D6	Conc. Beam (A123)*	0	12.8	CY	\$420.00	\$5,376.00
D7	Conc. Plinths (C9)*	0	2	CY	\$420.00	\$840.00
D8	Active Anchors (C10)*	0	10	EA	\$800.00	\$8,000.00
D9	Micro Piles **	0	6	EA	\$1,005.00	\$6,030.00
D10	Rem & Salv. Conc Blks **	0	1	LS	\$5,800.00	\$5,800.00
D11	Excav./ Haul Off (C12) *	0	150	CY	\$18.00	\$2,700.00
D12	Tree Rem (under 12") (C13) *	0	6	EA	\$300.00	\$1,800.00
D13	6" Topsoil (C15) *	0	333	SY	\$5.00	\$1,665.00
D14	Bio. Turf Reinf (C17) *	0	25	SY	\$3.00	\$75.00
D15	Clear / Grubbing **	0	1	LS	\$16,120.00	\$16,120.00
D16	Project Clean Up**	0	1	LS	\$8,400.00	\$8,400.00
	TOTAL:					\$102,693.00

*Refers to similar pay item number in current plans.

**This item is new or different from current plan items.

Original Contract Amount	<u>\$ 966,155.40</u>
Contract Amount (Including Previous Change Orders)	<u>\$ 987,467.40</u>
Amount, Change Order No. 2	<u>\$ 102,693.00</u>
Revised Contract Amount	<u>\$ 1,090,160.40</u>
Total Percent Increase Including Previous Change Orders	<u>12.83%</u>

D. EFFECT OF CHANGE ON CONTRACT TIME

The work required under this change order will add **35** day(s) to this project:

Original Contract Time	160 working days
Amount (Including Previous Change Orders)	160 working days
Amount, Change Order No. 2	35 working days
Revised Contract Time	195 working days
Total Percent Increase Including Previous Change Orders	21.88%

E. AGREEMENT

By the signatures below, duly authorized agents of the **CITY OF PLANO, TEXAS**, and **ARK CONTRACTING SERVICES, LLC**, do hereby agree to append this Change Order No. 2 to the original contract between themselves, dated January 11, 2010.

OWNER: CITY OF PLANO

CONTRACTOR: ARK CONTRACTING SERVICES, LLC

A Texas Limited Liability Company

By: _____
(signature)

By: _____
(signature)

Print
Name: Thomas H. Muehlenbeck

Print
Name: Steven C. Bowman

Print
Title: City Manager

Print
Title: President

Date: _____

Date: 7/12/10

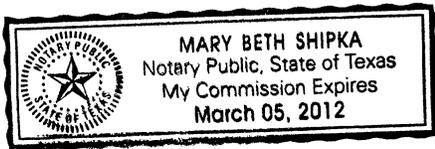
APPROVED AS TO FORM:

By: _____
Diane C. Wetherbee, City Attorney

ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF TARRANT §

This instrument was acknowledged before me on the 12th day of July, 2010, by **STEVEN C. BOWMAN, PRESIDENT** of **ARK CONTRACTING SERVICES, LLC**, a **TEXAS** Limited Liability Company, on behalf of said limited liability company.



Mary Beth Shipka

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:		July 26, 2010			
Department:		Library Administration			
Department Head		Cathy Ziegler			
Agenda Coordinator (include phone #): Mary Ann Dunnivant (4208)					
CAPTION					
Approval of the purchase of library materials for Plano Public Library System (PPLS) in the amount of \$200,000 from Baker and Taylor through an existing contract/agreement with Texas State Contract 715-N1 Print Materials and Multimedia; and authorizing the City Manager or his authorized designee 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:	FY 2009-10	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	1,298,851	0	1,298,851	
Encumbered/Expended Amount	0	-803,144	0	-803,144	
This Item	0	-200,000		-200,000	
BALANCE	0	295,707	0	295,707	
FUND(S): GENERAL FUND					
COMMENTS: Funds are included in the FY 2009-10 adopted budget to purchase Books, Multimedia, and Library materials. The remaining balance of funds will be used for other multimedia and library materials.					
STRATEGIC PLAN GOAL: Providing multimedia and library materials purchases relates to the City's Goal of a "Financially Strong city with Service Excellence."					
SUMMARY OF ITEM					
The State of Texas CO-OP Purchasing Program, of which the City of Plano is a member, secures competitive bids for books and multimedia among many other things. Because of the City of Plano's participation, the purchase from Baker & Taylor in the amount of \$200,000 satisfies the law relating to this bid. Therefore, PPLS staff recommends purchase of these various library materials from Baker & Taylor through the Texas State Contract 715-N1 Print Materials and Multimedia. 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.					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
1. Memo from Julie Torstad dated 06.23.2010.					



City of Plano
Library Technical Services
2501 Coit Road
Plano, TX 75075
Phone: 972.769.4327

Memorandum

Date: June 23, 2010
To: Mary Ann Dunnavant
From: Julie Torstad, Library Technology Services Manager
Subject: City Council Approval for Baker & Taylor

Please request City Council approval to spend approximately \$200,000 with Baker & Taylor for the purchase of various library materials including books, compact disks, books-on-CD and DVDs. The funds should be taken from 01-682-8441. Some of the funds will be transferred into 01-682-8442. City Council had previously approved \$350,000 to be spent with Baker & Taylor on October 12, 2009.

These purchases will be made through the State of Texas CO-OP Purchasing Program under Texas State Contract 715-N1 Print Materials and Multimedia with Baker & Taylor. 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.

Thanks.



**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:		7/26/10		
Department:		Parks and Recreation		
Department Head		Amy Fortenberry		
Agenda Coordinator (include phone #): Susan Berger (7255)				
CAPTION				
A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an agreement by and between North Texas Municipal Water District and the City of Plano; authorizing its execution by the City Manager or his authorized 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: 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):				
COMMENTS: This item has no fiscal impact.				
STRATEGIC PLAN GOAL: Obtaining reclaimed water to minimize golf course irrigation costs contributes to the City Goal of a Financially Strong City with Service Excellence.				
SUMMARY OF ITEM				
<p>For over 30 years the City has used reclaimed water provided by the North Texas Municipal Water District (NTMWD) to irrigate Pecan Hollow Golf Course. The reclaimed water is available from the Rowlett Creek Regional Waste Water Treatment Plant which is located adjacent to the golf course. The reclaimed water is provided by NTMWD at no cost to the City. The City provides a pump and water line to convey the water to the golf course.</p> <p>The Texas Commission on Environmental Quality (TCEQ) is requiring the NTMWD to update its reclaimed water agreements to conform with current TCEQ requirements. The new agreement does not affect the availability of reclaimed water to the golf course. The reclaimed water will continue to be provided to the City at no cost under the terms of the new agreement.</p>				
List of Supporting Documents: Resolution			Other Departments, Boards, Commissions or Agencies	



**CITY OF PLANO
COUNCIL AGENDA ITEM**

Agreement	

A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an agreement by and between North Texas Municipal Water District and the City of Plano; 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 agreement for reclaimed water use between North Texas Municipal Water District and the City of Plano, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and,

WHEREAS, upon full review and consideration of the Agreement, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager or his authorized 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 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 26th day of July, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

**EXHIBIT A
RECLAIMED WATER USE AGREEMENT**

STATE OF TEXAS §

COUNTY OF COLLIN §

**CITY OF PLANO AND
NORTH TEXAS MUNICIPAL WATER DISTRICT**

This Agreement, effective as of the ___the day of _____, 2010, is made by and between the North Texas Municipal Water District (NTMWD) and the City of Plano (User and Provider).

WITNESSETH:

WHEREAS, NTMWD has treated effluent produced by its Rowlett Creek Regional Wastewater Treatment Plant (WWTP) available for Reclaimed Water use subject to Texas Administrative Code Title 30, Chapter 210 Authorization by the Texas Commission on Environmental Quality (TCEQ); and

WHEREAS, NTMWD wishes to act as the Producer of Reclaimed Water from the Rowlett Creek Regional WWTP for various Users;

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, NTMWD agrees to act as the Producer and sell Reclaimed Water to User, and User agrees to act both as the Provider of Facilities for the transport of the Reclaimed Water and as the User of the Reclaimed Water on its designated property and to pay for said Reclaimed Water pursuant to the terms and conditions hereinafter set forth.

Section 1. DEFINITION OF TERMS

The following terms and expressions as used in this Agreement shall have the following meanings:

- 1.1 FACILITIES mean all transportation, distribution, and pumping facilities owned by User necessary to convey Reclaimed Water from the NTMWD Point(s) of Delivery to the User.
- 1.2 NTMWD POINT(S) OF DELIVERY means the location at the Rowlett Creek West WWTP at which the treated effluent produced by NTMWD passes from NTMWD to User, as shown on Attachment A.
- 1.3 PRODUCER shall have the meaning identified in TCEQ's rules for Use of Reclaimed Water, Texas Administrative Code Title 30, Chapter 210, as amended. NTMWD is the Producer of Reclaimed Water pursuant to this Agreement.
- 1.4 PROVIDER shall have the meaning identified in TCEQ's rules for Use of Reclaimed Water, Texas Administrative Code Title 30, Chapter 210, as amended. User is also the Provider of Reclaimed Water pursuant to this Agreement.
- 1.5 RECLAIMED WATER means the treated effluent produced from the treatment of wastewater at the Rowlett Creek Regional WWTP.
- 1.6 TCEQ is the Texas Commission on Environmental Quality, or its successor agency.
- 1.7 TPDES is the Texas Pollutant Discharge Elimination System, which provides wastewater plants limits and terms to be met in a discharge permit.
- 1.8 USER shall have the meaning identified in TCEQ's rules for Use of Reclaimed Water, Texas Administrative Code Title 30, Chapter 210, as amended. The City of Plano is the User of Reclaimed Water pursuant to this Agreement.

Section 2. FACILITIES CONSTRUCTION AND OPERATION

- 2.1 Facilities to be Constructed. User shall construct or cause to be constructed, the Facilities necessary to transport and deliver Reclaimed Water from the NTMWD Point(s) of Delivery to the User.
- 2.2 Delivery. User shall operate and maintain the Facilities. It is agreed and understood that the NTMWD Point(s) of Delivery shall include a meter for the measurement of the total gallons of Reclaimed Water produced by NTMWD from the WWTP. Any Point(s) of Delivery designated in future supplemental Reclaimed Water Use agreements between NTMWD and a User must include the installation of a separate meter for the measurement of the total gallons used by that User. All valves and other controls to

start, stop, and regulate the flow of Reclaimed Water from the NTMWD Point(s) of Delivery to a User shall belong to and be under the sole control of NTMWD, and if the quality or use of Reclaimed Water is noncompliant with the provisions of Texas Administrative Code Title 30, Chapter 210, as amended, NTMWD has the right to immediately discontinue the flow of Reclaimed Water and shall attempt to notify all Users verbally and in writing within twenty-four (24) hours of becoming aware of such deficiency.

- 2.3 Authorizations. NTMWD will obtain from TCEQ an authorization(s) to provide Reclaimed Water to User(s) pursuant to TCEQ rules and regulations in Texas Administrative Code Title 30, Chapter 210, as amended. User agrees to enter into this Reclaimed Water Use Agreement with NTMWD in compliance with Texas Administrative Code Title 30, Chapter 210, as amended.
- 2.4 User agrees to provide to NTMWD any required drawings, information or exhibits pertaining to their respective Reclaimed Water transmission and delivery system in accordance with Texas Administrative Code Title 30, Chapter 210. If any testing is required pertaining to the User's Facilities, it shall be the responsibility of the User to bear the cost of said testing.
- 2.5 Use of Water. The Reclaimed Water will be used only for the purposes outlined in the above-referenced Texas Administrative Code Title 30, Chapter 210 authorization and as authorized by TCEQ.

Section 3. QUANTITY AND UNIT MEASUREMENT

- 3.1 Measurements.
 - a. User shall pay for and NTMWD shall install, operate, and maintain the meter which shall record the Reclaimed Water usage at each of the NTMWD Point(s) of Delivery, which shall be the principal measurement point for water taken by User. User will own this meter.
 - b. NTMWD will read the meter at least monthly and keep accurate records of all measurements of Reclaimed Water required under this Agreement and report required readings to TCEQ. The measuring devices and such records shall be open to inspection by User during reasonable business hours. User shall have access to the metering equipment at all reasonable times, but the reading, calibration, and adjustment thereof shall be done only by employees or agents of NTMWD. User's agents or employees may observe the reading, calibration, and adjustment.

- c. NTMWD shall report to TCEQ on a monthly basis the volume of Reclaimed Water delivered to User pursuant to Texas Administrative Code Title 30, Section 210.36, as amended, and shall keep a copy of such report at NTMWD Administrative offices.
 - d. Should User have reason to believe that a meter is recording Reclaimed Water usage inaccurately, User may request in writing that NTMWD investigate the meter operations. If it is mutually agreed by NTMWD and User that the meter is malfunctioning, or should NTMWD discover that the meter is recording water usage inaccurately, NTMWD shall immediately notify User of same, and NTMWD shall replace the faulty meter or meters with an accurately functioning meter as soon as feasible, at the cost of User, and within at least twenty (20) working days of notification.
 - e. If, for any reason, a meter is out of service or out for repair so that the amount of Reclaimed Water delivered to User cannot be ascertained or computed from the reading thereof, the Reclaimed Water delivered, through the period such meter is out of service or out for repair, shall be estimated and agreed upon by the parties thereto upon the basis of the best data available. The amount of Reclaimed Water delivered during such period may be estimated (i) by correcting the error if the percentage of error is ascertainable by calibration tests or mathematical calculation, or (ii) by estimating the quantity of delivery by deliveries during the preceding periods under similar conditions when the meter was registering accurately.
- 3.2 Unit of Measurement. The unit of measurement for Reclaimed Water produced and delivered hereunder shall be 1,000 gallons of water, U.S. Standard Liquid Measure.
- 3.3 Quantity. NTMWD agrees to make available to User at the NTMWD Point(s) of Delivery, and User may take at the NTMWD Point(s) of Delivery, up to 1,200,000 gallons per day of Reclaimed Water produced by the Rowlett Creek WWTP. NTMWD will not contract with any other User for a quantity of water that would jeopardize the delivery of the above amount of water to User.

Section 4. QUALITY

- 4.1 General. The Reclaimed Water to be produced by NTMWD at the NTMWD Point(s) of Delivery shall be treated effluent in compliance with the quality standards for Type II Reclaimed Water uses, as identified in Texas Administrative Code Title 30, Chapter 210, as amended, and pursuant to the effluent limits identified in the TPDES permits associated

with the Rowlett Creek WWTP. The Reclaimed Water is not intended for human consumption or domestic purposes and is to be used only for those purposes identified in Texas Administrative Code Title 30, Chapter 210, as amended. User has satisfied itself that such Reclaimed Water will be suitable for its use; provided that if at any time the quality of Reclaimed Water delivered is dangerous to human health or otherwise not suitable for its intended use, then NTMWD may immediately terminate or suspend this Agreement and may refuse delivery of the Reclaimed Water, and User will not be liable for any period of non-acceptance. THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, WHICH EXTEND BEYOND THE DESCRIPTION CONTAINED IN THIS AGREEMENT RELATIVE TO THE QUALITY OF THE RECLAIMED WATER.

- 4.2 User shall be responsible for providing any additional facilities or treatment necessary to produce Type I Reclaimed Water, as identified in Texas Administrative Code Title 30, Chapter 210, as amended.
- 4.3 NTMWD will sample and analyze the Reclaimed Water prior to distribution to User to assure that the water quality is in accord with the standards for Type II Reclaimed Water uses and after additional User treatment facilities, if any, to determine if it is acceptable for Type I use, as identified in Texas Administrative Code Title 30, Chapter 210, as amended.
- 4.4 NTMWD shall report to TCEQ on a monthly basis the quality of reclaimed water delivered to a User pursuant to Texas Administrative Code Title 30, Section 210.36, as amended, and shall make available a copy of such report to User.

Section 5. PAYMENTS FOR RECLAIMED WATER SERVICE

- 5.1 Commencement of Service. NTMWD shall begin to produce and User shall begin to provide Reclaimed Water within thirty (30) days after the completion of any of the Facilities, with the exception that no Reclaimed Water will be delivered until after receipt of written authorization from TCEQ. When User begins receiving Reclaimed Water, the provisions of this Agreement shall be in full force and effect.
- 5.2 Charges for Service. As stated in Section 6.04(b) of the Trinity East Fork Regional Wastewater System Contract, effective October 1, 1975: "...each Member City shall have the first right to use all effluent produced from its Wastewater for reuse solely for its own municipal purposes (i.e. golf course irrigation, recreation, etc.), without any charge except for any additional cost to the District necessary to provide the effluent for such municipal use;..." Therefore, there is no monetary compensation.

Section 6. FAILURE TO PRODUCE RECLAIMED WATER

- 6.1 Non-Production. Following the completion of the Facilities and at any time during the term of this Agreement, if NTMWD is unable to produce and deliver Reclaimed Water under the terms of this Agreement due to circumstances beyond the NTMWD's control and without its fault, whether such occurrence or circumstance be an act of God or the common enemy or the result of war, riot, civil commotion, sovereign conduct, or the act or conduct of any person or persons not part or privy hereto, then NTMWD shall be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effects thereof and the NTMWD shall not be liable for the breach of this Agreement. NTMWD shall use reasonable and good faith efforts to correct any impediment preventing production of Reclaimed Water and shall give User advance notice, when possible and to the extent it is reasonable, of any inability to produce the Reclaimed Water needed so that User may seek alternative sources.
- 6.2 Repairs and Maintenance. NTMWD may temporarily suspend production or delivery of Reclaimed Water to User for the purpose of performing maintenance and repairs to Rowlett Creek Regional WWTP. NTMWD shall endeavor to provide User with verbal notice 24 hours prior to suspension of such service and an estimate of when service shall be reestablished.
- 6.3 Regulatory Action. NTMWD may temporarily suspend delivery of Reclaimed Water to User pursuant to the request, written order, or direction of any regulatory agency having jurisdiction over the use of Reclaimed Water or the treatment of wastewater at the Rowlett Creek Regional WWTP. NTMWD shall endeavor to provide User with verbal notice and in writing within twenty-four (24) hours prior to suspension of such service and an estimate of when service shall be reestablished.

Section 7. GENERAL PROVISIONS

- 7.1 Operations and Maintenance. User will continuously operate and maintain the Facilities in an efficient manner and in accordance with good business and engineering practices. Further, User will comply with the provisions outlined in Texas Administrative Code Title 30, Chapter 210, as amended. User and NTMWD will comply with the Operation and Maintenance Plan, attached hereto as Attachment B.

7.2 Conditions. It is expressly understood and agreed that any obligations on the part of NTMWD to produce Reclaimed Water for User are (a) conditioned upon NTMWD's ability to maintain all necessary permits, agreements, material, labor, and equipment, (b) conditioned upon the User's ability to maintain all necessary permits, agreements, material, labor, and equipment; (c) subject to all present and future valid laws, orders, rules, and regulations of the United States of America, the State of Texas, and any government or regulatory body having jurisdiction over NTMWD and any User, or their activities, and (d) subject to the right of User and NTMWD to terminate Reclaimed Water production, provision, or use under this Agreement when the use of such water is noncompliant with the provisions of TCEQ's rules for the Use of Reclaimed Water, located at Texas Administrative Code Title 30, Chapter 210, as amended.

7.3 Title. Title to and liability for all Reclaimed Water supplied hereunder shall be in NTMWD up to the NTMWD Point(s) of Delivery and, upon passing through the NTMWD Point(s) of Delivery, title to and liability for the Reclaimed Water shall pass to User.

7.4 Obligations of User

- a. By the execution of this Agreement, User acknowledges the receipt of a copy of TCEQ's rules for the Use of Reclaimed Water, located at Texas Administrative Code Title 30, Chapter 210, as amended, and any User with whom NTMWD contracts, must agree to comply with all requirements and responsibilities under such rules currently in effect and any subsequent changes thereto.
- b. User, as also Provider, shall be responsible to operate and maintain the Facilities, its lines, and any pumping or other facilities necessary for the transportation of the Reclaimed Water from the NTMWD Point(s) of Delivery to User's place of use at its sole risk and expense, including the obtaining of any necessary permits or easement therefore. Nothing in this Agreement shall be construed to authorize User to install any equipment or improvements on property owned by NTMWD without the express written consent of NTMWD and subject to such conditions as NTMWD may impose.

7.5 Liability for Damages and Responsibility for Treatment and Disposal of Wastewater.

Liability for damages arising from the reception, transportation, delivery, and disposal of all reclaimed water shall remain with NTMWD, and upon passing through meters installed at NTMWD Point of Delivery, liability for such damages shall pass to User. As between the District and User, each party agrees to indemnify and to save and hold the other party

harmless from any and all claims, demands, causes of action, damages, losses, costs, fines, and expenses, including reasonable attorney's fees, which may arise or be asserted by anyone at any time on account of the treatment, reception, transportation, delivery, and disposal while Wastewater is in the control of such responsible party, or on account of a prohibitive discharge by User. District has the responsibility as between the parties for the proper treatment, reception, transportation, treatment, and disposal of all Wastewater, but not for prohibitive discharges after Reclaimed Water is received by User at NTMWD Point of Delivery.

Section 8. TERMS OF AGREEMENT: RENEWAL; NOTICES;
STATE OR FEDERAL LAWS, RULES, ORDER, OR REGULATIONS

Term of Agreement. This Agreement shall be in force and effect from the date of execution hereon until July 1, 2020.

- 8.1 Option for Renewal. The parties hereby agree that User shall have the option to renew and extend this Agreement, which option shall be exercised in advance of the expiration date of this Agreement by User giving NTMWD written notice at least one hundred eighty (180) days prior to the expiration date or within thirty (30) days of receipt of written notice from NTMWD notifying User of its option rights whichever comes later. The terms of the renewal and extension shall be for one (1) additional ten (10) year term from said date of expiration of this Agreement and shall be on the same terms as this Agreement, unless otherwise agreed to by NTMWD and User.
- 8.2 Address and Notice. Unless otherwise provided in this Agreement, any notice, communication, request, reply, or advice (herein severally and collectively, for convenience called "Notice") herein provided or permitted to be given, made, or accepted by any party must be in writing and may be given or served in any reasonable manner necessary to reach each of the other parties. Notice sent by certified or registered mail, postage prepaid, return receipt requested, shall be deemed to have been received on the second mail delivery day following the day on which it was posted. Notice by any other method shall be effective when received. For the purpose of Notice, the addresses of the parties shall be, until changed as hereafter provided, as follows:

North Texas Municipal Water District	City of Plano
505 East Brown Street	1520 Avenue K
P.O. Box 2408	P.O. Box 860358
Wylie, Texas 75098	Plano, Texas 75086-0358

Any party may change the address for notice by giving notice of such change in accordance with the provisions of this section.

- 8.3 State and Federal Laws, Rules, Order, or Regulations. This Agreement is subject to all applicable Federal and State Laws and applicable permits, ordinances, rules, orders, and regulations of any local, State, or Federal Governmental Authority having or asserting jurisdiction, but nothing contained herein shall be construed as a waiver of any right to question or contest any such law, ordinance, order, rule, or regulation in any forum having jurisdiction

Section 9. ASSIGNMENT

- 9.1 General. This Agreement shall not be assignable by User in whole or in part without the written consent of NTMWD, which consent shall not be unreasonably withheld. Assignment will result in terms for monetary compensation for Reclaimed Water for the new User. NTMWD and User each binds itself and its successors and assigns to the other parties with respect to all covenants of this Agreement.

Section 10. GOVERNING LAW

- 10.1 General. The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties hereunder, shall be governed by the Laws of the State of Texas.

Section 11. REMEDIES UPON DEFAULT

- 11.1 Default. Notwithstanding anything herein to the contrary, no party shall be deemed to be in default hereunder until the passage of thirty (30) business days after receipt by such party of notice of default from another party. Upon the passage of thirty (30) working days without cure of the default, such party shall be deemed to have defaulted for purposes of this Agreement.
- 11.2 No Additional Waiver Implied. The failure of either party to insist in any one or more instances upon performance of any of the terms, covenants, or conditions of this Agreement shall not be construed as waiver or relinquishment of the future performance of any term, covenant, or condition by the other party and the obligation of such other party with respect to such future performance shall continue in full force and effect.
- 11.3 Remedies. The parties recognize that certain of their respective obligations, if not performed, may be adequately compensated by money damages while others could not be. Accordingly, the parties agree that in the event of any

failure to perform any covenants, conditions, or obligations of this Agreement on the part of any party, the aggrieved party shall:

- (a) to the extent, if any, permitted by law, have the remedy of specific performance of this Agreement, in addition to any other remedies otherwise available at law or in equity or under this Agreement; and
- (b) NTMWD or User may terminate this Agreement by providing written notice, after such party has given notice of a material default to the other party upon the expiration of the thirty (30) days permitted for curing such default and such default not having been cured.

Section 12. VENUE

12.1 General. It is specifically agreed by the parties to this Agreement, that Collin County, Texas is the place of performance of this Agreement; and in the event that any legal proceeding is brought to enforce this Agreement or any provisions hereof, the same shall be brought in Collin County, Texas.

Section 13. SEVERABILITY

13.1 General. The provisions of this Agreement are severable, and if any provision or part of this Agreement or the application thereof to any person or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part of this Agreement to other persons or circumstances shall not be affected thereby.

Section 14. TITLES

14.1 General. Titles and subtitled Articles contained herein are for convenience only and have no legal or other effect on the terms of this Agreement.

Section 15. FUTURE AGREEMENTS WITH OTHER USERS

15.1 General. NTMWD reserves the right to contract with other Users for the sale of Reclaimed Water up to the amount that would not jeopardize the delivery of Reclaimed Water up to the amount contracted with User in Section 3.3.

Section 16. PRIOR AGREEMENTS SUPERSEDED

16.1 General. This Agreement constitutes the sole and only Agreement of the Parties with respect to the delivery of Reclaimed Water and cancels and supersedes any prior understandings or oral or written Agreements between the Parties respecting the subject matter.

IN WITNESS WHEREOF, the Parties hereto acting under the proper authority have caused this Agreement to be duly executed in several counterparts, each of which shall constitute an original.

CITY OF PLANO, TEXAS

Date: _____

By: _____

Thomas H. Muehlenbeck
CITY MANAGER

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

By:

Charles McKissick
Board President, North Texas Municipal Water District

Witness:

Don Cates
Board Secretary, North Texas Municipal Water District

ATTEST:

Notary Public



Point of Delivery
Latitude 33 01 04
Longitude 97 38 59



Attachment A

ATTACHMENT B RECLAIMED WATER OPERATION & MAINTENANCE AGREEMENT

The operation and maintenance plan for the reclaimed water system is generally described below. The plan was created by Plano, as the provider and user of reclaimed water, and North Texas Municipal Water District (NTMWD), as the producer of reclaimed water. The plan addresses specific issues identified in the use of reclaimed water and the methods that will be employed to minimize potential problems. The plan may be updated with approval by the Texas Commission on Environmental Quality (TCEQ) to reflect any changes that occur within the system.

Responsibilities of North Texas Municipal Water District (NTMWD) (Producer)

1. The major responsibility of NTMWD is to provide on a 30-day average, effluent with the following permitted quality limits;
 - CBOD₅ 15 mg/L
 - Fecal Coliform (geometric mean) 200 CFU/100 ml
 - Fecal Coliform (grab sample) 800 CFU/100
2. NTMWD will collect and analyze samples for the above parameters a minimum of once per week as per 30 TAC Chapter 210.34 (1).
3. Results of the testing will be reported to Plano on a monthly basis and records kept at the NTMWD Administrative Building for a period of at least five years.
4. NTMWD will read the quantity of reclaimed water utilized on at least a monthly basis from the meter approved by NTMWD and provided by Plano and maintain these records for at least five years at the NTMWD Administrative Building. NTMWD will report to Plano the volume of reclaimed water delivered to the Plano on a monthly basis.

NTMWD will promptly discontinue delivery of Reclaimed Water upon knowledge of misuse of the Reclaimed Water pursuant to 30 TAC Chapter 210 or of exceeding the above limits. The NTMWD will aid Plano in preparing the report of such misuse to the Texas Commission on Environmental Quality (TCEQ).

Responsibilities of User (Pecan Hollow Municipal Golf Course)

1. Design and construction of all piping after its Point of Delivery in accordance with 30 TAC Chapter 210.25.
2. Design and construction of all hose bibs, faucets, and valves in accordance with 30 TAC Chapter 210.25.a.
3. Conformance of any receiving pond with 30 TAC Chapter 210.23.
4. All Facilities including valves, pumps, storage area, hose bibs, faucets, and other related appurtenances shall be maintained in a secure fashion to prevent unauthorized access to reclaimed water facilities. In particular, hose bibs will be

- located in locked, below-grade vaults that are clearly labeled as being of non-potable quality. Where locked, below-grade vaults cannot be used, hose bibs will be placed in service boxes that can only be operated by a special tool.
5. Posting and maintenance of signs at all storage areas, hose bibs, faucets, and other points of access to the Reclaimed Water to, in part, prevent a cross connection between reclaimed water distribution lines and potable water lines. Such signs will be posted and maintained in accordance with 30 TAC Chapter 210.25.b. Signs will also be posted around any lake or pond that receives Reclaimed Water reading “No Wading or Swimming.”
 6. Provide a meter at the User Point of Delivery, approved by and accessible to Plano personnel, if required by the City, that quantifies the water pumped to reasonable accuracy.
 7. Operate and maintain the pumps and control system so that any receiving lake or pond is not overfilled so as to discharge into the downstream watercourse, except for discharges directly resulting from rainfall events. All other discharges are unauthorized and, if such a discharge occurs that results in a discharge into or adjacent to waters of the state, it must be reported within twenty-four (24) hours to the TCEQ.
 8. Operate and maintain all pumping facilities piping and controls using routine maintenance schedules and preventative maintenance on all mechanical equipment as specified by the manufacturer.
 9. Pumps will be locked out of service until any defective equipment that might result in detriment to human health or the environment is repaired.
 10. Conduct adequate training of its personnel in the safe use of Reclaimed Water as well as in the legal requirements for record keeping and reporting. User will conduct a training and safety meeting for all of its personnel following approval of this Notification. All new employees will be provided this information during employee orientation
 11. Minimize the risk of inadvertent human exposure to Reclaimed Water.

Responsibilities of Plano (Provider)

1. Obtain all easements needed for construction of Facilities from the NTMWD Points of Delivery to the User Point of Delivery.
2. Submit construction plans and permit application to TCEQ for review and approval in accordance with 30 TAC Chapter 210.25.h
3. Assure construction of reclaimed water distribution lines or systems are in accordance with 30 TAC Chapter 210.25.
4. Transfer reclaimed water of at least the minimum quality required by the authorization at the User Point of Delivery for the specified use.
5. Notify the Executive Director of the Texas Commission on Environmental Quality in writing within five (5) days of obtaining knowledge of Reclaimed Water use not authorized by the Executive Director’s Reclaimed Water use approval.

6. Insure by contract or ordinance and periodic inspection that the site has proper signs in accordance with 30 TAC Chapter 210.25.h. All storage areas, hose bibs, faucets, and other points of access to the Reclaimed Water will be labeled.
7. Operate and maintain all pumping facilities piping and controls using routine maintenance schedules and preventative maintenance on all mechanical equipment as specified by the manufacturer.
8. Lock pumps out of service until any defective equipment that might result in detriment to human health or the environment is repaired.
9. Provide Reclaimed Water to User on a demand only basis in order that the water is not provided during times it cannot be beneficially used.
10. Conduct adequate training of its personnel involved in the safe use of Reclaimed Water as well as in the legal requirements for record keeping and reporting. Plano will conduct a training and safety meeting for all applicable personnel following approval of this Notification. All new employees will be provided this information during employee orientation
11. Promptly discontinue delivery of Reclaimed Water upon knowledge of misuse of the Reclaimed Water pursuant to 30 TAC Chapter 210. A written submission of such information shall also be provide to the TCEQ Regional Office and to the Austin Office, Water Enforcement Section within five working days of becoming aware of the misuse. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment; the period of noncompliance, including the exact dates and times; if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance and to mitigate its adverse effects.
12. Report to TCEQ on a monthly basis 1) the volume of reclaimed water delivered to a user and 2) the quality of reclaimed water delivered to a user pursuant to 30 TAC 210.36.
13. Records to be maintained by Plano for at least five years include:
 - A. Copies of notification made to the TCEQ concerning reclaimed water projects.
 - B. Copies of contracts made with each reclaimed water user.
 - C. Records of volume of reclaimed water delivered to each reclaimed water user per delivery
 - D. Reclaimed water quality analyses
 - E. Copies of reports sent to TCEQ on a monthly basis.



**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:		7/26/10		
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, nominating Denbury Onshore , LLC, to the Office of the Governor, Economic Development and Tourism through the Texas 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.				
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				
Request for Enterprise Project Nomination for job retention benefits.				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Resolution				
Letter of request				



Denbury Resources Inc.

Corporate Headquarters

P.O. Box 251289
Plano, Texas 75025-1289
5100 Tennyson Pkwy., Suite 3000
Plano, Texas 75024
Main Telephone: (972) 673-2000
Fax: (972) 673-2299

Certified Mail Receipt # 7010 0290 0003 2074 9495

June 16, 2010

Mr. Phil Dyer
Mayor
City of Plano
1520 Avenue K
P.O. Box 860358
Plano, Texas 75086-0358

**RE: Request for Enterprise Project Nomination for Job Retention Benefits
Denbury Onshore, LLC – Plano, Texas Headquarters**

Dear Mayor Dyer,

We are pleased to present the relevant information required by Chapter 2303 of the Texas Government Code (“Texas Enterprise Zone Act”) for your consideration and nomination of Denbury Onshore, LLC’s (“Denbury” or “Company” or “our” or “we” or “us”) new headquarters facility in the City of Plano as a Designated Enterprise Project (“Project”) for job retention and creation benefits. Denbury Onshore, LLC is a Delaware limited liability company, and is a subsidiary of Denbury Resources Inc., which is a publicly traded company on the New York Stock Exchange under the symbol DNR.

Denbury was originally founded in 1990 as an “acquire and exploit” oil and natural gas company that also included a sizeable oil and gas exploration effort. In 1999, our management team concluded that CO₂ enhanced oil recovery (“EOR”) would be our primary focus, our core business, and our niche in the oil and gas industry. As of March 10, 2010, we have 14 fields currently being flooded with CO₂; nearly 835 miles of pipelines dedicated to CO₂ usage in the Gulf Coast region; 26,307 barrels of oil produced per day (“Bbbls/d”) from our CO₂ EOR operations; 6.3 Trillion Cubic Feet (“Tcf”) of proven CO₂ reserves (with several more Tcf of potential); and CO₂ purchase contracts with eight possible carbon gasification plants and letters of intent and ongoing discussions with several more plants. We are currently the largest oil and natural gas operator in Mississippi and Montana, and we own the largest reserves of CO₂ used for tertiary oil recovery east of the Mississippi River. We also hold significant operating acreage in the Rockies and Gulf Coast. As of May 7, 2010, and through 11 years of rapid growth, Denbury now employs over 1,253 full-time employees in the United States with a very low turnover rate.

In March 2010, Denbury acquired Encore Acquisition Company (“Encore”), which nearly doubled our total CO₂ EOR upside, and continues to provide potential growth and expansion opportunities. With the Encore acquisition, we have more than one billion barrels of potential recoverable oil in our inventory, which we believe will provide us almost a decade of production growth. We believe that our CO₂ EOR experience, coupled with our willingness to make significant commitments of infrastructure capital investments, gives us a competitive advantage in the oil and gas industry.

Denbury is currently headquartered at 5100 Tennyson Parkway, Suite 1200 in Plano, Texas, where we employ 358 full-time employees. As of June 1, 2010, Encore had 178 full-time employees. We are currently transitioning full-time employees from Encore to our headquarters in Plano. As part of this transition, Denbury will soon expand into a larger facility located at 5320 Legacy Drive, Suite 100 in Plano, Texas, with a lease term of twelve years. The expansion Project will provide Denbury with 323,935 square feet of new office space. After the Encore transition is

PETROLEUM EXPLORATION

Subsidiaries
Denbury Operating Company
Denbury Onshore, LLC
Denbury Marine, L.L.C.

complete, and consistent with our current Chapter 380 agreement with the Plano City Council, the number of qualified full-time employees that will be retained in the City of Plano is anticipated to exceed 400 by 12/2010. By 12/2011, the number of full-time positions is expected to meet or exceed a milestone of 525 full-time employees. The Texas Enterprise Zone Program requires a Designated Enterprise Project to retain and/or create at least 500 full-time employees during the five year designation period. As previously agreed under the Chapter 380 agreement, Denbury will exceed the 500 full-time employees required by the Texas Enterprise Zone Program, which would allow for the maximum state benefit. In addition, we will continue creating new full-time positions that will exceed this requirement in the City of Plano as our Company grows and expands into new markets.

The Project will involve an estimated capital investment in the City of Plano of over **\$33,500,000.00**. This investment will be subject to Plano's local sales and use tax at the rate of 1.0%, thus **providing the City of Plano with \$335,000.00** of fiduciary funds that will be distributed by the Texas Comptroller of Public Accounts. Capital expenditures exceeding \$20,000,000.00 will not provide additional state benefits for Denbury under the Texas Enterprise Zone Act; however, the City of Plano will benefit from the additional capital investment as noted above. Our capital investment estimate is outlined below for your reference:

<u>TAXABLE CAPITAL INVESTMENTS</u>	<u>ESTIMATE</u>
<u>Remodeling and Relocation Costs</u>	<u>20,000,000.00</u>
<u>Architectural Fees</u>	<u>1,500,000.00</u>
<u>A/V Equipment, Security Equipment, Computers, Hardware, Software & Licenses, and Telecommunications Equipment</u>	<u>3,000,000.00</u>
<u>Additional Furniture, Fixtures and Equipment</u>	<u>2,500,000.00</u>
<u>Electricity Usage (Estimated using 2009 average electricity use per square foot (\$3.08) at current location * 323,935 square feet at new location)</u>	<u>5,000,000.00</u>
<u>Real Property Services: Building Maintenance, Janitorial Services, Grounds Cleaning and Maintenance, Landscaping, and Security. (Conservative estimate of \$300,000.00 per year).</u>	<u>1,500,000.00</u>
TOTAL ESTIMATED CAPITAL INVESTMENT:	33,500,000.00

The level of capital investment described above presents Denbury with the unique opportunity to seek an Enterprise Project Designation from the State of Texas for the retention and creation of full-time jobs in Plano. Denbury expects to expand its existing level of employment, and to further retain 500 full-time jobs for benefit under the Enterprise Zone Program. Pursuant to Texas Government Code § 2303.401, the jobs will meet the definition of a "new permanent job" or "retained job" (1) because they will be created by a qualified business as required by Section 2303.402 or (2) because they currently exist, and they will provide and will continue to provide at least 1,820 hours of employment annually, and they will be employment positions for the longer of the duration of the Project's designation period or three years after the expiration date of the claim period for receipt of state benefit.

In order to pursue an Enterprise Project designation from the State of Texas for job retention benefits, Denbury respectfully requests to be nominated by the City of Plano as a Designated Enterprise Project for the September 1, 2010 Texas Enterprise Zone application round. The benefit of the Enterprise Project Designation to Denbury would be a refund of the state portion (6.25%) of sales and use taxes paid over the course of the five-year designation period, up to **\$1,250,000.00**. Since

Mayor Phil Dyer
June 16, 2010
Page 3 of 3

the refunds are for the *state* sales and use tax portion only, there is zero effect on the local sales and use tax that will be received by the City of Plano.

Section 2303.406(a)(4)(D) of the Texas Government Code allows a project or activity of a qualified business to be designated as an Enterprise Project and receive job retention benefits if the business has clearly demonstrated that "the business is able to employ individuals in accordance with Section 2303.402." Section 2303.402 of the Texas Government Code states that an Enterprise Project located outside of an Enterprise Zone must hire 35.0% economically disadvantaged persons or Enterprise Zone residents for its *new or replacement personnel* over the course of its designation period to receive the full benefit under this program. Denbury qualifies for job retention benefits under this statutory provision because Denbury is an Equal Opportunity Employer, and Denbury is capable of hiring full-time employees that meet the requirements of Texas Government Code § 2303.402.

The new Plano headquarters facility is qualified under Texas Government Code § 2303.404 to receive the Enterprise Zone Designation, because (1) it involves "an expansion, renovation, or new construction"; (2) it will be completed within a predetermined period of time not to exceed 5 years; and (3) the company utilizes a cost center based accounting system that allows for tracking of income and expenses related to its Plano operations.

Denbury supports the Plano community through various contributions and fund raising support for local activities such as the North Texas Food Bank, the Salvation Army's Angel Tree Program, and employee blood drives through Carter BloodCare. Denbury also supports surrounding communities through individual and Company contributions towards The Leukemia & Lymphoma Society's North Texas Chapter, The Dallas Scottish Rite Hospital, and The Society for the Prevention of Cruelty to Animals. Denbury is proud to be a part of the Plano community and will continue to be an active participant, contributor, and corporate citizen.

Denbury is excited about our Plano expansion, and we appreciate your consideration for nomination as a Designated Enterprise Project. We look forward to working with the City of Plano and the Texas Enterprise Zone Program in the coming years.

Sincerely,



Phil Rykhoek
Chief Executive Officer
Denbury Resources Inc.

cc: Ms. Elaine Hamm, Plano Economic Development Board
Mr. John Gilliam, City of Plano
Mr. Alan Rhoades, Denbury Resources Inc.
Mr. Jim Howard, Denbury Resources Inc.
Mr. Tony Burgess, Denbury Resources Inc.

A Resolution of the City Council of the City of Plano, Texas, nominating Denbury Onshore , LLC, to the Office of the Governor, Economic Development and Tourism through the Texas 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.

WHEREAS, on October 27, 2008, the City of Plano ("City") previously passed Ordinance No. 2008-10-22 electing to participate in the Texas Enterprise Zone Program, and the local incentives offered under this resolution are the same on this date as were outlined in Ordinance No. 2008-10-22;

WHEREAS, the Office of the Governor, Economic Development and Tourism ("OOGEDT") through the Texas Economic Development Bank ("Bank") will consider **Denbury Onshore, LLC** as an Enterprise Project pursuant to a nomination and an application made by the City;

WHEREAS, the City desires to pursue the creation of the proper economic and social environment in order to induce the investment of private resources in productive business enterprises located in the City and to provide employment to residents of enterprise zones and to other economically disadvantaged individuals;

WHEREAS, pursuant to Chapter 2303, Subchapter F of the Texas Enterprise Zone Act, Texas Government Code (the "Act"), **Denbury Onshore, LLC** has applied to the City for designation as an Enterprise Project;

WHEREAS, the City finds that, based upon representations of **Denbury Onshore, LLC**, that **Denbury Onshore, LLC** is a "qualified business" under Section 2303.402 of the Act since it will be engaged in the active conduct of a trade or business at a qualified business site within the governing body's jurisdiction located outside of an enterprise zone and at least thirty-five percent (35.0%) of the business' new employees will be residents of an enterprise zone or economically disadvantaged individuals; and

WHEREAS, the City finds that **Denbury Onshore, LLC** further meets the criteria for designation as an Enterprise Project under Chapter 2303, Subchapter F of the Act on the following grounds:

- (1) There has been and will continue to be a high level of cooperation between public, private, and neighborhood entities within the area; and
- (2) The designation of **Denbury Onshore, LLC** as an Enterprise Project will contribute significantly to the achievement of the plans of the City for development and revitalization of the area.

WHEREAS, the City finds that **Denbury Onshore, LLC** meets the criteria for tax relief and other incentives adopted by the City and nominates **Denbury Onshore, LLC** for enterprise project status on the grounds that it will be located at the qualified business site, will create a higher level of employment, economic activity and stability; and

WHEREAS, the City finds that it is in the best interest of the City to nominate **Denbury Onshore, LLC** as an Enterprise Project pursuant to the Act;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS that the findings of the City and its actions approving this resolution taken at the council meeting are hereby approved and adopted.

Section I: The City finds that **Denbury Onshore, LLC** is a "qualified business", as defined in Section 2303.402 of the Act, and meets the criteria for designation as an Enterprise Project, as set forth in Section 2303, Subchapter F of the Act.

Section II: The City nominates **Denbury Onshore, LLC** as an Enterprise Project.

Section III: The Enterprise Project shall take effect on September 1, 2010 and terminate on September 1, 2015.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS this 26th day of July, 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:		7/26/10		
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 Interlocal Agreement by and between the City of Plano, Texas and Texas Department of Transportation ("TxDOT") for participation in the Scofflaw Program in accordance with Section 702.003 of the Texas Transportation Code for the collection of outstanding warrant fees; 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:	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				
Request for an Interlocal Agreement between the City of Plano and Texas Department of Transportation for participation in the Scofflaw Program.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Resolution Agreement				

A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an Interlocal Agreement by and between the City of Plano, Texas and Texas Department of Transportation (“TxDOT”) for participation in the Scofflaw Program in accordance with Section 702.003 of the Texas Transportation Code for the collection of outstanding warrant fees; authorizing its execution by the City Manager, or his 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 governmental functions and services under the terms thereof; and

WHEREAS, the City Council has been presented a proposed Interlocal Cooperation Agreement by and between the City of Plano, Texas and TxDOT for participating in the Scofflaw Program, in accordance with Section 702.003 of the Texas Transportation Code (hereinafter “Agreement”), a copy of which is attached hereto as Exhibit “A” and incorporated herein by reference; and

WHEREAS, Transportation Code Section 702.003 allows a County Tax Assessor-Collector or the Texas Department of Motor Vehicles, upon receipt of information from a municipality, to refuse to register a motor vehicle if the owner of the vehicle has an outstanding warrant from that municipality for failure to appear or failure to pay a fine on a complaint that involves the violation of a traffic law; 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 from and after its passage.

DULY PASSED AND APPROVED this the 26th day of July, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY



Texas Department of Transportation

VEHICLE TITLES AND REGISTRATION DIVISION • AUSTIN, TEXAS 78779-0001 • (512) 465-7611

Section 702.003 of the Texas Transportation Code provides that a county tax assessor-collector or the Texas Department of Transportation (department) may refuse to register a motor vehicle, if the department receives under a city scofflaw contract information from a municipality that the owner of the vehicle has an outstanding warrant from that municipality for failure to appear or failure to pay a fine on a complaint that involves the violation of a traffic law.

Section 707.017 of the Texas Transportation Code provides that a county tax assessor-collector or the Texas Department of Transportation may refuse to register a motor vehicle alleged to have been involved in a violation, if the owner of the vehicle is delinquent in the payment of a civil penalty imposed under this chapter.

A city may contract with the Texas Department of Transportation (TxDOT) to "flag" motor vehicle records of such vehicles. Although not a contractual requirement, TxDOT recommends that a city seek an agreement of cooperation with the county or counties in which they are located to confirm that they will agree to deny vehicle registration on their behalf.

In order to place or remove "flags" from motor vehicle records, a city must submit their input files to TxDOT on CD-ROMs or as an e-mail attachment. The input data must be formatted to TxDOT specifications as indicated in "City Scofflaw Input File Requirements", Attachment G of the contract. The cost to the city will be \$23.00 per computer run (file submission) plus \$.12 (twelve cents) for each transaction in the file. Payment must be remitted either at the time each file is submitted or, as an alternative, the city shall establish a non-interest bearing escrow account (see Attachment B, "Budget").

The attached contract outlines the conditions under which TxDOT will place and remove "flags" on motor vehicle records as provided for by Section 702.003 and Section 707.017 of the Transportation Code. The contract must be completed in full and signed by an authorized city official in the space provided. The contract constitutes the sole and only agreement between TxDOT and a participating municipality for the purpose of placing and removing "flags" on motor vehicle records.

Upon completion of the properly executed and unmodified contract, please return to:

Texas Department of Transportation
Vehicle Titles and Registration Division
Attention: Technology Support Branch
4000 Jackson Avenue
Austin, Texas 78731-6007

If you have any questions of a technical nature regarding the data processing or regarding the stipulations of the contract, please call the Technology Support Branch at (512) 467-5983 or (512) 465-7950.

Sincerely,

Rebecca Davio, Ph.D., Director
Vehicle Titles and Registration Division

THE STATE OF TEXAS §

THE COUNTY OF TRAVIS §

INTERLOCAL AGREEMENT

THIS CONTRACT is entered into by the Contracting Parties under Government Code, Chapter 791.

I. CONTRACTING PARTIES:

The Texas Department of Transportation (TxDOT)
_____ (Local Government)

II. PURPOSE: Scofflaw Services contract for marking Texas Motor Vehicle Registration Records.

III. STATEMENT OF SERVICES TO BE PERFORMED: TxDOT will undertake and carry out services described in **Attachment A**, Scope of Services.

IV. CONTRACT PAYMENT: Contract payment shall conform to the provisions of **Attachment B**, Budget.

V. TERM OF CONTRACT: This contract begins when fully executed by both parties and terminates on _____ or when otherwise terminated as provided in **Attachment C**, Article 5 of this Agreement.

VI. LEGAL AUTHORITY:

THE PARTIES certify that the services provided under this contract are services that are properly within the legal authority of the Contracting Parties.

TxDOT further certifies that it has the authority to perform the services by authority granted in Section 702.003 and in Section 707.017 of the Texas Transportation Code.

The governing body, by resolution or ordinance, dated _____, has authorized the Local Government to obtain the services described in **Attachment A**.

This contract incorporates the provisions of **Attachment A**, Scope of Services, **Attachment B**, Budget, **Attachment C**, General Terms and Conditions, **Attachment D**, Resolution or Ordinance, **Attachment E**, Contact Information, **Attachment F**, Account Information and **Attachment G**, City Scofflaw Input File Requirements.

_____ (Name of Local Government)

By _____ Date _____
AUTHORIZED SIGNATURE

TYPED OR PRINTED NAME AND TITLE

Title _____

FOR THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By _____ Date _____
Rebecca Davio, Ph.D.
Director, Vehicle Titles and Registration Division
Texas Department of Transportation

ATTACHMENT A

Scope of Services

TxDOT will:

1. On initial probes (inquiries) of data submissions received from the local government, generate an output file containing matching license plates. If no vehicle record is found, such factual information will be indicated on the output file together with the input data. Input and output files will be returned to the Local Government after completion of the computer run.
2. Place "flags" on vehicle records based on data submissions received from Local Government containing "flag" request codes.

A flagged record will cause:

- A. A "scofflaw" remark to be displayed on inquiry devices and point-of-sale workstations as part of the vehicle record when an inquiry is made on a "flagged" record.
 - B. The printing of registration renewal notices with a "scofflaw" remark ("City Scofflaw: _____ (City Name)") so the Local Government may deny registration. Explanation on the back of the registration renewal notice form directs the registrant to the county tax office, or the municipal court in the indicated city.
3. Remove "flags" from vehicle records based on data submissions received from Local Government containing "clear" request codes.

Local Government shall:

1. Provide data submissions to TxDOT via CD-ROMs or e-mail attachments in accordance with TxDOT specifications (see Attachment G) for computer run of initial probes (inquiry), flags (marking) of vehicle records and clears (removal) of flags.
2. Label CD-ROMs externally with the type of run to be made ("probe", "flag" and/or "clear") and the number of logical records. Note: Files containing probes must be exclusively probes. Files containing flags or clears can be exclusively flags or clears, or a combination of flags and clears.
3. Submit an application to establish the method of payment (see Attachment F), and establish account prior to submitting inquiries.

ATTACHMENT B

Budget

The Local Government shall pay to TxDOT the amount of \$23.00 per computer run (file submission) plus \$.12 (twelve cents) for each transaction (“probe”, “flag”, or “clear”) submitted to TxDOT.

Payments shall be made to the following address:

Texas Department of Transportation
Vehicle Titles and Registration Division
PO Box 5020
Austin, TX 78763-5020

- A. If the Local Government chooses to submit their input file via CD-ROM, the attached “Account Information” form must be completed, indicating that the Local Government wishes to establish a “Pay Upon Request” Account. The applicable payment shall be made each time a request to probe (search/inquiry), place or remove “flags” from motor vehicle records is submitted to TxDOT.
- B. As an alternative, if the Local Government chooses to send their input file as an e-mail attachment, the “Account Information” form must be completed, indicating that the Local Government wishes to establish a non-interest bearing escrow account (“Prepaid Account”) with TxDOT. Upon agreement between the Local Government and TxDOT and payment of applicable fees, as described below, TxDOT will establish an account in the name of the Local Government. Charges will be deducted from the escrow account until the balance of that account reaches the minimum required balance for the Local Government, as determined by TxDOT and provided herein.

A deposit of at least \$500.00 must be maintained in a non-interest bearing escrow account. This initial deposit is to cover estimated service use. The escrow account must be established with TxDOT prior to submission of probes (inquiries), or placing or removing “flags” from motor vehicle records for the Local Government. Payment of the deposit shall be made by check or warrant, payable to the “Texas Department of Transportation” and is due upon execution of this contract. The \$500.00 minimum balance to be maintained in the escrow account may increase depending on established monthly usage by the Local Government. The Local Government may deposit additional funds into the escrow account in excess of the stated minimum balance. When it becomes necessary to increase the Local Government’s escrow account minimum balance, as determined by TxDOT, the Local Government agrees to pay the sum in increments of \$500.00. This additional funding is payable within fifteen (15) days from receipt of notification from TxDOT.

TxDOT will provide a statement to the Local Government which indicates the remaining balance in the Local Government’s escrow account. A statement will be provided by TxDOT each time a probe or a request to place or remove “flags” from motor vehicle records is submitted.

If the balance in the non-interest bearing escrow account falls below the \$500.00 minimum balance, TxDOT will suspend processing probes, or placing or removing “flags” from motor vehicle records for the Local Government until such time as a deposit is made by the Local Government, in an amount sufficient to increase the balance in the escrow account to the \$500.00 minimum balance.

ATTACHMENT C

General Terms and Conditions

Article 1. Amendments

This contract may only be amended by written agreement executed by both parties before the contract is terminated.

Article 2. Conflicts Between Agreements

If the terms of this contract conflict with the terms of any other contract between the parties, the most recent contract shall prevail.

Article 3. Disputes

TxDOT shall be responsible for the settlement of all contractual and administrative issues.

Article 4. Ownership of Equipment

Except to the extent that a specific provision of this contract states to the contrary, all equipment purchased by TxDOT under this contract shall be owned by TxDOT.

Article 5. Termination

This contract may be terminated by mutual written agreement, or 30 days after either party gives notice to the other party, whichever occurs first.

Article 6. Gratuities

Any person who is doing business with or who reasonably speaking may do business with TxDOT under this contract may not make any offer of benefits, gifts, or favors to employees of TxDOT. The only exceptions allowed are ordinary business lunches and items that have received the advanced written approval of the Executive Director of the Texas Department of Transportation.

Article 7. Responsibilities of the Parties

Each party acknowledges that it is not an agent, servant, or employee of the other party. Each party is responsible for its own acts and deeds and for those of its agents, servants, or employees.

Article 8. Compliance with Laws

The parties shall comply with all federal, state, and local laws, statutes, ordinances, rules, and regulations and with the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this agreement.

Article 9. State Auditor's Provision

The state auditor may conduct an audit or investigation of any entity receiving funds from TxDOT directly under the contract or indirectly through a subcontract under the contract. Acceptance of funds directly under the contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

Article 10. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

ATTACHMENT D

Resolution or Ordinance

On the _____ day of _____, 20 _____, the _____ City Council passed Resolution No. _____, hereinafter identified by reference, authorizing the City's participation in the Program.

ATTACHMENT E

Contact Information

Technical assistance regarding probes, placing and removing of “flags” from motor vehicle records or information regarding payments for your account may be obtained by contacting the Vehicle Titles and Registration Division, Technology Support Branch, at (512) 467-5983 or (512) 465-7950 (Monday through Friday 8:00 AM - 5:00 PM).

ATTACHMENT F

ACCOUNT INFORMATION

VEHICLE TITLES AND REGISTRATION DIVISION 4000 JACKSON AVENUE, AUSTIN, TEXAS 78731-6007 PLEASE PRINT OR TYPE		Contract Number <hr/> For Department Use Only
Type of Account Requested: _____ "Prepaid" Account _____ "Pay Upon Request" Account		
DATE:	ATTN: <i>(Name and Telephone Number of Person Responsible For Account)</i>	
ACCOUNT NAME:		
BILLING ADDRESS:		
ATTENTION: <i>(Name and Mailing Address of the Person Responsible for Sending and Receiving Files.)</i>		
MAILING ADDRESS:		
E-MAIL ADDRESS: <i>(For Output File Returns By E-mail)</i>		
BUSINESS TELEPHONE NUMBER:	BUSINESS FAX NUMBER:	
<i>For Department Use Only</i>		
Escrow Amount	_____	
Date Agreement Signed	_____	
<u>Account Terminated/Canceled</u>		Account Number
Non-Payment	User Request	
_____	_____	_____

ATTACHMENT G

CITY SCOFFLAW INPUT FILE REQUIREMENTS

1. There are three (3) processes available within the RTS CITY SCOFFLAW processing program. The available processes are as follows:
 - A. 'P' – PROBE (inquiry)
 - B. 'F' – FLAG (set CITY SCOFFLAW data)
 - C. 'C' - CLEAR (lift CITY SCOFFLAW data)
2. The following input file format is required to process any of the three (3) options available with the RTS CITY SCOFFLAW process:

INPUT:			
REG-YR	4 bytes	Position 1-4	/*License Registration Year
PLTNO	7 bytes	Position 5-11	/*License Plate Number
DOCNO	17 bytes	Position 12-28	/*Document Number
FILLER	51 bytes	Position 29-79	/*City Optional Data (Data is returned on output file)
CODE	1 byte	Position 80	/*P=Probe (inquiry) /*F=Flag (set SCOFFLAW) /*C=Clear (lift SCOFFLAW)
TOTAL	80 bytes		

NOTE: A 'P'robe request requires REG-YR (Registration Year), PLTNO (License Plate Number) and CODE. All other information is optional.

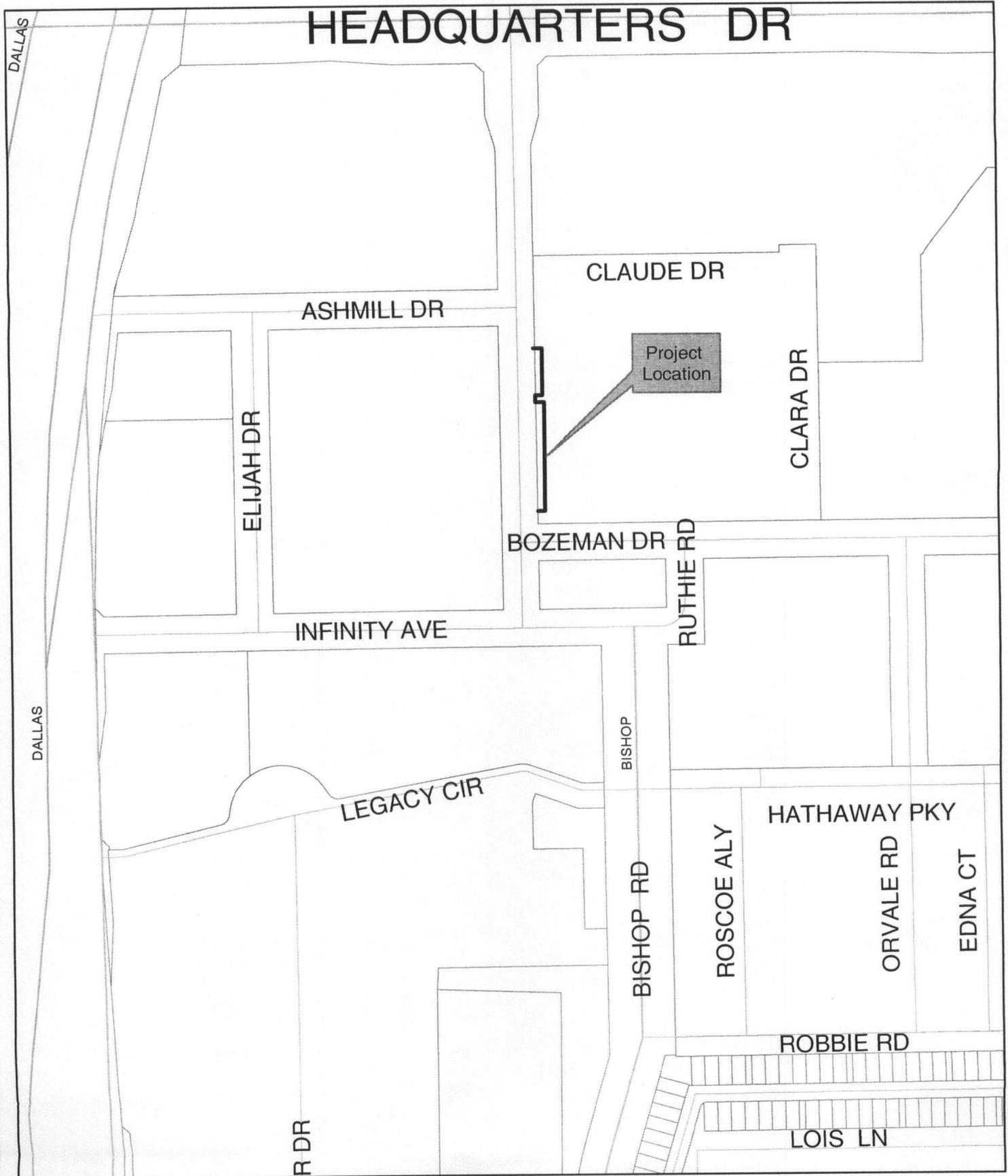
Both 'F'lag or 'C'lear requests require DOCNO (Document Number) and CODE. All other information is optional.



**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:		July 26, 2010			
Department:		Public Works & Engineering			
Department Head:		Alan L. Upchurch			
Agenda Coordinator (include phone #):		Irene Pegues (7198)		Project No. 5537-8	
CAPTION					
A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an Easement for Encroachments by and between Legacy North PT MFA III, L.P. and the City of Plano; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.					
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	5,000	0	5,000
BALANCE		0	5,000	0	5,000
FUND(S): STREET IMPROVEMENT CIP					
COMMENTS: This item allows the City to grant an easement for encroachments for Legacy North PT MFA III, L.P. for encroachments into the right of way of Bishop Road. If this request is approved, Legacy North PT MFA III, L.P. will pay \$5,000 for the easement.					
STRATEGIC PLAN GOAL: Easements for encroachments into the right of way relate to the City's Goal of Financially Strong City with Service Excellence.					
SUMMARY OF ITEM					
The developer of the development at the northeast corner of Bishop Road and Bozeman Drive, in Legacy Town Center, has discovered that a portion of the building encroaches into the right of way of Bishop Road. One encroachment measures 0.34 feet by 2.20 feet and the other is 0.27 feet by 2.20 feet. They are requesting that the City grant an Easement for Encroachments. They are paying \$5,000 for the easement. Staff recommends approval.					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
Location Map			N/A		

Easement for Encroachments



Location Map

A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an Easement for Encroachments by and between Legacy North PT MFA III, L.P. and the City of Plano; 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 Easement for Encroachments between Legacy North PT MF III, L.P., and the City of Plano, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and,

WHEREAS, upon full review and consideration of the Agreement, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager or his authorized 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 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 26th day of July, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

EASEMENT FOR ENCROACHMENTS

THIS EASEMENT FOR ENCROACHMENTS ("Agreement") is entered into this _____ day of July, 2010, by and between the **CITY OF PLANO, TEXAS** (the "City") and **LEGACY NORTH PT MFA III, L.P.**, a Delaware limited partnership (the "Property Owner"), and is as follows:

WHEREAS, Property Owner is the owner of the real property (the "Property") described on Exhibit "A" attached hereto and incorporated herein by reference.

WHEREAS, certain improvements constructed on the Property encroach into public rights of way which are adjacent to the Property, which Encroachments (herein so called) are more particularly described on Exhibit "B" attached hereto and incorporated herein by reference.

WHEREAS, the governing body of the City has expressed their consent and approval for the Encroachments, and has agreed to grant an easement for the Encroachments, under the terms and conditions set forth below, which terms and conditions the Property Owner hereby agrees to accept.

NOW, THEREFORE, in consideration of the promises and covenants of the Property Owner as set forth below, the City hereby consents and agrees to allow the Encroachments and hereby grants to Property Owner an easement to permit continuation of the Encroachments, subject to the following requirements and conditions which shall be binding upon the Property Owner, and which shall run with the Property such that it will also be binding upon any future owners of the Property, to wit:

1. This consent for such encroachment and easement is strictly limited to the existing Encroachments, and does not extend to any other future structures or encroachments, and does not confer permission to enlarge or expand the Encroachments in the future. The granting of this consent and easement is given on a one-time-only basis and shall not constitute any precedent or entitlement to make any other future encroachments of a like kind or to any greater or lesser extent or degree.

2. Property Owner agrees to pay the City the amount of five thousand dollars (\$5,000.00) as good and valuable consideration for such encroachment and easement.

3. The City shall not be liable to the Property Owner or its successors in interest for any damage to or destruction of such structures, or to any contents thereof, or to any restriction in the usefulness of such structure, by virtue of any lawful activities of the City within or as to such easement. The Property Owner and its successors in interest assume any and all risks associated therewith.

4. In the event of the removal or destruction (whether partial or complete) of Encroachments by any cause whatsoever, this Agreement shall not confer any right or privilege to the Property Owner or to its successors in interest to construct or reconstruct this or another structure in the same or another encroaching location. Any such construction or reconstruction

shall require the separate permission and agreement of the governing body of the City, which such permission and agreement may be denied or withheld for any reason whatsoever.

5. The covenants, conditions and agreements contained in this Agreement shall run with the land and be binding upon and benefit the Property Owner and all future owners of the Property.

6. This Agreement shall expire and be null and void if not recorded in the Land Records of Collin County, Texas within thirty (30) days of its full execution.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above shown.

CITY:

CITY OF PLANO, TEXAS

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

APPROVED AS TO FORM:

Diane C. Wetherbee, City Attorney

THE STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the ____ day of July, 2010, by Thomas H. Muehlenbeck, City Manager of CITY OF PLANO, TEXAS, a Texas municipal corporation, on behalf of said corporation.

My Commission Expires:

Notary Public, State of Texas
Printed Name: _____

PROPERTY OWNER:

LEGACY NORTH PT MFA III, L.P.,
a Delaware limited partnership

By: Columbus LN III GP, LLC,
a Texas limited liability company

By: _____

Name: Robert H. Shaw

Title: President

THE STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the _____ day of July, 2010, by Robert L. Shaw, President of Columbus LN III GP, LLC, a Texas limited liability company, on behalf of said limited liability company acting in its capacity as the general partner of Legacy North PT MFA III, L.P., a Delaware limited partnership.

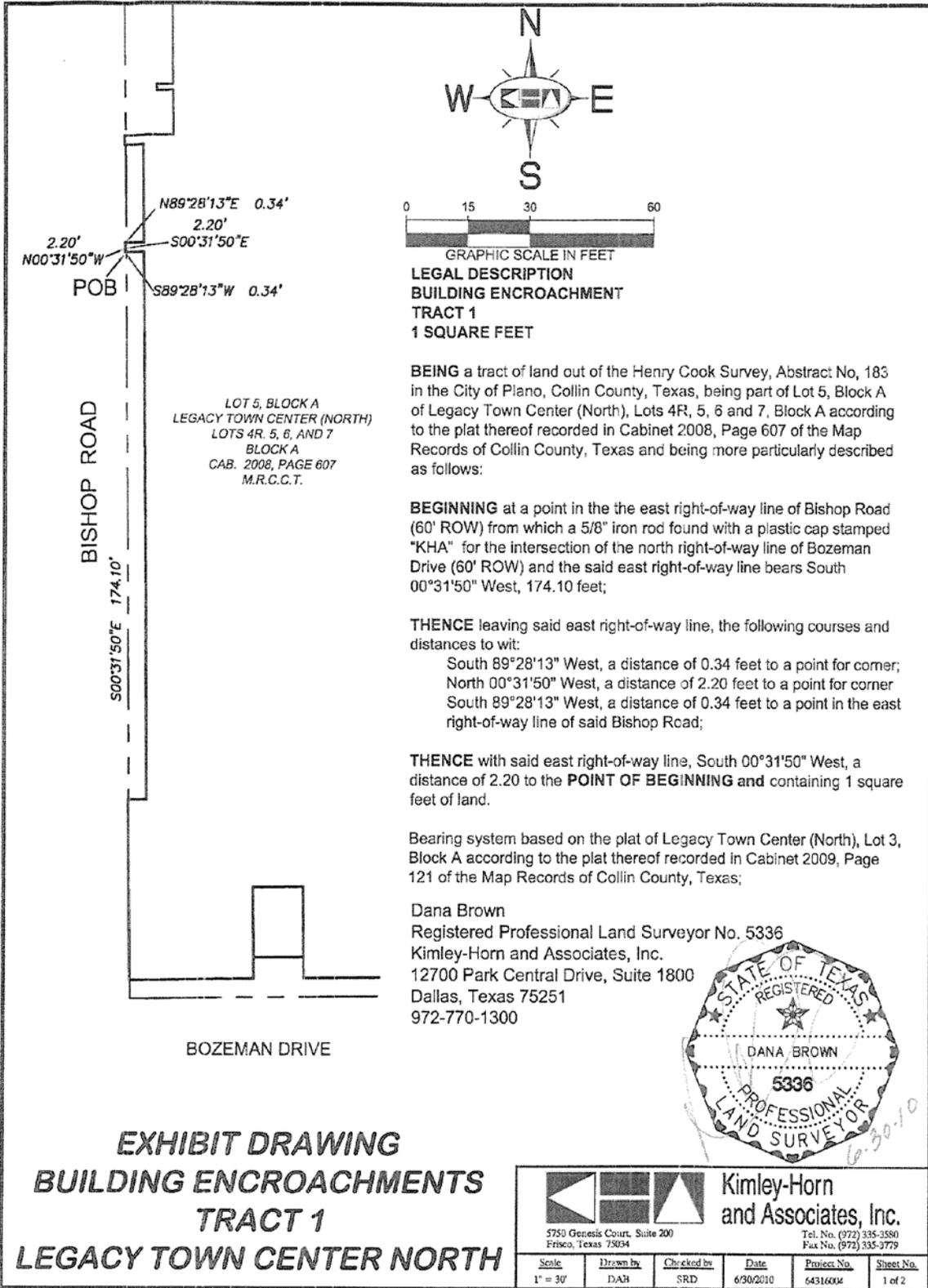
My Commission Expires:

Notary Public, State of Texas
Printed Name: _____

EXHIBIT "A"

BEING all of Lot 5, Block A of Legacy Town Center (North), Lots 4R, 5, 6 and 7, Block A, an addition to the City of Plano, Collin County, Texas according to the plat thereof recorded in Cabinet 2008, Page 607, Map Records of Collin County, Texas.

EXHIBIT "B"



**EXHIBIT DRAWING
BUILDING ENCROACHMENTS
TRACT 1
LEGACY TOWN CENTER NORTH**

**LEGAL DESCRIPTION
BUILDING ENCROACHMENT
TRACT 1
1 SQUARE FEET**

BEING a tract of land out of the Henry Cook Survey, Abstract No, 183 in the City of Plano, Collin County, Texas, being part of Lot 5, Block A of Legacy Town Center (North), Lots 4R, 5, 6 and 7, Block A according to the plat thereof recorded in Cabinet 2008, Page 607 of the Map Records of Collin County, Texas and being more particularly described as follows:

BEGINNING at a point in the the east right-of-way line of Bishop Road (60' ROW) from which a 5/8" iron rod found with a plastic cap stamped "KHA" for the intersection of the north right-of-way line of Bozeman Drive (60' ROW) and the said east right-of-way line bears South 00°31'50" West, 174.10 feet;

THENCE leaving said east right-of-way line, the following courses and distances to wit:
 South 89°28'13" West, a distance of 0.34 feet to a point for corner;
 North 00°31'50" West, a distance of 2.20 feet to a point for corner
 South 89°28'13" West, a distance of 0.34 feet to a point in the east right-of-way line of said Bishop Road;

THENCE with said east right-of-way line, South 00°31'50" West, a distance of 2.20 to the **POINT OF BEGINNING** and containing 1 square feet of land.

Bearing system based on the plat of Legacy Town Center (North), Lot 3, Block A according to the plat thereof recorded in Cabinet 2009, Page 121 of the Map Records of Collin County, Texas;

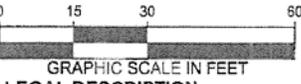
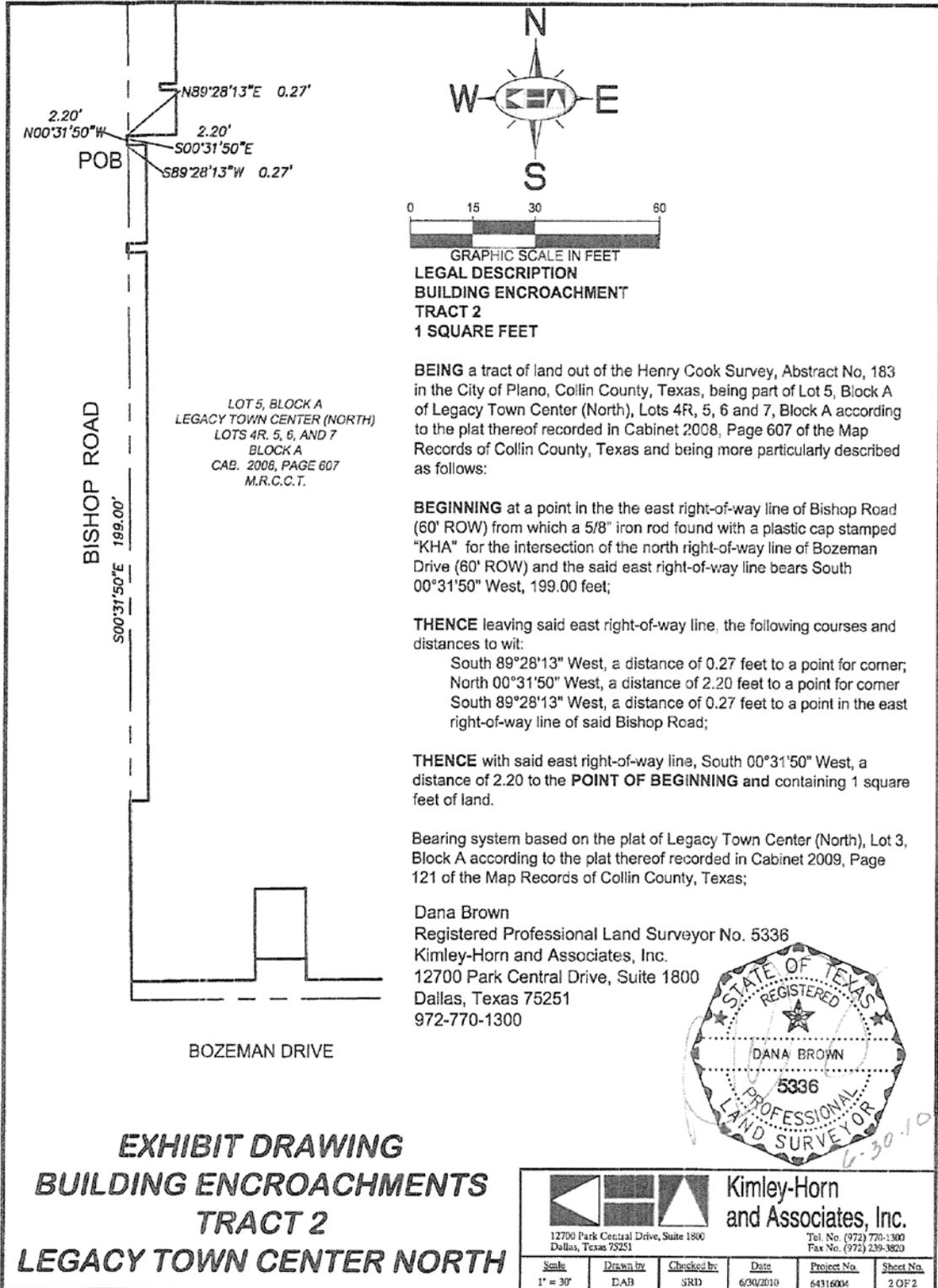
Dana Brown
 Registered Professional Land Surveyor No. 5336
 Kimley-Horn and Associates, Inc.
 12700 Park Central Drive, Suite 1800
 Dallas, Texas 75251
 972-770-1300



		Kimley-Horn and Associates, Inc. 5750 Genesis Court, Suite 200 Frisco, Texas 75034 Tel. No. (972) 335-3580 Fax No. (972) 335-3779			
Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 30'	DAH	SRD	6/30/2010	64316004	1 of 2

PLOTTED BY BROWN, DANA 6/30/2010 3:49 PM DWG NAME K:\DAL_SURVEY\64316004\I.TCN PHASE 3 ASBUI.T_I.DD64316004\DWG\BLDG ENCROACHMENT EXHIBIT.DWG LAST SAVED 6/30/2010 3:46 PM

EXHIBIT "B"



LEGAL DESCRIPTION
 BUILDING ENCROACHMENT
 TRACT 2
 1 SQUARE FEET

BEING a tract of land out of the Henry Cook Survey, Abstract No, 183 in the City of Plano, Collin County, Texas, being part of Lot 5, Block A of Legacy Town Center (North), Lots 4R, 5, 6 and 7, Block A according to the plat thereof recorded in Cabinet 2008, Page 607 of the Map Records of Collin County, Texas and being more particularly described as follows:

BEGINNING at a point in the the east right-of-way line of Bishop Road (60' ROW) from which a 5/8" iron rod found with a plastic cap stamped "KHA" for the intersection of the north right-of-way line of Bozeman Drive (60' ROW) and the said east right-of-way line bears South 00°31'50" West, 199.00 feet;

THENCE leaving said east right-of-way line, the following courses and distances to wit:
 South 89°28'13" West, a distance of 0.27 feet to a point for corner;
 North 00°31'50" West, a distance of 2.20 feet to a point for corner
 South 89°28'13" West, a distance of 0.27 feet to a point in the east right-of-way line of said Bishop Road;

THENCE with said east right-of-way line, South 00°31'50" West, a distance of 2.20 to the POINT OF BEGINNING and containing 1 square feet of land.

Bearing system based on the plat of Legacy Town Center (North), Lot 3, Block A according to the plat thereof recorded in Cabinet 2009, Page 121 of the Map Records of Collin County, Texas;

Dana Brown
 Registered Professional Land Surveyor No. 5336
 Kimley-Horn and Associates, Inc.
 12700 Park Central Drive, Suite 1800
 Dallas, Texas 75251
 972-770-1300



EXHIBIT DRAWING
BUILDING ENCROACHMENTS
TRACT 2
LEGACY TOWN CENTER NORTH

		Kimley-Horn and Associates, Inc.	
12700 Park Central Drive, Suite 1800 Dallas, Texas 75251		Tel. No. (972) 770-1300 Fax No. (972) 239-3820	
Scale	Drawn by	Checked by	Date
1" = 30'	DAB	SRD	6/30/2010
			Project No.
			64316004
			Sheet No.
			2 OF 2

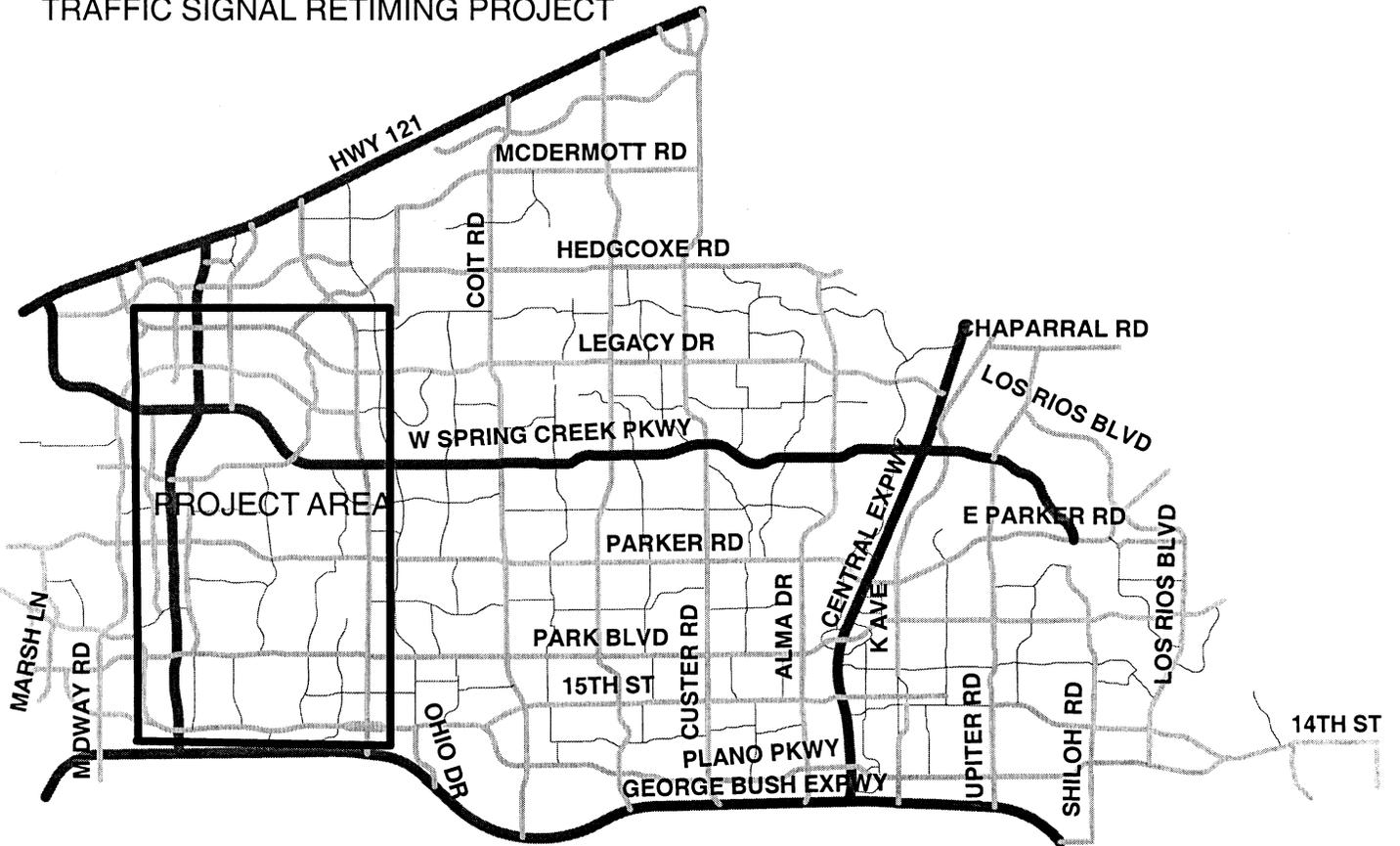
PLOTTED BY BROWN, DANA 6/30/2010 3:49 PM. DWG NAME R:\DAL_SURVEY\64316004\LCN PHASE 3 ASBUILT_1\JD66316004\DWG\BLDG ENCROACHMENT EXHIBIT.DWG LAST SAVED 6/30/2010 3:46 PM



**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:		7/26/10		
Department:		Public Works & Engineering		
Department Head		Alan L. Upchurch		
Agenda Coordinator (include phone #): Irene Pegues (7198)				
CAPTION				
A resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an Interlocal Agreement by and between the City of Plano and the North Central Texas Council of Governments for Traffic Signal Retiming; authorizing its execution by the City Manager or his authorized designee, to execute any documents deemed necessary; and providing an effective date.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input checked="" type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR:	2009-10	Prior Year (CIP Only)	Current Year	Future Years
		TOTALS		
Budget		0	0	0
Encumbered/Expended Amount		0	0	0
This Item		0	160,618	0
BALANCE		0	160,618	0
FUND(S): STREET IMPROVEMENT CIP				
COMMENTS: This item allows the City to enter into an interlocal agreement with NCTCOG for the Computerized Signal System project. If this request is approved, the City's commitment will be \$26,770, and NCTCOG will reimburse the City \$160,618, 80% of the project cost, for traffic signal retiming.				
STRATEGIC PLAN GOAL: Interlocal agreements for traffic signal retiming relate to the City's Goal of Financially Strong City with Service Excellence.				
SUMMARY OF ITEM				
The North Central Texas Council of Governments (NCTCOG) recently approved funding for implementation of a Regional Traffic Signal Retiming Program. A corridor containing 36 traffic signals in far west Plano was one of the selected projects. The total project cost of \$200,772 will be funded 80% by NCTCOG (\$160,618) and 20% by TxDot and the City of Plano (\$40,154). Plano's portion of the 20% match is \$26,770, and TxDot's portion of the 20% match is \$13,385. The traffic signals are in the area between Preston Road and the Dallas North Tollway from Plano Parkway to Legacy Drive. Funding is available in the 2009-2010 Street Improvement Community Investment Program.				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Interlocal Agreement			N/A	
Project Area Map				

TRAFFIC SIGNAL RETIMING PROJECT



A resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an Interlocal Agreement by and between the City of Plano and the North Central Texas Council of Governments for Traffic Signal Retiming, authorizing its execution by the City Manager or his authorized designee, to execute any documents deemed necessary; 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 Agreement by and between the City of Plano, Texas, and the North Central Texas Council of Governments providing terms and conditions for Traffic Signal Retiming, 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 26th day of July 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

INTERLOCAL COOPERATION AGREEMENT
Between
THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS
and
CITY OF PLANO
for
IMPLEMENTATION OF THE REGIONAL TRAFFIC SIGNAL RETIMING PROGRAM

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, the RTC is committed to the development and implementation of policies, projects, and programs to improve air quality and reduce emissions; and,

WHEREAS, on December 18, 2008, the RTC approved funding for implementation of Regional Traffic Signal Retiming Program in the Dallas-Fort Worth Metropolitan Area for the implementation of low-cost operational improvements at signalized intersections; and,

WHEREAS, the North Central Texas Council of Governments selected corridor(s) in the City of **Plano** as part of the Regional Traffic Signal Retiming Program; 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 City of Plano, hereinafter referred to as the "City". NCTCOG and the City may each be referred to as a "Party", and may be collectively referred to as "Parties" to this Agreement.
- 1.2 NCTCOG shall serve as the Contract Manager and Procurement Administrator for the Project.

2. Purpose

Exhibit "A"

- 2.1 This Agreement defines the terms and conditions for the disbursement of Congestion Mitigation and Air Quality Improvement Program (CMAQ) funds and associated state and local matching funds for the implementation of traffic flow improvements.
- 2.2 Improvements under this Agreement, implemented through the Regional Traffic Signal Retiming Project as authorized by the Regional Transportation Council, shall be employed at signalized intersections in the City.
- 2.3 Improvements shall be made to locations identified in Attachment A under this Agreement.

3. Duties

- 3.1 NCTCOG shall be responsible for project monitoring; Geographical Information Systems (GIS) database integration; and air quality benefit calculations and documentation.
- 3.2 NCTCOG's engineering consultant(s) will provide signal-timing improvements at the intersection locations identified in Attachment A.
- 3.3 The consultant(s) will be responsible for the following: field data collection; development, implementation, and fine-tuning of new coordinated signal timing plans; and any and all required documentation of "Before" and "After" conditions.
- 3.4 The City will work with NCTCOG's engineering consultant(s) to identify relevant signal timing elements/requirements at and related to the project intersections; review the developed new signal timing plan(s); approve all timing plans prior to implementation; and assist with fine tuning.

4. Funding

- 4.1 Attachment A includes a project cost estimate summary.
- 4.2 The total project cost estimate for this Agreement includes estimated consultant and NCTCOG Staff expenses, as well as, a portion of TXDOT direct state costs to perform duties specified in Sections 3.1, 3.2 and 3.3.
- 4.3 The total project cost estimate for this Agreement is identified in Attachment A. CMAQ programs will fund 80 percent of the project cost.
- 4.4 The City shall provide the 20 percent local match required for the off-system locations identified in Attachment A. The City shall provide a check payable to the North Central Texas Council of Governments in the amount identified in Attachment A.
- 4.5 The City shall remit additional local match payments to NCTCOG in the event that the actual cost of implementation of the Regional Traffic Signal Retiming Project is greater than the estimated cost identified in this Agreement.
- 4.6 Any excess local match funds for off-system locations shall be reimbursed by NCTCOG to the City.

Exhibit "A"

4.7 Under a separate agreement between TxDOT and NCTCOG, TxDOT will provide the 20 percent local match required for the intersections located on the state highway system identified in Attachment A.

5. Term

- 5.1 This Agreement shall take effect on the date executed by the Parties and shall remain in effect until it is terminated.
- 5.2 Either Party may terminate this Agreement by giving 30 days written notice to the other Party. The Parties may terminate this Agreement by mutual written concurrence.
- 5.3 This Agreement shall automatically terminate upon completion of the project.

6. Modification, Waiver and Severability

- 6.1 This Agreement and any exhibits, which may be attached, constitute the entire agreement among the Parties. No waiver or modification of this Agreement shall be valid unless in writing and signed by both Parties. Failure of the Parties to enforce or insist upon compliance with any of the terms and conditions of this Agreement shall not constitute a waiver or relinquishment of any such terms and conditions.
- 6.2 In the event that any one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions thereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
- 6.3 This Agreement may be executed in any number of counterparts, each of which shall be deemed an original.

IN WITNESS HEREOF, the parties have executed this Agreement in duplicate originals on the _____ day of _____ 2010.

CITY OF PLANO

NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS

Signature

R. Michael Eastland
Executive Director

Printed Name

Title

Exhibit "A"

ATTACHMENT A

REGIONAL TRAFFIC SIGNAL RETIMING PROGRAM CITY OF PLANO INTERSECTIONS AND LOCAL MATCH

Major Street	Cross Street	City	O & M Agency	On / Off TxDOT System	
				On-System	Off-System
Name	Name				
Preston Road (289)	President George Bush Turnpi	Plano	Plano	1	0
Preston Road	Alliance	Plano	Plano	1	0
Preston Road	Plano Parkway	Plano	Plano	1	0
Preston Road	Old Shepard	Plano	Plano	1	0
Preston Road	Park Boulevard	Plano	Plano	1	0
Preston Road	Highland	Plano	Plano	1	0
Preston Road	Tulane	Plano	Plano	1	0
Preston Road	Parker	Plano	Plano	1	0
Preston Road	Lorimar	Plano	Plano	1	0
Preston Road	Spring Creek	Plano	Plano	1	0
Preston Road	Tennyson	Plano	Plano	1	0
Preston Road	Legacy Drive	Plano	Plano	1	0
Plano Parkway	Ventura	Plano	Plano	0	1
Plano Parkway	Winding Hollow	Plano	Plano	0	1
Plano Parkway	Mira Vista	Plano	Plano	0	1
Plano Parkway	Parkwood	Plano	Plano	0	1
Plano Parkway	Dallas North Tollway	Plano	Plano	0	1
Park Boulevard (FM544)	Prestwick	Plano	Plano	0	1
Park Boulevard	Ventura	Plano	Plano	0	1
Park Boulevard	Willow Bend	Plano	Plano	0	1
Park Boulevard	Winding Hollow	Plano	Plano	0	1
Park Boulevard	Mira Vista	Plano	Plano	0	1
Park Boulevard	Parkwood	Plano	Plano	0	1
Park Boulevard	Dallas North Tollway	Plano	Plano	0	1
Parker Road (FM2514)	Silver Creek	Plano	Plano	0	1
Parker Road	Winding Hollow	Plano	Plano	0	1
Parker Road	Clark Parkway	Plano	Plano	0	1
Parker Road	Parkwood	Plano	Plano	0	1
Parker Road	Dallas North Tollway	Plano	Plano	0	1
Spring Creek Parkway	Parkway at Windhaven	Plano	Plano	0	1
Spring Creek Parkway	Parkwood	Plano	Plano	0	1
Spring Creek Parkway	Dallas North Tollway	Plano	Plano	0	1
Legacy Drive	Hedgcoxe Road	Plano	Plano	0	1
Legacy Drive	Parkwood Boulevard	Plano	Plano	0	1
Legacy Drive	Bishop Road	Plano	Plano	0	1
Legacy Drive	Dallas North Tollway	Plano	Plano	0	1
			Total	12	24

	Retiming	
	On-System	Off-System
Locations Requiring Signal Retiming	12	24
Total Cost	\$66,924	\$133,848
Local Match	\$13,385	\$26,770

Local Match in the Amount of \$26,770.00 is required prior to the issuance of a Notice to Proceed to NCTCOG consultants to begin work on these corridors.



**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:		July 26, 2010		
Department:		Library Administration		
Department Head		Cathy Ziegler		
Agenda Coordinator (include phone #): Mary Ann Dunnivant (Ext. 4208)				
CAPTION				
A Resolution of the City Council of the City of Plano, Texas, authorizing the naming of the program room at the W. O. Haggard, Jr. Library the Richard D. Tobin, Jr. Program Room in memory of Mr. Richard D. Tobin, Jr. and to honor Mr. Tobin's years of service and dedication to Plano Public Library System, 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: 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):				
COMMENTS: This item has no fiscal impact.				
SUMMARY OF ITEM				
Friends of the Plano Public Library and the Library Advisory Board recommend naming the program room located at the W. O. Haggard, Jr. Library the Richard D. Tobin, Jr. Program Room in memory and in recognition of Dick Tobin's years of service and dedication to Plano Public Library System.				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
1. Letter from Friends of the Plano Public Library 2. Draft of Library Advisory Board minutes dated May 4, 2010				



July 6, 2010

Mrs. Cathy Ziegler, Director
Plano Public Library System
2501 Coit Road
Plano, TX 75075

**RE: Naming the Program Room at W. O. Haggard, Jr. Library
for Richard D. Tobin, Jr.**

Dear Cathy,

As President of Friends of the Plano Public Library, we are requesting that an agenda item be prepared for the July 26, 2010 Plano City Council Meeting to request their approval to name the program room at W. O. Haggard, Jr. Library, the Richard D. Tobin, Jr. Program Room in memory of Dick Tobin and to honor his many years of service and dedication to Plano Public Library System.

We appreciate your assistance with our request.

Sincerely,

Frederic L. Frawley, President
Friends of the Plano Public Library

**Library Advisory Board
Meeting Minutes
May 4, 2010**

Present: Debra Benton
Carl Ford
Gary Graham
Pearl Garza Fracchia
Kim Malouf
Robert R. Marquardt
Erma Spencer
Denver Tracy

Absent: Russ Kissick

Guest(s) Fred Frawley, President – Friends of the Plano Public Library

City Staff: Cathy Ziegler – Director of Libraries
Sandy Gillman – Library Manager – Harrington Library
Glen Pourciau – Library Manager – Haggard Library
Brent Bloechle – Library Manager – Davis Library
April Hill – Library Manager – Parr Library
Mary Ann Dunnavant – Administrative Support Supervisor

Debra Benton, Chair, called the regular meeting of the Library Advisory Board to order at 7:00 PM in the Jeanette Bickley Bland Meeting Room located in the basement area of W. O. Haggard, Jr. Library, 2501 Coit Road, Plano, Texas.

The minutes of the meeting held February 2, 2010 were approved as written.

Debra Benton welcomed Kim Malouf and Denver Tracy, newly appointed members of the Library Advisory Board. Debra informed Board members that, at her request, City Council approved raising the number of Library Advisory Board members from seven to nine at their March 22, 2010 City Council meeting.*

A. Fred Frawley, President, Friends of the Plano Public Library

Fred thanked Library Advisory Board members for inviting him to the meeting. As of May 1, 2010, he is beginning his fifth year as President of Friends of the Plano Public Library (the Friends fiscal year runs from May 1 to April 30 each year). Following are some of the highlights Fred noted about Friends of the Plano Public Library:

- The organization began in 1965 to raise supplemental funding for Plano Public Library System (PPLS) to include expenditures that might not normally be included in the City of Plano budget. The Friends Board consists of a diverse group of members who are passionate about supporting PPLS. Robert Marquardt and Kim Malouf (both Library

Advisory Board members) are active Friends Board members. Scott Johnson, former Plano City Council member is also a Friends Board member.

- Fred referred to the “Thank You Friends For Your Contributions to PPLS During 2009”* handout noting that Friends donated \$100,000 to PPLS in 2009 for additional library materials. Friends also donated \$26,500 in 2009 to retain and recruit top librarians through continued educational funding which enables PPLS librarians to attend local, state, and national library conferences.
- Friends will be supporting an author event in September by funding the author and former weather forecaster Kristine Kahanek who has written a children’s book entitled *Katie and the Magic Umbrella* (about weather).
- Funds are raised by Friends through: their annual book sale which will be held this year on July 15 – 17 at Plano Centre, memberships, lobby sales of materials in the five libraries, the Kroger Plus card, and donations.

Cathy noted that Friends put the “icing” on Library Services, noting that the PPLS Summer Brochure* (included in Board member folders) was funded partially by Friends.

Board members asked how they could support Friends of the Plano Public Library. Fred responded by handing out Friends membership forms and asking Library Advisory Board members to talk to City Council members to let them know what PPLS means to them personally and how they enjoy services provided by the libraries. Fred suggested that Board members ask City Council Members for their support of PPLS. Fred mentioned that when people are considering moving to Plano, one of their first considerations is that a good library system is in place.

B. Naming of Haggard Library Program Room

Fred Frawley informed Board members about former Friends of the Plano Public Library member and long-time supporter, Richard D. Tobin, Jr. who died December 17, 2009. Dick spent many hundreds of hours as a volunteer in various capacities with the Plano Public Library System, including serving on the Plano Library Advisory Board, as Treasurer of the Board of Friends of the Plano Public Library, tutoring students learning English as a second language, and assisting for sixteen years with the Interlibrary Book Loan system. Fred asked Board members to consider supporting a request of Plano City Council to name the Program Room at Haggard Library the “Richard D. Tobin, Jr. Program Room.” It was noted that discussion would need to be held with Victoria Huynh, Assistant City Attorney III and legal liaison to the Library Advisory Board, to determine what would be the proper procedure regarding the request. **Pearl Garza Fracchia moved to recommend to City Council that the W. O. Haggard, Jr. Library Program Room be named for Richard D. Tobin, Jr. Gary Graham seconded the motion. The motion carried unanimously with the vote being: For: 7; Opposed: 0.**

C. Plano Public Library System Staff Involvement Related to Holds

Cathy Ziegler informed Board members that holds are down 6% from a year ago. This is a result of limiting holds (reserve requests) to 20 items total. Staff pulled

52,116 holds for patrons the month of March 2010. It had been asked if PPLS tracks those patrons who place holds but do not pick up the materials. Cathy responded that after researching, to track these patrons would take several steps and could be very labor intensive—it is possible, but would not be an easy task. Cathy mentioned that managing holds is a very physical job for staff, noting that PPLS patrons love the holds process as it saves them time and is very convenient for them. Cathy referred to the documents “How does Plano’s checkout and hold limits compare to other Cities”^{**} and Snapshot of Items Checked Out^{*} (dated April 27, 2010). Cathy noted that the City of Dallas is charging non-residents a \$250 non-resident fee. Richardson is reciprocating by charging residents of Dallas a \$250 non-resident fee. PPLS is not charging Dallas residents a fee.

A majority of holds are for best sellers, books on DVD, movies on DVD and children’s materials. It was asked could PPLS charge for holds. Cathy noted that to be accredited through the Texas State Library, PPLS cannot charge patrons for services nor materials. The only charge that can be made is for program rooms at the libraries. To charge for the program rooms is labor intensive for staff. Cathy noted that both holds and traffic count increase in the summer months (June-August) as students are out of school and the Summer Reading Program is underway.

D. Update on Staffing Levels and Recent Statistics

Cathy shared the following:

- Other than 5 full-time positions and 1 part-time position being held for budget reductions, PPLS is able to hire replacements for those who are resigning or retiring.
- 40% of current library staff is eligible for retirement. PPLS is highly cognizant of the need for succession planning.

E. Plano Public Library System FY 2010-2011 Budget Overview

Cathy noted that if City Council approves the recommendation to eliminate 5.5 positions from libraries, it equates to 22 full-time and 15 part-time library positions being eliminated since July 2008 for a total budget reduction of \$2,270,467 to offset the City of Plano’s budget deficits. If these positions are eliminated, PPLS will have to reduce hours of service to the public. PPLS will need to know what their budget is by July 2010 as it will affect the fall programming plans. PPLS has turned in its 8 budgets for FY 2010-11 (representing each library cost center) as of this date to the Budget Department. PPLS is giving up \$100,000 through reducing publications and databases.

F. Plano Public Library System’s Schedule of Hours Open to the Public

The City of Plano’s budget must be balanced. Discussion was held about closing libraries on Sunday as a cost savings. Per hour, traffic count in the libraries is the highest on Sundays (open 4 hours). The next busiest day, per hour, is Tuesday (open 11 hours) with the slowest day, per hour, being Thursday (open 11 hours). PPLS must provide a total of 64 hours service per week to retain accreditation from the Texas State Library who supplies Loan Star Library funding to PPLS. Board

Members requested, if needed, could they be notified to attend City Council meetings as a group to speak on behalf of PPLS.

G. Update on RFID (Radio Frequency Identification) Project

The RFID bid was won by Integrated Technology Group and the contract has been finalized and accepted by City Council. All bids from outside companies to tag the PPLS collection were over budget, so PPLS has elected to contract labor for this project with individuals in our community. Library staff will supervise the contract laborers hired to tag the materials (over 700,000 items). The work will be very labor intensive and physical. Those hired must be fast-moving, energetic, and able to read English. The tagging project is expected to last from the end of May through mid-October 2010. Parr Library will be the first library to have materials tagged. It was noted that contract taggers will be paid \$8 per hour and crew leaders \$10 per hour and that these people will need to deduct required taxes and social security payments from the pay they receive.

Facilities requested a contractor visit the libraries to determine needed modifications and scope of work to be performed to accommodate the RFID equipment.

Once RFID is available to the public (hopefully one year from now), PPLS will begin implementing a self-service business model.

As there was no further business, Debra Benton adjourned the meeting at 8:15 PM.

Robert Marquardt, Secretary

- * List of handouts to Board Members
- 1. "Thank You Friends for Your Contributions to PPLS During 2009!"
- 2. How does Plano's checkout and hold limits compare to other cities'?
- 3. Snapshot of Items Checked Out – April 27, 2010
- 4. February 2, 2010 article posted on City Web Page entitled *Radio Frequency Identification (RFID) System to Aid Library and Patron Efficiency*
- 5. April 16, 2010 article in the *Plano Star Courier* entitled "Library Class Focuses on City's Past"
- 6. Plano Public Library System Mission Statement
- 7. Plano Public Library System Organizational Charts
- 8. Ordinance No. 2010-3-19 - Regarding Library Advisory Board members consisting of nine members, replacing seven members)
- 9. Article II. Advisory Board – Regarding Library Advisory Board scheduled for quarterly meetings
- 10. Plano Public Library System May 2010 Calendar of Events
- 11. Plano Public Library System Summer 2010 Brochure
- 12. Revised – Library Advisory Board Meeting Dates for 2010
- 13. Library Advisory Board Roster dated April 29, 2010 (Prepared by City Secretary's Office)

A Resolution of the City Council of the City of Plano, Texas, authorizing the naming of the program room at the W. O. Haggard, Jr. Library the Richard D. Tobin, Jr. Program Room in memory of Mr. Richard D. Tobin, Jr. and to honor Mr. Tobin's years of service and dedication to Plano Public Library System, and providing an effective date.

WHEREAS, the City has received a recommendation from the Friends of the Plano Public Library and the Library Advisory Board to name the program room at the W. O. Haggard, Jr. Library located at 2501 Coit Road – Plano, Texas in memory and honor of Mr. Richard D. Tobin, Jr. for his service and dedication to the Plano Public Library System; and

WHEREAS, the City of Plano, Texas desires to name the program room at the W. O. Haggard, Jr. Library in Mr. Richard D. Tobin, Jr.'s honor and memory; and

WHEREAS, The City Council of the City of Plano authorizes the naming of the program room at the W. O. Haggard, Jr. Library the Richard D. Tobin, Jr. Program Room.

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

Section I. The City Council of the City of Plano hereby authorizes the naming of the program room located at the W. O. Haggard, Jr. Library the Richard D. Tobin, Jr. Program Room in memory and recognition of Mr. Tobin's many years of service and dedication to the Plano Public Library System.

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

DULY PASSED AND APPROVED this the 26th day of July, 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:		July 26, 2010		
Department:		Library Administration		
Department Head		Cathy Ziegler		
Agenda Coordinator (include phone #): Mary Ann Dunnivant (Ext. 4208)				
CAPTION				
A Resolution of the City Council of the City of Plano, Texas, terminating the Interlocal Cooperation Agreement By and Between the City of Plano, Texas and the City of Allen, Texas for library automation services; approving its execution by the City Manager or his authorized 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: 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	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS: This item has no Fiscal impact.				
SUMMARY OF ITEM				
This recommendation is being made to permit Plano Public Library System to pursue a self-service business model employing E-commerce which will allow on-line transactions such as on-line credit card payments for fines and fees. This business model will allow the reduced PPLS staff to meet our customer needs.				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
1. Memo from Cathy Ziegler, Director of Libraries				



City of Plano
Library Administration
2501 Coit Road
Plano, TX 75075
Phone: 972.769.4208
Fax: 972.769.4269

Memorandum

Date: July 13, 2010
To: Mary Ann Dunnavant
From: Cathy Ziegler, Director of Libraries
Subject: Termination of Allen Interlocal Cooperation Agreement

I recommend the City Council approve the resolution to terminate the Interlocal Cooperation Agreement with the City of Allen in which Plano Public Library System (PPLS) shares the Polaris online catalog with Allen Public Library. Budget constraints make it necessary for PPLS to pursue a more self-service business model. E-commerce which will allow on-line transactions such as on-line credit card payments for fines and fees will free a now reduced staff to meet other customer needs. E-commerce is not possible while still giving Allen access to Polaris in the current way. Separating the Allen and Plano records in the Polaris database will enable Plano to implement E-commerce. Having separate databases will cost Plano approximately \$3,000 - \$4,000 more annually. Those costs will be absorbed with current operating funds. The termination of the agreement will not result in a requirement to increase the PPLS budget.

A Resolution of the City Council of the City of Plano, Texas, terminating the Interlocal Cooperation Agreement by and between the City of Plano, Texas and the City of Allen, Texas for library automation services; approving its execution by the City Manager or his authorized designee; and providing an effective date.

WHEREAS, the City of Plano (PLANO) and City of Allen (ALLEN) entered into an interlocal cooperative agreement wherein PLANO agrees to provide automated circulation and services to ALLEN ("Agreement"), a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference; and

WHEREAS, PLANO desires to upgrade its library technology system to include E-commerce which will allow on-line transactions such as on-line credit card payments for library fines and fees; and

WHEREAS, PLANO is not able to implement the E-commerce feature while still giving ALLEN access to PLANO's Polaris database; therefore, PLANO desires to terminate the Agreement between PLANO and ALLEN effective January 31, 2011; and

WHEREAS, upon full review and consideration of the proposal to terminate the Agreement and all matters attendant and related thereto, the City Council is of the opinion that the termination should be approved.

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 the Interlocal Cooperation Agreement by and between the City of Plano, Texas and the City of Allen, Texas should be terminated effective January 31, 2011.

Section II. The Plano City Council hereby authorizes the City Manager or his authorized designee to take such action and execute such documents as necessary.

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

DULY PASSED AND APPROVED this the 26th day of July, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane Wetherbee, CITY ATTORNEY

Exhibit "A"

CITY OF PLANO, TEXAS AND
CITY OF ALLEN, TEXAS
INTERLOCAL COOPERATION AGREEMENT

THIS AGREEMENT made and entered into this 13th day of June, 2007
by and between the CITY OF PLANO, TEXAS (hereinafter called "PLANO") and the
CITY OF ALLEN, TEXAS (hereinafter called "ALLEN"), both Texas municipal
corporations, and acting herein through duly authorized agents, officers and employees:

WITNESSETH:

WHEREAS, PLANO is the exclusive owner and custodian of a computer system
from Polaris Library Systems (hereinafter called "System"); and

WHEREAS, PLANO desires to make available to ALLEN access to the System;
and

WHEREAS, ALLEN desires to use the System for the purpose of providing
automated circulation and other automated services now and in the future to its library;
and

WHEREAS, this Agreement is made pursuant to the Interlocal Cooperation Act,
V.T.C.A., Government Code, Chapter 791 (the "Act"); and PLANO and ALLEN wish to
enter into this Agreement to set forth the terms and conditions upon which PLANO will
provide automated library services; and

WHEREAS, ALLEN and PLANO are local governments as defined by the Act
engaged in the provision of governmental services to their respective citizens; and

WHEREAS, providing automated library services is a valid public purpose; and

WHEREAS, expenditures for this project shall only be made from current revenues legally available to each party respectively;

NOW, THEREFORE, for and in consideration of the mutual covenants, obligations, and undertakings set forth herein, the parties hereto agree as follows:

1. **SCOPE OF SERVICES:** **PLANO** shall provide automated library services to **ALLEN**. Such services shall include provision of system hardware and software, contract and system administration, and certain administrative services as follows:

- A. Cataloging, circulation, PAC, acquisitions, serials, and course reserves modules.
- B. Access to the System by telecommunications line.
- C. Initial training needed by **ALLEN** in conjunction with the installation of new software is provided in Schedule A which is attached hereto and incorporated herein for all purposes.
- D. Use of the System via the number of licenses mutually agreed upon by **ALLEN** and **PLANO**. Each license is equivalent to one staff workstation. As of April 2007, **ALLEN** has 31 staff workstations.
- E. **PLANO** shall backup on at least a weekly basis all **ALLEN** patron records, transaction records, bibliographic records, and all other necessary data files to be used in the event of a hardware or software system failure. **PLANO** shall also backup nightly, the day's production of data and transactions. These backups will be recorded to tape or other acceptable media and then stored in a separate facility from the server. **PLANO** will notify **ALLEN** of the

storage location upon request. ALLEN should contact PLANO's Technology Services Director for access to the data.

2. **TERM:** The term of this Agreement shall be for the period of one (1) year beginning on the last date of execution hereof (the "Effective Date") shall thereafter be automatically renewed annually for successive terms of one (1) year each for a period of five years unless sooner terminated by either party.
3. **TERMINATION:** This Agreement may be terminated by either party upon thirty (30) days written notice to the other party. In the event of such termination, ALLEN will pay PLANO for all services rendered as of the date of termination, and services pre-paid by ALLEN but not utilized shall be refunded by PLANO, said payment to be made upon the effective date of termination.
4. **PAYMENT OF CHARGES:**
 - A. On October 15, 2007, ALLEN will pay to PLANO \$93,190.07 for the implementation of the System. Items and services purchased are listed in Schedule A.
 - B. ALLEN shall bear full responsibility for:
 - 1) All costs incurred for installation of telecommunication services, equipment, and telephone lines required by ALLEN to gain access to the System;
 - 2) Insurance costs for all hardware located on ALLEN premises;
 - 3) The cost of ALLEN's telecommunications line for the System.
 - C. Insurance costs for all hardware located on PLANO premises will be paid by PLANO.

5. **ON-GOING COSTS OF SERVICES:** ALLEN will pay maintenance charges to PLANO in October of each calendar year beginning October 2008 for its portion of hardware and software maintenance. Notice of any increase in software maintenance charges shall be forwarded to ALLEN as soon as the information is received. Subscriptions for enriched content and authority licenses are based on annual fees. These fees will be included in the annual maintenance invoice. All increased charges for hardware maintenance will reflect actual cost for maintenance charged by hardware vendors. Maintenance and administrative costs will be based on a percentage calculated by the number of licenses in proportion to the total number of licenses. Administrative costs will be based on the total salaries including benefits of the Library Technology Coordinator and the Library System Administrator. ALLEN shall be responsible for payment of maintenance charges on equipment that is owned or leased by ALLEN and located on its premises.
6. **OTHER CHARGES:** The parties agree that expansion and operation of the System may result in additional costs not contemplated by this Agreement including but not limited to replacement of hardware due to normal wear and tear. Any costs for replacement of hardware for system will be shared by the percentage of seats for each entity. In that event, the parties agree that any costs or services not set forth herein shall be negotiated by the parties and provided for in a separate amendment to this Agreement; provided, however, that ALLEN shall not be obligated to assume any additional cost incurred solely for additional PLANO licenses beyond the capacity of the existing System or solely

for the purpose of expanding the System to accommodate a lease entered into with any third party.

7. **CONFIDENTIALITY:** PLANO and ALLEN shall use their best efforts to maintain the confidentiality of information relating to each other's patrons whether or not such data is expressly so designated, subject to the provisions of State and Federal Law.
8. **DATA INPUT:** ALLEN and PLANO each shall create, edit, and delete their own patron records and their own holdings records. All creations, editing, and deletions of the ALLEN Patron Data Base with respect to patrons registered by ALLEN shall be the sole responsibility of ALLEN.
9. **OWNERSHIP OF DATA, EQUIPMENT, AND PROGRAMS:** All original materials or data either written or readable by machine prepared for and/or by ALLEN shall belong to and be the exclusive property of ALLEN although it shall be mutually accessible by both parties. It is further agreed that in the event of the termination of this Agreement, all machine readable bibliographic, authority, holdings, patron and transaction records input into the System by or for ALLEN shall be made available to ALLEN on a mutually agreed upon medium at ALLEN's cost. Except as expressly provided for herein, the parties agree that (1) PLANO owns or licenses all material, hardware, software, trademarks, copyrights and/or rights to obtain trademarks and copyrights associated with the System and that (2) ALLEN shall retain ownership and use of all equipment purchased solely by ALLEN and shall retain the right to add equipment on-site so long as such addition is approved by PLANO and by Polaris Library Systems,

vendor of the automated System. ALLEN may purchase additional equipment through PLANO, at the then-existing manufacturer's price.

10. **MODIFICATIONS TO SYSTEM:** After the initial installation of hardware and software required to accommodate ALLEN's access to the System, there shall be no obligation on the part of PLANO to change, alter, expand, or modify the System hardware or software in any fashion.
11. **SECURITY:** Each party agrees to take all necessary precautions to prevent the loss or alteration of the other party's information and data, and each party assumes full responsibility for loss or alteration of records or damages caused by its own negligence in connection with the operation of the System. The information recorded in the System is confidential, and ALLEN agrees to exercise reasonable control over access to that System so that confidentiality is respected. In particular, staff will not divulge the System access command sequence or passwords assigned to them.
12. **LIABILITY:** Subject to any immunities or defenses available to PLANO and ALLEN: in the event that any data within the Bibliographic Data Base or the Patron Data Base for which ALLEN shall have paid an input fee shall be lost, damaged, or altered, the sole potential liability of PLANO shall be the reinstallation of said lost, damaged, or altered data, it being expressly agreed that PLANO shall not be liable to ALLEN for damages, whether direct, incidental or consequential, as a result of any such loss, damage, or alteration. Likewise, ALLEN shall not be liable to PLANO for damages, whether direct, incidental or consequential, as a result of any lost, damaged or altered data within the Bibliographic or Patron Data Bases. ALLEN's sole potential liability shall be the

reinstallation of said lost, damaged or altered data. Nothing in this section or this contract shall be interpreted as a waiver of any defenses or immunities available to **PLANO** or **ALLEN**.

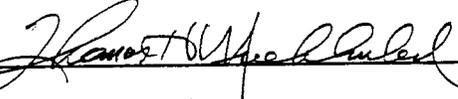
13. **MIGRATION:** If at any time during the initial term of this agreement, **PLANO** moves its machine readable data from one set of hardware and/or software to another ("migrates") then **ALLEN** shall have the option of migrating with **PLANO**.
14. **EQUAL OPPORTUNITY:** The parties to this Agreement specifically agree that in all hiring made possible or resulting from this Agreement there will not be any discrimination against any employee or applicant for employment because of race, color, religion, age, sex, national origin, or handicapped status.
15. **POLARIS LIBRARY SYSTEMS:** **PLANO** shall make all reasonable efforts to assure that Polaris Library Systems fulfills its obligation to service System problems and System function and that **ALLEN** receives the same level of service from Polaris Library Systems that **PLANO** does. **PLANO** shall convey to Polaris Library Systems matters of concern to **ALLEN** regarding the System, and **ALLEN** may at its option send a representative to any Polaris Library Systems user group meeting.
16. **AVAILABILITY:** **PLANO** shall use its reasonable efforts to cause the Bibliographic Data Base and Patron Data Base to be accessible to **ALLEN** during **ALLEN's** normal business hours; provided, however, that **ALLEN** acknowledges that the System may, from time to time, be unavailable to **ALLEN** due to **PLANO's** routine maintenance or emergency repair of the System. The System will be fully operational ninety percent (90%) of the time during designated hours up to **ALLEN's** communications link.

17. **SUPPORT:** PLANO library staff will meet with ALLEN staff a minimum of two (2) times per year for System update and news. System support will be provided through ALLEN's liaison. Upon request, a spreadsheet containing the status of issues will be generated.
18. **BINDING AGREEMENT:** The terms and conditions of this Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, legal representatives, and permitted successors and assigns.
19. **VENUE:** The validity of this Agreement and of its terms or provisions, as well as the rights and duties of the parties hereto, shall be governed by the laws of the State of Texas. Further, this Agreement shall be performable in Collin County, Texas and the parties agree that exclusive venue shall lie in Collin County, Texas.
20. **SEVERABILITY:** In the event that any portion of this Agreement shall be found to be contrary to law, it is the intent of the parties hereto that the remaining portions shall remain valid and in full force and effect to the extent possible.
21. **NONWAIVER:** A waiver by either party of a breach of the other party of any covenant or condition of this Agreement shall not impair the right of the party not in default to avail itself of any remedy in response to a subsequent breach thereof. Leniency, delay or failure of either party to insist upon strict performance of any agreement, covenant or condition of this Agreement, or to exercise any right under this Agreement, shall not be construed as a waiver of relinquishment of any such agreement, covenant, condition or right.
22. **AUTHORITY:** The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this

Agreement on behalf of the parties hereto, and each party hereby certifies to the other that any necessary resolutions or minute orders extending said authority have been duly passed and are now in full force and effect.

ENTIRE AGREEMENT: This Agreement represents the entire agreement between **ALLEN** and **PLANO** and supersedes all prior negotiations, representations and/or agreements, either written or oral. This Agreement may be amended only by written instrument signed by the governing bodies of both **ALLEN** and **PLANO** or those authorized to sign on behalf of those governing bodies.

CITY OF PLANO

By: 

Title: City Manager

Date: 5/30/07

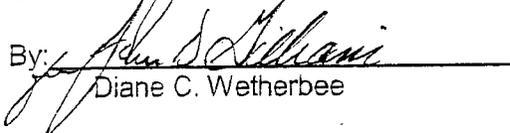
CITY OF ALLEN

By: 

Title: City Manager

Date: June 13, 2007

APPROVED AS TO FORM FOR
CITY OF PLANO

By: 

Diane C. Wetherbee

Title: City Attorney

APPROVED AS TO FORM FOR
CITY OF ALLEN

By: 

Peter G. Smith

Title: City Attorney

Schedule A
City of Allen's Portion of Polaris Migration

Software and Licenses	
Polaris ILS Server Software	\$8,610.00
Client Software	\$23,250.00
Children's PAC Included	\$0.00
Spanish PAC - Included	\$0.00
Simply Reports	\$861.00
Phone Notification	\$2,066.40
Self Check License	\$1,000.00
UMS Interface	\$1,291.50
URL Checker PPLS & APL	\$750.00
Data Migration	
Bib Authority Load	\$826.56
Item Record	\$1,653.12
Patron Records	\$1,632.00
Circulation Transactions	\$2,892.96
Horizon Data Extraction	\$1,205.40
Serials	\$0.00
Authority Control	
Project Management – PPLS & APL	\$430.50
Machine Processing	\$3,139.380
Training	\$172.20
Installation	
Production Server	\$199.50
Test/Training Server	\$99.75
PAC Server	\$99.75
Terminal Servers	\$750.00
Phone Notification Server	\$375.00
On Site Integration of Servers	\$724.85
Implementation	
On Site 4 Days	\$1,136.52
Training – PPLS & APL	\$1,988.91
System Admin Training (2 Staff)	\$438.90
Subscriptions	
ZMARC License	\$650.00
Enhanced Content	\$2,634.66
Subtotal	\$58,878.86
Less Discount	\$-9,937.89
Total Polaris Software	\$48,940.97
Hardware and Staff Support	
Project Management	\$21,506.10
Server Hardware	\$22,743.00
Total Hardware and Staff Support	\$44,249.10
TOTAL MIGRATION COST	\$93,190.07



**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:		July 26, 2010		
Department:		Library Administration		
Department Head		Cathy Ziegler		
Agenda Coordinator (include phone #): Mary Ann Dunnivant (Ext. 4208)				
CAPTION				
A Resolution of the City Council of the City of Plano, Texas, terminating the Interlocal Cooperation Agreement By and Between the City of Plano, Texas and the City of Allen, Texas for library courier services; approving its execution by the City Manager or his authorized 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: 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	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS: This item has no Fiscal impact.				
SUMMARY OF ITEM				
This recommendation is being made because once the Allen Interlocal Cooperation Agreement for library services is terminated, there will no longer be a need for Plano Public Library System to provide van courier service to Allen Public Library. The termination of this service will save the City wear and tear on the library vans and increase the time van drivers will have to do other PPLS or City projects.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
1. Memo from Cathy Ziegler, Director of Libraries dated 07/13/2010.				



City of Plano
Library Administration
2501 Coit Road
Plano, TX 75075
Phone: 972.769.4208
Fax: 972.769.4269

Memorandum

Date: July 13, 2010

To: Mary Ann Dunnavant

From: Cathy Ziegler, Director of Libraries

Subject: Termination of Allen Interlocal Cooperation Agreement for Library Courier Services

I recommend that City Council approve this Resolution to terminate the Interlocal Cooperation Agreement by which Plano Public Library System (PPLS) provided Allen Public Library (APL) van service. This recommendation is being made because once the Allen Interlocal Cooperation Agreement for library services is terminated; there will no longer be a need for Plano Public Library System to provide van courier service to Allen Public Library.

By terminating the van service, Plano will no longer have the revenue Allen paid for this service (approximately \$2,100 per quarter). The termination of van service to Allen will save the City wear and tear on the library vans and increase the time the van drivers will have to do other PPLS projects.

A Resolution of the City Council of the City of Plano, Texas, terminating the Interlocal Cooperation Agreement by and between the City of Plano, Texas and the City of Allen, Texas, for Library Courier Services; approving its execution by the City Manager or his authorized designee; and providing an effective date.

WHEREAS, the City of Plano (PLANO) and City of Allen (ALLEN) entered into an interlocal cooperative agreement wherein PLANO agrees to provide library courier services to transport library resources to ALLEN ("Agreement"), a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference; and

WHEREAS, PLANO and ALLEN will no longer share the Polaris database for library automation services beginning January 31, 2011; therefore, the library courier services will no longer be necessary; and

WHEREAS, PLANO desires to terminate the Agreement between PLANO and ALLEN for library courier services effective January 31, 2011; and

WHEREAS, upon full review and consideration of the proposal to terminate the Agreement and all matters attendant and related thereto, the City Council is of the opinion that the termination should be approved.

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 the Interlocal Cooperation Agreement by and between the City of Plano, Texas and the City of Allen, Texas should be terminated effective January 31, 2011.

Section II. The Plano City Council hereby authorizes the City Manager or his authorized designee to take such action and execute such documents as necessary.

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

DULY PASSED AND APPROVED this the 26th day of July, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane Wetherbee, CITY ATTORNEY

Exhibit "A"

**INTERLOCAL COOPERATION AGREEMENT BY AND BETWEEN
THE CITY OF PLANO, TEXAS AND THE CITY OF ALLEN, TEXAS
FOR
LIBRARY COURIER SERVICES**

THIS AGREEMENT is made and entered into by and between the **CITY OF PLANO**, a home-rule municipal corporation located in Collin and Denton Counties, Texas (hereinafter referred to as "**PLANO**"), and **CITY OF ALLEN**, a home-rule municipal corporation located in Collin County, Texas (hereinafter referred to as "**ALLEN**").

WHEREAS, PLANO and **ALLEN** are both engaged in the provision of library services and maintenance which are governmental functions and the parties frequently share library resources; and

WHEREAS, such sharing of library resources is possible by utilizing courier services to transport materials between libraries; and

WHEREAS, PLANO will provide courier service for the transportation of library resources and **ALLEN** will pay certain specified charges for these services and both parties agree to enter into a contract for these services pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code; and

WHEREAS, sharing of library resources by **PLANO** and **ALLEN** serves the welfare of the citizens, promotes efficiency and effectiveness of both local governments; and

WHEREAS, ALLEN has current funds available to satisfy any fees owed pursuant to this Agreement.

NOW, THEREFORE, PLANO and **ALLEN,** for the mutual consideration hereinafter stated, agree as follows:

**I.
TERM**

The initial term of this Agreement shall be for the period beginning September 1, 2006, and ending August 31, 2007. Thereafter, upon mutual agreement of the parties hereto, this Agreement may be renewed for five (5) successive one (1) year terms commencing on September 1 of each year.

II.
DUTIES OF PARTIES

Plano agrees to provide library courier services using its own personal equipment, between Allen Public Library located at 300 North Allen Drive, Allen, Texas and Haggard Library located at 2501 Coit Road, Plano, Texas, three times per week. This courier service is limited to transportation of books, films and other library materials and excludes the transportation of personnel. The number of van runs may be altered upon a mutual agreement of both library directors.

Upon termination of this Agreement, the courier service shall immediately be terminated.

III.
PAYMENT TERMS

The total compensation that **ALLEN** shall pay **PLANO** for the cost of the courier service will be based on a rate per mile. In the first year the total compensation is Two Dollars and Three Cents (\$2.03) per mile. A new rate will be determined each year beginning September 1 of that year. The total compensation each subsequent year will be based on the following formula:

Driver Annual Salary (including benefits) / total miles driven in a year = driver rate per mile

Driver rate per mile + Equipment Service on per mile basis (includes fuel costs, maintenance and vehicle depreciation) x 19.94 miles = total compensation.

The number of miles round trip from the Haggard Library to the Allen Public Library is not to exceed 19.94 miles. The number of miles is calculated by Mapquest.

ALLEN agrees to pay **PLANO** within thirty (30) days of receipt of the invoice. The Library Director for the City of Allen will be invoiced by Plano on a quarterly basis. Payments made pursuant to this Agreement shall be from current revenues available to each party.

**IV.
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, attorneys fees, including all expenses of litigation or settlement, or causes 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 this Agreement.

In the event of joint or concurrent negligence of the parties, responsibility, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without, however, waiving any governmental immunity available to either party individually under Texas law. **PLANO** shall be responsible for its sole negligence. **ALLEN** shall be responsible for its sole negligence. 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.

**V.
FISCAL FUNDING**

ALLEN agrees that no payments owed by it to **PLANO**, including payment in advance for service charges or any sums of any character whatsoever, are or shall become delinquent or in arrears. Each party paying for the performance of governmental functions or services under this Agreement must make those payments from current revenues available to the paying party.

**VI.
ENTIRE AGREEMENT**

This Agreement represents the entire and integrated agreement between **PLANO** and **ALLEN** and supersedes all prior negotiations, representations and/or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both parties.

**VII.
VENUE**

This Agreement and any of its terms or provisions, as well as the rights and duties of the parties hereto, shall be governed by the laws of the State of Texas, and this Agreement is performable in Collin County, Texas. Exclusive venue shall be in Collin County, Texas.

**VIII.
SEVERABILITY**

The provisions of this Agreement are severable. In the event that any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement shall be found 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 this Agreement. However, upon the occurrence of such event, either party may terminate this Agreement by giving the other party sixty (60) days written notice of its intent to terminate.

**IX.
NONWAIVER**

It is expressly understood and agreed that, in the execution of this Agreement, **PLANO** does not waive nor shall **PLANO** be deemed hereby to have waived any immunity or defense that would otherwise be available to it. It is further agreed that one (1) or more instances of forbearance by Plano in the exercise of its rights herein shall in no way constitute a waiver thereof.

**X.
ASSIGNMENT AND SUBLETTING**

The parties each bind themselves, their respective successors, executors, administrators and assigns to the other party to this Agreement. Neither Plano nor Allen will assign, sublet, subcontract or transfer any interest in this Agreement without the written consent of the other party. No assignment, delegation of duties or subcontract under this Agreement will be effective without the written consent of Plano. Subject to the provision regarding assignment, this Agreement shall be binding on the administrators, legal representatives, successors, and assigns of the respective parties.

**XI.
INTERPRETATION OF AGREEMENT**

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

**XII.
REMEDIES**

No right or remedy granted herein or reserved to the parties is exclusive of any right or remedy given hereunder. No covenant or condition of this Agreement may be waived without the express written consent of the parties. It is further agreed that one (1) or more instances of forbearance by either party in the exercise of its respective rights under this Agreement shall in no way constitute a waiver thereof.

**XIII.
TERMINATION**

This Agreement may be terminated at any time, with or without cause, by either party giving 30(thirty) days advance written notice to the other party. In the event of such termination by either party, **ALLEN** shall pay immediately all fees which may be due and owing up to the effective date of termination of this Agreement.

**XIV.
NOTICE OF TERMINATION**

Notice as required by this Agreement shall be in writing delivered to the Director of Libraries via facsimile or certified mail at the addresses listed below:

PLANO

Joyce Baumbach
Director of Libraries
2501 Coit Road
Plano, Texas 75075
Telephone: 972.769.4208
Facsimile: 972.769.4269

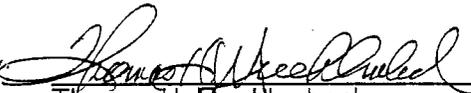
ALLEN

Barbara Buehler
Director of Allen Public Library
300 North Allen Drive
Allen, Texas 75013
214.509.4901
214.509.4950

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below.

CITY OF PLANO, TEXAS

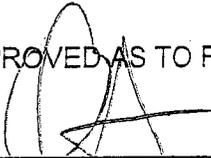
Date: 9/16/06

BY: 
Thomas H. Muehlenbeck
CITY MANAGER

ATTEST:

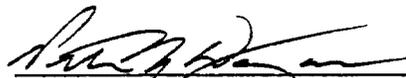

Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:


Diane C. Wetherbee, CITY ATTORNEY

CITY OF ALLEN, TEXAS

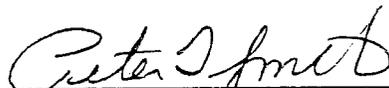
Date: 9/13/06

BY: 
Peter H. Vargas
CITY MANAGER

ATTEST:


Shelley B. George, CITY SECRETARY

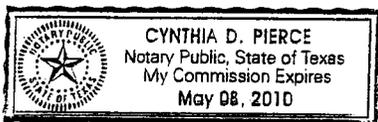
APPROVED AS TO FORM:


Peter G. Smith, CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS §
§
COUNTY OF COLLIN §

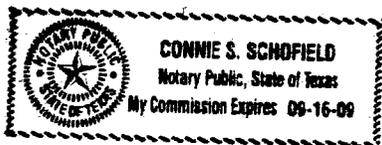
This instrument was acknowledged before me on the 16 day of August, 2006 by **THOMAS H. MUEHLENBECK**, City Manager of the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, on behalf of said corporation.



Cynthia D. Pierce
Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF COLLIN §

This instrument was acknowledged before me on the 13th day of September, 2006 by **PETER H. VARGAS**, City Manager of **CITY OF ALLEN, TEXAS**, a home-rule municipal corporation, for and on behalf of said corporation.



Connie S. Schofield
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:		July 26, 2010			
Department:		Health			
Department Head		Brian Collins			
Agenda Coordinator (include phone #): Doris Callaway, Ext. 7494					
CAPTION					
An Ordinance of the City of Plano, Texas, repealing Ordinance No. 2009-5-26, entitled "Health Categories and Fees", and replacing it with this ordinance, to be entitled "Health Categories and Fees" to amend Animal Services and Health fees; providing a repealer clause, a severability clause, and 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:	2009-10 2010/2011	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	0		
Encumbered/Expended Amount		0	0	0	0
This Item		0	12,710	76,260	88,970
BALANCE		0	12,710	76,260	88,970
FUND(S): GENERAL FUND					
COMMENTS: Approval of this item will increase Animal Services and Health revenues by an estimated \$12,710 for the remainder of 2009-10, and by an estimated \$76,260 for FY 2010-11.					
STRATEGIC PLAN GOAL: Updates and changes to the Animal Services and Health Fee schedule relate to the City's Goal of "Financially Strong City with Service Excellence."					
SUMMARY OF ITEM					
This Ordinance will update the Animal Services and Health fee schedule to reflect new and increased fees for specific services provided by the departments. These fees will generate revenue for the City and mitigate costs associated with performing services and administering programs.					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
Animal Services and Health Fee Schedule Memo					



City of Plano
P.O. Box 860358
Plano, Texas 75086-0358
972-941-7143
972-941-7142 FAX

MEMORANDUM

Health Department

DATE: July 9, 2010

TO: Brian Collins, Director of Health

FROM: Jamey Cantrell, Animal Services Manager
Tomeji Miller, Health Manager

SUBJECT: Revisions to Health Department Fees

As part of the on-going budget process, departmental staff identified several areas where program fees should be adjusted or implemented to capture cost of providing services to the community. A summary of proposed changes to the Animal Services and Health ordinance follows.

Animal Services

A re-inspection fee of \$25.00 will be charged to Commercial Breeders, Animal Establishments, Pet Grooming Facilities, and Wildlife Educational Centers that do not receive a satisfactory rating on annual inspections. Each subsequent re-inspection performed until a satisfactory rating is achieved shall be subject to this fee. This is a new fee as these businesses are currently not charged for re-inspections if they do not pass annual inspection. It is estimated that this fee could result in \$250 in additional revenue.

A late fee of \$25.00 will be charged to Commercial Breeders, Animal Establishments, Pet Grooming Facilities, and Wildlife Educational Centers that apply for annual permits 1-30 days after the previous permit expiration date. If they apply for their permit 31 or more days after the expiration date, they shall pay a late fee of \$50.00. This is a new fee as these businesses are currently not charged for failing to renew annual permits on time. It is estimated that this fee could result in \$250 in additional revenue.

Animal owners who desire the Division to cremate deceased pets shall pay a \$20.00 fee for each pet. This is a new fee as currently owned animals are accepted for cremation without a fee being assessed. It is estimated that this fee could result in \$13,000 in additional revenue.

Owners surrendering pets to the City shall be charged a \$25.00 owner surrender fee. This is a new fee as owners are currently requested to leave a donation towards the care of their pet but the donation is not mandatory. It is estimated that this fee could result in \$35,000 in additional revenue.

A late fee of \$10.00 will be charged to pet owners who fail to re-register their pet within one month of the expiration date of their last annual registration. This is a new fee as owners are currently not charged for failing to renew annual registrations on time. This provision has an effective date of January 1, 2011 to give owners a grace period to update lapsed registrations without penalty. It is estimated that this fee could result in \$10,000 in additional revenue.

Annual registrations for animals used by law enforcement agencies, certified assistance animals, and sterilized pets owned by citizens over the age of sixty or on financial assistance from any governmental agency due to being disabled or low-income, shall be \$5.00. This is a new fee as these animals are currently licensed at no charge to the owner. It is estimated that this fee could result in \$500 in additional revenue.

Health

A \$50.00 re-inspection fee will be assessed for food establishments that receive an inspection rating of "D" or "F" during a routine inspection. This new fee will cover the cost of inspectors performing multiple follow-up inspections to ensure compliance of critical violations. Subsequent re-inspections will be assessed a \$50.00 fee until a rating of a "C" or higher is achieved. The new fee for re-inspection is estimated to generate \$2,500 in additional revenue.

The Food Handler course fee will increase from \$20.00 to \$25.00. The new fee structure is comparable to other Food Handler courses taught in the DFW area. Increased course fee will cover expenses incurred with providing food handler cards and additional administrative costs. Fee increase is projected to generate \$13,160 in additional revenue.

The administrative fee for processing Health and Environmental liens increased from \$150.00 to \$200.00. This fee increase was passed by Council in February, 2010 and is currently applied to new liens processed by Property Standards and Health. The revised fee schedule was initiated by Property Standards, Ordinance No. 2010-2-16. Fee increase is expected to generate approximately \$1,600 in additional revenue.

An Ordinance of the City of Plano, Texas, repealing Ordinance No. 2009-5-26, entitled “Health Categories and Fees”, and replacing it with this ordinance, to be entitled “Health Categories and Fees” to amend Animal Services and Health fees; providing a repealer clause, a severability clause, and an effective date.

WHEREAS, on May 26, 2009, the City Council of the City of Plano duly passed Ordinance No. 2009-5-26 which adopted permit and inspection fees for health department services; and

WHEREAS, staff recommends that the Animal Services and Health fee schedule be amended to include new fees and increases to certain existing fees; and

WHEREAS, the City Council recognizes that these amendments are necessary to cover increased administrative costs for providing specific services; and

WHEREAS, generation of resources through fees needed to administer the programs and services of the City of Plano is of vital concern to all citizens and must be considered for each year in concurrence with the annual budget for the City; and

WHEREAS, the City Council, based upon staff recommendations and review and consideration of these matters, and in concurrence with the adoption of the annual budget for the City of Plano, has determined that it is in the best interest of the City of Plano, Texas, to revise the fees hereinafter set forth, and that they are proper and should be approved and adopted.

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

Section I. Ordinance No. 2009-5-26 providing permit and service fees for certain health department services is hereby repealed and replaced with the following text:

“Definitions.

Full Service means food service operation that prepares two or more raw meat products that involves cooking, cooling and reheating of any cooked product.

Fast Food means food service operation that is primarily a cook-serve operation with minimum cooling of cooked products and no reheating.

Convenience Store means food operation that sells pre-packaged food items (including Potentially Hazardous Foods “PHF”) whole fruit and pastry items with limited hot hold service.

Retail Store means food operation that sells packaged food items for retail sales; may include PHF items and no on-site cooking.

Specialty/Coffee Shops means food operations that sells liquid drinks, coffee, pastries or prepackaged food items.

Bakery means food operations that sell baked goods, coffee, and beverages. PHF's are limited to one (kolache), no sandwiches or salads.

Prepackaged Stores means a food operation that sells prepackaged foods only or prepackaged foods and single service ice cream and no milk.

Grocery Store means a facility that provides food items for retail sales to the general public and that usually consist of the following: (a) bakery/deli, (b) meat/seafood, (c) produce, dairy, and grocery section.

Mega Store means a large multi purpose facility with a grocery center that has multiple food service operations located within the facility.

Seafood/Meat Market means a facility that sells only raw meat or seafood products.

Exempt means all public schools located in the Plano City Limits and City of Plano facilities.

Potentially Hazardous Food (PHF) means a food that requires time and temperature control for safety (TCS) to limit pathogen growth or toxin production which consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacean, or other ingredients including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does include fresh shell eggs, which is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons; and garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support growth. This term does not include: an air-cooled hard-boiled egg with shell intact, or a shell egg that is not hard-boiled, but has been treated to destroy all viable Salmonellae; a food, in an unopened commercially hermetically sealed container, that is shelf stable; a food for which a product assessment including laboratory evidence, demonstrates that time and temperature control for safety is not required and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms; or a food that does not support the growth of microorganisms as specified even though the food may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness.

HEALTH DEPARTMENT FEES

RETAIL FOOD PERMIT FEES:	Fee
1. Mega Stores	\$ 1000.00
2. Grocery Stores	\$ 800.00
3. Full Service	\$ 500.00
4. Exempt	-0-
5. Fast Foods	\$ 400.00
6. Convenience	\$ 300.00
7. Non-PHF	\$ 200.00
8. Misc. Vending	
A. Hot Trucks	\$ 300.00
B. Catering, Prepackaged	\$ 275.00
C. Push Cart (Ice Cream)	\$ 150.00
9. Seasonal, Non-PHF	\$ 150.00
Temporary	\$ 75.00

POOL INSPECTION, WASTEHAULER AND PRETREATMENT FEES

POOL	Fee
1. Swimming Pool Inspection Fee	\$ 200.00
2. Additional Pool	\$ 100.00
3. Re-inspection Pool Fee	\$ 50.00
WASTE HAULER AND TRAP FEES	
1. Waste Haulers	\$ 300.00
2. Generator Inspection	\$ 250.00
INDUSTRIAL WASTEWATER PRETREATMENT	
1. Industrial Pretreatment Annual Fee	\$ 300.00
2. Industrial Pretreatment BMP Permit Fee	\$ 50.00
INDUSTRIAL USER FEES	
1. Industrial User Fee Per Outfall (monthly)	\$ 590.00

No permit shall be issued or renewed until such fee is paid. Late fees for permit renewals shall apply as follows:

Late Fees:

Food and Pool Permits-Renewals:

1-30 days after expiration date	10% of permit fee
31-60 days after expiration date	15% of permit fee
60 or more days after expiration date	30% of permit fee

Liquid Waste Generator Permit Renewals:

1-30 days after expiration \$ 50.00

C/O and Re-inspection Fees:

First Re-inspection -0-

Second Re-inspection \$ 75.00

Body Art Permit Fee \$ 200.00

Food Establishment \$ 50.00

This includes all food establishments receiving an inspection rating of "D" or "F."

Training Fees:

Food Manager Certification \$ 100.00

Food Handler Class \$ 25.00

Food Handler Card for Off-site Course \$ 15.00

Food Manager Review Course \$ 25.00

Certified Pool Operator Course \$ 200.00

A permit fee of Seventy-Five Dollars (\$75.00) must accompany each completed temporary food service permit application. An additional Fifty Dollars (\$50.00) will be assessed if application is submitted less than two (2) business days prior to the event. All nonprofit organizations shall be exempt from the temporary food service permit fee charge. Proper documentation of nonprofit status must be provided to the Health Department at the time of application.

Vendors having more than one booth at an event will be charged Seventy-Five Dollars (\$75.00) for the first booth and Twenty-Five Dollars (\$25.00) for each additional booth.

A permit fee of One Hundred Fifty Dollars (\$150.00) must accompany each completed seasonal food service permit application. An additional Fifty Dollars (\$50.00) will be assessed if application is submitted less than two (2) business days prior to the event. Proper documentation of nonprofit status must be provided to the Health Department at the time of application.

A permit fee waiver may be obtained if proof of charitable non-profit (tax-supported) status is submitted with application. There is a Twenty Dollar (\$20.00) permit processing and inspection fee.

A plans review fee of Three Hundred Dollars (\$300.00) shall be charged for the review of plans and specifications of new construction or remodeled facilities.

ANIMAL SERVICES FEES

Annual Registration Fees:

Dog, cat or ferret annual registration \$ 30.00

Sterilized dog, cat, or ferret registration, annual \$ 10.00

Dangerous animal registration, annual \$ 250.00

Lost registration tag fee \$ 5.00

Permit Fees:

Commercial Breeder Permit, annual	\$ 75.00
Animal Establishment Permit, annual	\$ 75.00
Animal Exhibition Permit, per seven (7) day period	\$ 25.00
Pet Grooming Facility permit, annual	\$ 50.00
Multi-Pet Permit Application Fee, annual	\$ 15.00
Wildlife Educational Center permit, annual	\$ 200.00
Wildlife Rehabilitator permit, annual	No charge

Any Commercial Breeder, Animal Establishment, Pet Grooming Facility, or Wildlife Educational Center that does not receive a satisfactory annual inspection shall be charged a re-inspection fee for each subsequent inspection that is performed until a satisfactory rating is achieved. The cost for each inspection shall be \$25.00 and all re-inspection fees must be paid prior to the issuance of any permit.

Any Commercial Breeder, Animal Establishment, Pet Grooming Facility or Wildlife Educational Center that applies for its annual permit 1-30 days after the expiration date of its previous permit shall pay a late fee of \$25.00. Any Commercial Breeder, Animal Establishment, or Pet Grooming Facility that applies for its annual permit 31 or more days after the expiration date of its previous permit shall pay a late fee of \$50.00.

Impound and Boarding Fees:

First Impoundment	\$ 75.00
The first impound fee may be reduced by the following amounts if the animal, at the time of impound, is:	
Sterilized	\$ 40.00
Currently vaccinated against rabies	\$ 10.00
Currently licensed with the city	\$ 10.00
Identified by traceable identification	\$ 15.00
Second Impoundment in any twelve (12) month period	\$ 100.00
Third and all subsequent impoundments in any twelve (12) month period:	
Previous full impound fee plus	\$ 100.00
Boarding fee per animal, daily for all or part of any one day	\$ 10.00

Adoption Fees:

Dog or cat	\$ 80.00
Ferret	\$ 50.00
Birds, small mammals, reptiles:	\$ 25.00

Miscellaneous Fees:

Microchipping fee	\$ 15.00
Rabies vaccination fee	\$ 10.00
Local Rabies Control Authority Incident Fee (includes all boarding and observation fees, or ship and test fees)	\$ 100.00
Livestock capture and impoundment, per head	\$ 100.00
Boarding fee, per head per day	\$ 15.00
Deceased dog, cat, or other small animal cremation fee	\$ 20.00
Owner surrender fee for any dog, cat, or other small animal	\$ 25.00

No permit or license shall be issued or renewed until such fee is paid.

The Health Director or his designee shall have the authority to refund, reduce, or waive animal services fees.

Effective January 1, 2011, any dog, cat, or ferret that has not been licensed in accordance with Section 4-111 of Plano's Code of Ordinances within the previous thirteen month period shall be assessed a late fee of \$10.00.

The annual registration fee for sterilized animals shall be reduced to \$5.00 if the owner of the animal is sixty (60) years of age or older or provides proof of receiving financial assistance from any governmental agency due to the owner being considered disabled or low-income. This fee shall also be reduced for animals that are used by law enforcement agencies and for certified assistance animals.”

Section II. All provisions of the Ordinances of the City of Plano, codified or uncodified, in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, codified or uncodified, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section III. It is the intention of the City Council that this Ordinance, and every provision thereof, 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 IV. This Ordinance shall become effective immediately upon its passage.

DULY PASSED AND APPROVED this the 26th day of July, 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:	07.26.10
Department:	Sustainability & Environmental Services
Department Head	Nancy Nevil
Agenda Coordinator (include phone #): Christopher Day X4138	

CAPTION

An Ordinance of the City of Plano, Texas amending a section of Ordinance No. 2008-9-35 codified as Section 18-25, Article I of Chapter 18, Solid Waste, of the City of Plano Code of Ordinances to revise the service fee schedule for the collection of solid waste for downtown properties; and providing a repealer clause, a savings clause, a severability clause, and 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): SUSTAINABILITY & ENVIRONMENTAL SERVICES FUND

COMMENTS: Approval of this item will modify the solid waste collection rates for downtown merchants. Offices and Retailers will now pay based on one of three flat rates based on the square footage of their floor area, while Restaurants will pay based on one of two per square foot rates. The net effect of of this change is minimal as many variables are involved. With the new rates in place, total usage fees for all downtown merchants are projected at \$1,233 per month or \$14,796 annually, assuming current tenant occupancy.

STRATEGIC PLAN GOAL: Adjustment of collection rates to relates to the City's goal of a Financially Strong City with Service Excellence

SUMMARY OF ITEM

This item will require Downtown Merchants to utilize a shared container provided by the City of Plano and will charge restaurants less than 1000 square feet of floor area \$0.04 per square foot; restaurants with 1000 square feet or more of floor area will be charged \$0.065 per square foot; businesses designated as retail or office with less than 1000 square feet of floor area will be charged \$11.25 per month; businesses designated as retail or office with 1000 square feet or more of floor area, but less than or equal to 11,000 square feet of floor area will be charged \$36.60 per month; and businesses designated as office or retail with more than 11,000 square feet of floor space will be charged \$225 per month.



**CITY OF PLANO
COUNCIL AGENDA ITEM**

List of Supporting Documents: Exhibit A: Fee Structure	Other Departments, Boards, Commissions or Agencies

Memorandum

Date: July 16, 2010

To: Plano City Council

Via: Thomas H. Muehlenbeck, City Manager
Frank Turner, Deputy City Manager

From: Christopher Day, Commercial Recycling Supervisor

Re: Ordinance Revision to Solid Waste Program for Downtown Plano

On February 1, 2010, Downtown Merchants began utilizing a new solid waste enclosure per City Ordinance 2008-9-35. The ordinance also established a rate plan for tenants and set charges for each according to business type and square footage.

Feedback from most tenants has been positive; however, there are some businesses that feel the rate structure is inequitable. Upon further discussion and evaluation, an update to the rate plan is proposed which addresses the concerns of the merchants and simplifies the program. The new rate establishes rates based on square footage ranges, and two types of categories -- Business and Restaurant. The new fees create nominal changes to businesses and a small increase to large restaurants.

A letter proposing the new plan was distributed to tenants and a meeting was scheduled to discuss any objections. Feedback to the new fees was positive, and businesses who were previously concerned have voiced their support.

Staff recommends that this new rate structure be adopted as proposed.

cc: Mark Israelson, Assistant City Manager
Nancy Nevil, Director of Sustainability & Environmental Services
Robert Smouse, Sustainability & Environmental Services Manager

Downtown Waste Services						
Location			Current			Proposed
Address	Business Name	Sq Ft	Use	Sq ft \$	Total Cost	
1004 E. 15th	Fillmore	3600	Rest	.06	\$216	\$234
1006 E. 15th	Urban Crust	3600	Rest	.06	\$216	\$234
1008 E. 15th	Summer 2010	2400	R2	.02		
1010 E. 15th	Ambiance	2270	R2	.02	\$45	\$36.60
1012 E. 15th	Natures Finest	2537	R2	.02	\$51	\$36.60
1016 E. 15th	Toast of Texas	1144	R2	.02	\$23	\$36.60
1018 E. 15th	Pink Paparazzi	948	R1	.01	\$9	\$11.25
1020 E. 15th	Pink Cadillac	793	R1	.01	\$8	\$11.25
1022 E. 15th	Vacant (for sale)	1749	Rest	.06		
1024 E. 15th	New Biz	2016	O	.015	\$36	\$36.60
1030 E. 15th	Sutton Place	4700	F	.015	\$70	\$36.60
1423 K Ave.	Mane Design	250	R2	.01	\$3	\$11.25
1416 J Place	Fairway Group	1300	O	.015	\$19	\$36.60
1414 J Place	Masonic Lodge	3266	O	.015	\$49	\$36.60
1410 J Place	Broadhead Realty	1903	O	.015	\$29	\$36.60
1408 J Place	Nanny Grannies	3000	R2	.02	\$60	\$36.60
1001 E. 14th	Lillies Garden Shop	3095	R2	.02	\$62	\$36.60
1400 J Place	Cobwebs	4200	R2	.02	\$84	\$36.60
1400 J Place	Nee Needs	468	Rest	.04	\$19	\$19.00
1409 K Ave.	MCS	15020	O	.015	\$225	\$225
1032 E. 15th	Queen of Hearts	1650	R2	.02	\$33	\$36.60
1425 K Ave.	Natural Elegance	600	R1	0.01	\$6	\$11.25
1425 1/2 K Ave.	Imaginaria	2250	O	0.015	\$34	\$36.60
					\$1,296	\$1,233

Full \$1,450 \$1,382

Fees

Businesses < 1000 SF = \$11.25

Businesses ≥ 1000 SF and ≤ 11000 SF = \$36.60

Businesses > 11000 SF = \$225

Restaurants < 1000 SF = .04 Per SF

Restaurants > 1000 SF = .065 Per SF

Allied charges = \$1239.38

An Ordinance of the City of Plano, Texas amending a section of Ordinance No. 2008-9-35 codified as Section 18-25, Article I of Chapter 18, Solid Waste, of the City of Plano Code of Ordinances to revise the service fee schedule for the collection of solid waste for downtown properties; and providing a repealer clause, a savings clause, a severability clause, and an effective date.

WHEREAS, the City Council passed Ordinance No. 2008-9-35 on September 22, 2008 which set forth rules and regulations pertaining to the collection of solid waste in the City of Plano; and

WHEREAS, the efficient collection of solid waste is critical to the health and safety of the residents of Plano; and

WHEREAS, the development patterns of the Downtown area provide special challenges for businesses and residents in existing heritage structures to accommodate efficient waste collection; and

WHEREAS, the City staff recommends, and the Council finds, the most practical solution to the waste collection in the Downtown area is to create a shared waste collection system and assess service rates according to the use and floor area of the business; and

WHEREAS, the City Council desires to amend a section of Ordinance No. 2008-9-35 codified as Chapter 18-25, Article I of Chapter 18, Solid Waste, of the City of Plano Code of Ordinances to revise the service fee schedule for the collection of solid waste for Downtown properties.

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

Section I. Section 18-25 of Article I, Chapter 18, Solid Waste, of the Code of Ordinances of the City of Plano is hereby amended to read in its entirety as follows:

“Sec. 18-25 Downtown Collection Accommodation and Rates

Downtown merchants are required to utilize shared solid waste service containers as designated by the City of Plano. The City will provide designated containers for shared use including both recycling and solid waste in a centralized location. Merchants will be charged monthly by the City of Plano based on the use and floor area of the building occupied by the use. Service rates are established as follows:

- (1) Restaurants less than 1000 square feet of floor area will be charged four cents (\$0.04) per square foot.
- (2) Restaurants with 1000 square feet or more of floor area will be charged sixty-five cents (\$0.65) per square foot.

- (3) Businesses designated as retail or office with less than 1000 square feet of floor area will be charged eleven dollars and twenty-five cents (\$11.25) per month.
- (4) Businesses designated as retail or office with 1000 square feet or more of floor area, but less than or equal to 11,000 square feet of floor area will be charged thirty-six dollars and sixty cents (\$36.60) per month.
- (5) Businesses designated as office or retail with more than 11,000 square feet of floor space will be charged two hundred twenty-five dollars (\$225.00) per month.

Section II. All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section III. The repeal of any ordinance or part of ordinances 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 ordinance at the time of passage of this Ordinance.

Section IV. It is the intention of the City Council that this Ordinance, and every provision thereof, 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 V. This Ordinance shall become effective immediately upon its passage and publication as required by law and the rates shall apply to the billing cycle occurring after August 1, 2010.

DULY PASSED AND APPROVED this the 26th day of July, 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:		7/26/2010		
Department:		Human Resources		
Department Head		Lashon Ross		
Agenda Coordinator (include phone #): Stacey D. Stagich, ext. 7296				
CAPTION				
An Ordinance of the City of Plano, Texas repealing Ordinance No. 2009-9-26; establishing the number of certain classifications within the Police and Fire Departments for fiscal year 2009-10; establishing the authorized number and effective dates of such positions for each classification effective October 1, 2009, December 1, 2009, and August 1, 2010 respectively; establishing a salary plan for the Police and Fire Departments effective September 28, 2009; and providing a repealer clause, a severability 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				
Requesting approval of 2009-10 Civil Service compensation and classification plan.				
List of Supporting Documents: Attachments A and B			Other Departments, Boards, Commissions or Agencies	

An Ordinance of the City of Plano, Texas repealing Ordinance No. 2009-9-26; establishing the number of certain classifications within the Police and Fire Departments for fiscal year 2009-10; establishing the authorized number and effective dates of such positions for each classification effective October 1, 2009, December 1, 2009, and August 1, 2010 respectively; establishing a salary plan for the Police and Fire Departments effective September 28, 2009; and providing a repealer clause, a severability clause and an effective date.

Whereas, on September 28, 2009 by Ordinance No. 2009-9-26, the City Council of the City of Plano, Texas, established classification and salaries for each of the sworn personnel positions within the Police and Fire Departments of the City of Plano; and

Whereas, the City Council has since reviewed the classification positions within the rank of Fire Lieutenant of the City of Plano and is of the opinion that the number of such positions should be decreased effective August 1, 2010, as reflected in Exhibit "B" attached hereto; and

Whereas, in compliance with Chapter 143 of the Texas Local Government Code, V.T.C.A., as amended, the City Council desires to adopt the specified number of positions effective October 1, 2009, December 1, 2009, and August 1, 2010 respectively, and the classification and salary plan for the sworn personnel of the Police and Fire Departments of the City of Plano, Texas as set forth in attached Exhibits "A" and "B" with such salary plan effective September 28, 2009; and

Whereas, the salary plan adopted by this ordinance does not, in any way, limit the ability or authority of the City to implement a reduction in salary due to business or other fiscal needs, nor does it prevent the City Manager or Department Head from reducing, on an individual or a group basis, the number of hours worked per week or per work cycle due to fiscal needs, disciplinary actions, or other allowable reasons.

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

Section I. Ordinance No. 2009-9-26 duly passed and approved by the City Council of the City of Plano, Texas on September 28, 2009 is repealed in its entirety effective July 26, 2010.

Section II. The number of positions in the City of Plano Police and Fire Departments effective October 1, 2009, December 1, 2009, and August 1, 2010 respectively and the classification and salary plan of the City of Plano Police and Fire Departments for City of Plano fiscal year 2009-10, effective September 28, 2009, all as set out on attached Exhibit "A" and Exhibit "B", are hereby approved, adopted, and established.

Section III. Any and all advancements from one service plateau to the next, within the salary structure set out in Exhibit "A" and Exhibit "B", are hereby approved, adopted, and established, and shall thereafter be permitted at the start of the first payroll period following completion of the required number of continuous service months.

Section IV. All provisions of the Ordinances of the City of Plano, codified and uncodified, in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano, codified or uncodified, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section V. It is the intention of the City Council that this Ordinance, and every provision thereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision or portion of this Ordinance shall not affect the validity or constitutionality of any other portion of this Ordinance.

Section VI. Upon passage, this Ordinance shall become effective July 26, 2010.

DULY PASSED AND APPROVED, this, the 26th day of July, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

CITY OF PLANO
 2009-2010 CIVIL SERVICE COMPENSATION PLAN
 Effective 9/28/09
 POLICE

RANGE	POSITION	# POSITIONS Effective	Step:	BASE 1	6 Mos. 2	12 Mos. 3	18 Mos. 4	24 Mos. 5	30 Mos. 6	36 Mos. 7	60 Mos. 8	120 Mos. 9	180 Mos. 10	240 Mos. 11
001	Police Officer	10/01/09 - 284	Hourly:	27.2265	28.1442	29.0721	30.3559	31.3548	32.4256	34.0714	35.0329	35.2733	35.5137	35.7541
			Monthly:	4,719	4,878	5,039	5,262	5,435	5,620	5,906	6,072	6,114	6,156	6,197
			Annual:	56,631	58,540	60,470	63,140	65,218	67,445	70,869	72,868	73,368	73,868	74,369
002	Sergeant	10/01/09 - 38	Hourly:	38.6773		40.1640								
			Monthly:	6,704		6,962								
			Annual:	80,449		83,541								
003	Lieutenant	10/01/09 - 13	Hourly:	43.1778		45.7659								
			Monthly:	7,484		7,933								
			Annual:	89,810		95,193								
004	Captain	10/01/09 - 4	Hourly:	49.1990		52.1480								
			Monthly:	8,528		9,039								
			Annual:	102,334		108,468								
005	Assistant Police Chief	10/01/09 - 1	Hourly:	56.0565		59.7235								
			Monthly:	9,716		10,352								
			Annual:	116,598		124,225								

Recruit:
 01A
Hourly: 25.2278
Monthly: 4,373
Annual: 52,474

The hourly rate shown above is the base hourly rate at which pay is calculated. The monthly and annual rates shown are for informational purposes only and illustrate potential pay based on hours which are not guaranteed. The City Council can change pay, pay periods, and total hours scheduled at any time.

CITY OF PLANO
 2009-2010 CIVIL SERVICE COMPENSATION PLAN
 Effective 09/28/09
 FIRE

RANGE	POSITION	# Positions Effective	STEP:	BASE	6 MOS.	12 MOS.	24 MOS.
				1	2	3	4
001	Fire Rescue Specialist**	10/01/09 - 193	Hourly: Monthly: Annual:	19.2862 4,680 56,161		20.6451 5,010 60,118	22.7431 5,519 66,228
002	Fire Apparatus Operator**	10/01/09 - 51	Hourly: Monthly: Annual:	25.3544 6,153 73,832			
003	Lieutenant**	10/01/09 - 24 12/1/09 - 21 8/01/10 - 20	Hourly: Monthly: Annual:	28.1787 6,838 82,056			
004	Captain**	10/01/09 - 39 12/1/09 - 42	Hourly: Monthly: Annual:	31.5667 7,660 91,922			
005	Battalion Chief*	10/01/09 - 9	Hourly: Monthly: Annual:	50.2372 8,708 104,493	54.5027 9,447 113,366		
006	Assistant Fire Chief*	10/01/09 - 4	Hourly: Monthly: Annual:	59.8629 10,376 124,515			
01A	Fire Recruit**		Hourly: Monthly: Annual:	17.8720 4,337 52,043			

* Hourly rate above is the basis for all pay calculations. Monthly and annual amounts illustrate potential pay if 2080 hours are worked annually.

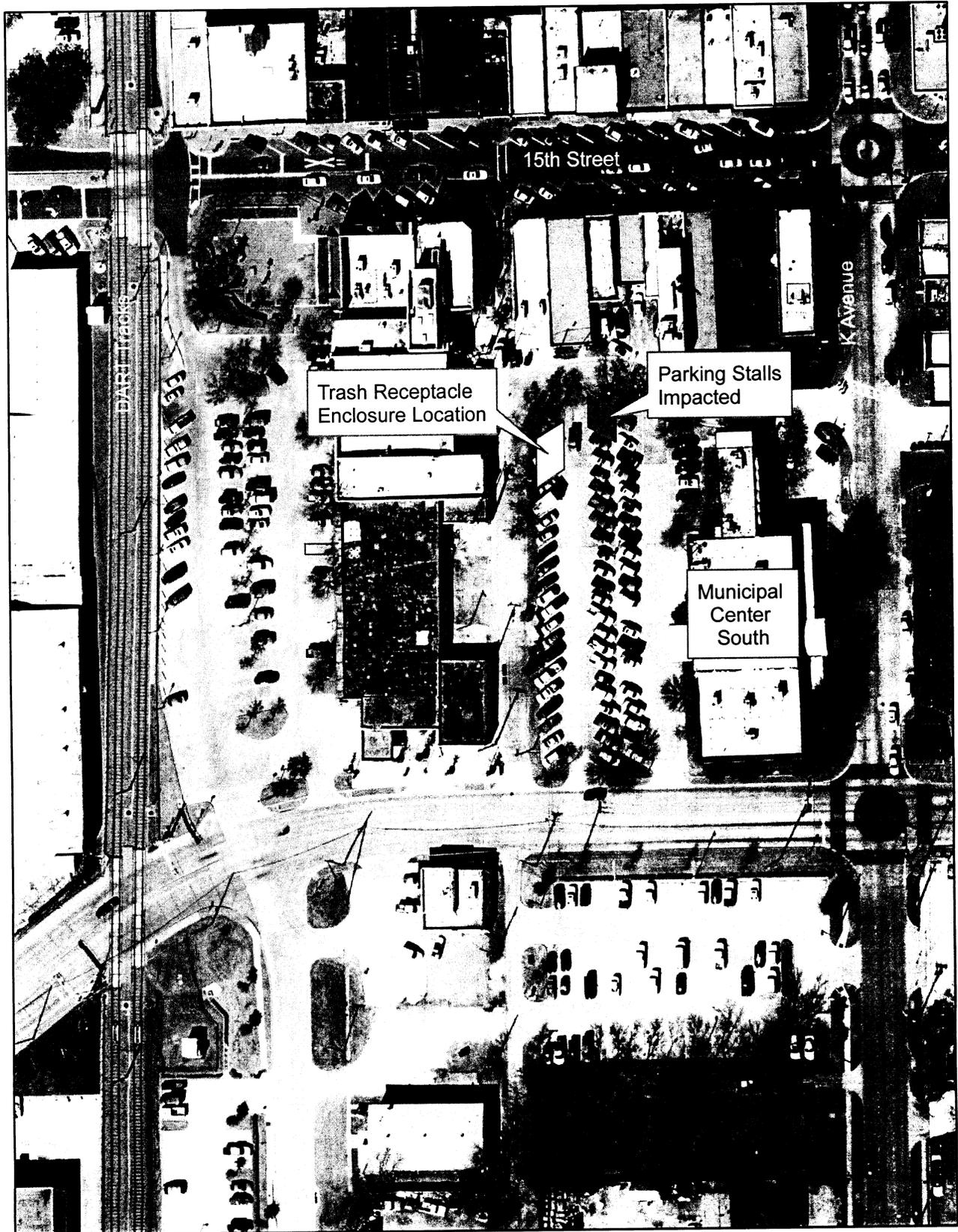
** Hourly rate above is the basis for all pay calculations. Monthly and annual amounts illustrate potential pay if 2912 hours are worked annually.

The hourly rate shown above is the base hourly rate at which pay is calculated. The monthly and annual rates shown are for informational purposes only and illustrate potential pay based on hours worked which are not guaranteed. The City Council can change pay, pay periods, and total hours scheduled at any time.

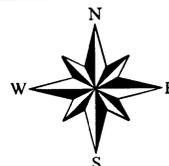


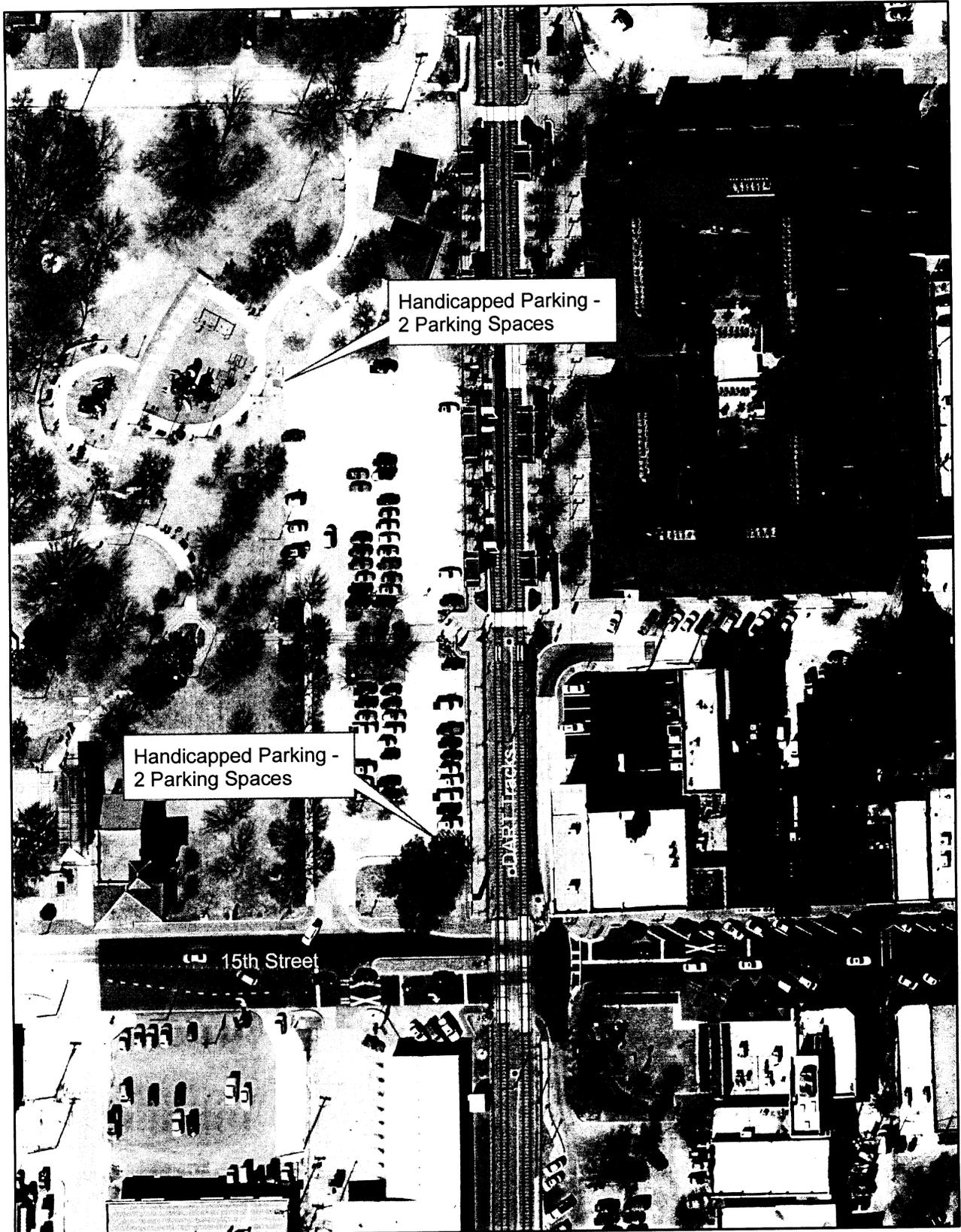
CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		7-26-10		
Department:		Public Works & Engineering		
Department Head		Alan L. Upchurch		
Agenda Coordinator (include phone #): Irene Pegues (7198)				
CAPTION				
<p>An ordinance of the City of Plano, Texas, repealing Section 12-104.5 and enacting a new Section 12-104.5 to Chapter 12 (Traffic Code) of the City of Plano Code of Ordinances regulating the parking of motor vehicles in certain designated public parking lots within the Business Government district; providing a fine for criminal penalties not to exceed \$200.00 for each offense; and providing a repealer clause, a severability clause, a savings clause, a publication clause, and an effective date.</p>				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input checked="" type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	2009-10	Prior Year (CIP Only)	Current Year	Future Years
		0	0	0
Budget		0	0	0
Encumbered/Expended Amount		0	0	0
This Item		0	0	0
BALANCE		0	0	0
FUND(S): GENERAL FUND				
COMMENTS: Any revenue received via fines as a result of this Ordinance is undeterminable at this time.				
STRATEGIC PLAN GOAL: Passage of this Ordinance relates to the City's Goal of Financially Strong City with Service Excellence.				
SUMMARY OF ITEM				
<p>The Haggard Park public parking lot is located next to the Downtown Plano DART light rail station. Parking in the lot is time restricted to no more than 4 hours between the hours of 5:00 a.m. and 5:00 p.m. Monday through Friday. The Transportation Engineering Division (TED) has recently received requests from disabled veterans traveling to the Veterans Administration Hospital in Dallas for exemptions to the time limit, citing trip length and treatment times. While not specifically a DART parking lot, the four handicapped spaces in it are underutilized by both park and DART patrons. The TED supports unrestricted time use of these spaces by the disabled.</p> <p>The Sustainability and Environmental Services Department recently requested additional time limitations for two parking spaces in the public parking lot west of Municipal Center South. Early morning parking is blocking the access of the commercial waste contractor to the trash receptacles located in the northwest corner of the parking lot. The proposed time limitation between 4:00 a.m. and 7:30 a.m. will resolve this conflict. This ordinance is prepared for City Council consideration for implementing these City Code revisions. The TED supports adoption of this ordinance.</p>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Location Maps			N/A	

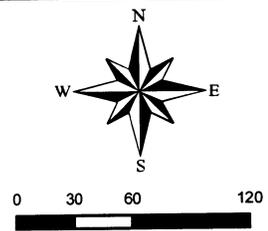


Municipal Center South Parking Lot -
No Parking Zone
4:00 a.m. - 7:30 a.m.





Haggard Park Parking Lot -
Handicapped Parking



An ordinance of the City of Plano, Texas, repealing Section 12-104.5 and enacting a new Section 12-104.5 to Chapter 12 (Traffic Code) of the City of Plano Code of Ordinances regulating the parking of motor vehicles in certain designated public parking lots within the Business Government district; providing a fine for criminal penalties not to exceed \$200.00 for each offense; and providing a repealer clause, a severability clause, a savings clause, a publication clause, and an effective date.

WHEREAS, the City Council of the City of Plano enacted Ordinance 2002-9-38 on September 23, 2002 effectively regulating the length of time that parking is allowed in certain designated public parking lots in the downtown area; and

WHEREAS, Ordinance 2002-9-38 included all parking spaces within each certain designated public parking lot without regard to use or location; and

WHEREAS, disabled veterans traveling on the Dallas Area Rapid Transit light rail from the Downtown Plano Station to the Veterans Administration Hospital in Dallas are using the handicapped parking spaces in the Haggard Park public parking lot; and

WHEREAS, disabled veterans traveling on the Dallas Area Rapid Transit light rail from the Downtown Plano Station to the Veterans Administration Hospital in Dallas have recently made requests for exemptions from the time limitations imposed on the handicapped parking spaces in the Haggard Park public parking lot; and

WHEREAS, the City Council of the City of Plano finds it appropriate to exempt the handicapped parking spaces in the Haggard Park public parking lot from the time limitation imposed on the parking lot for the benefit of the disabled; and

WHEREAS, the City of Plano has recently constructed screening surrounding the public trash receptacles in the parking lot of Municipal Center South; and

WHEREAS, access to service these trash receptacles is from within the public parking lot serving Municipal Center South; and

WHEREAS, access to the trash receptacles from the Municipal Center South public parking lot has been blocked by parked vehicles, thereby causing the waste management contractor to be unable to service the trash receptacles; and

WHEREAS, the City Council of the City of Plano finds it necessary to prohibit parking between the hours of 4:00 a.m. and 7:30 a.m. in certain designated parking spaces in the Municipal Center South public parking lot in order to provide access to the trash receptacles and for the safety of the general public within the area.

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

Section I. Section 12-104.5 of Chapter 12 (Traffic Code) of the City of Plano Code of Ordinances is hereby repealed and the following is adopted to read in its entirety as follows:

“Sec. 12-104.5. - Parking in public lots in the downtown area.

(a) It shall be unlawful for any person to park a motor vehicle in the following public parking lots for a period in excess of four hours during the hours of 5:00 a.m. to 5:00 p.m. Monday through Friday without having a valid City of Plano issued parking permit prominently displayed in said vehicle:

The public parking spaces located in the Eastside Village II Development parking garage, located immediately west of Municipal Avenue between 14th Street and 15th Street.

(b) It shall be unlawful for any person to park a motor vehicle in the following public parking lot for a period in excess of four hours during the hours of 5:00 a.m. to 5:00 p.m. Monday through Friday:

Haggard Park parking lot bounded by 15th Street, H Avenue, 16th Street and the DART light-rail line.

This provision shall not apply to a motor vehicle parked with a valid City of Plano issued parking permit prominently displayed in said vehicle or a motor vehicle parked in a designated handicap parking space when the vehicle displays a valid handicap placard or handicap license plate.

(c) It shall be unlawful for any person to park a motor vehicle in the public parking lots bounded by 15th Street, K Avenue, 14th Street and the DART rail line for a period in excess of four hours during the hours of 5:00 a.m. to 5:00 p.m. Monday through Friday without having a valid City of Plano issued parking permit prominently displayed in said vehicle, except that when signs are placed giving notice thereto, parking shall be prohibited in certain designated parking spaces between the hours of 4:00 a.m. and 7:30 a.m.”

Section II. The Traffic Engineer of Plano is hereby authorized and directed to cause placement of traffic control signs at the entrances to the designated public parking lots and at other locations as deemed necessary to give adequate notice to all persons of the time restrictions and penalties in effect for these parking lots.

Section III. All provisions of the ordinances of the City of Plano, codified or uncodified, in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the ordinances of the City of Plano, codified or uncodified, not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section 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. Any person, firm, or corporation violating any of the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction in the Municipal Court, shall

be subject to a fine not to exceed TWO HUNDRED AND NO/100 DOLLARS (\$200.00) for each offense. Each and every violation shall be deemed to constitute a separate offense.

Section VI The repeal of any ordinance or part of an ordinance 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 VII. This Ordinance shall become effective from and after its passage and publication as required by law.

DULY PASSED AND APPROVED this 26th day of July, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

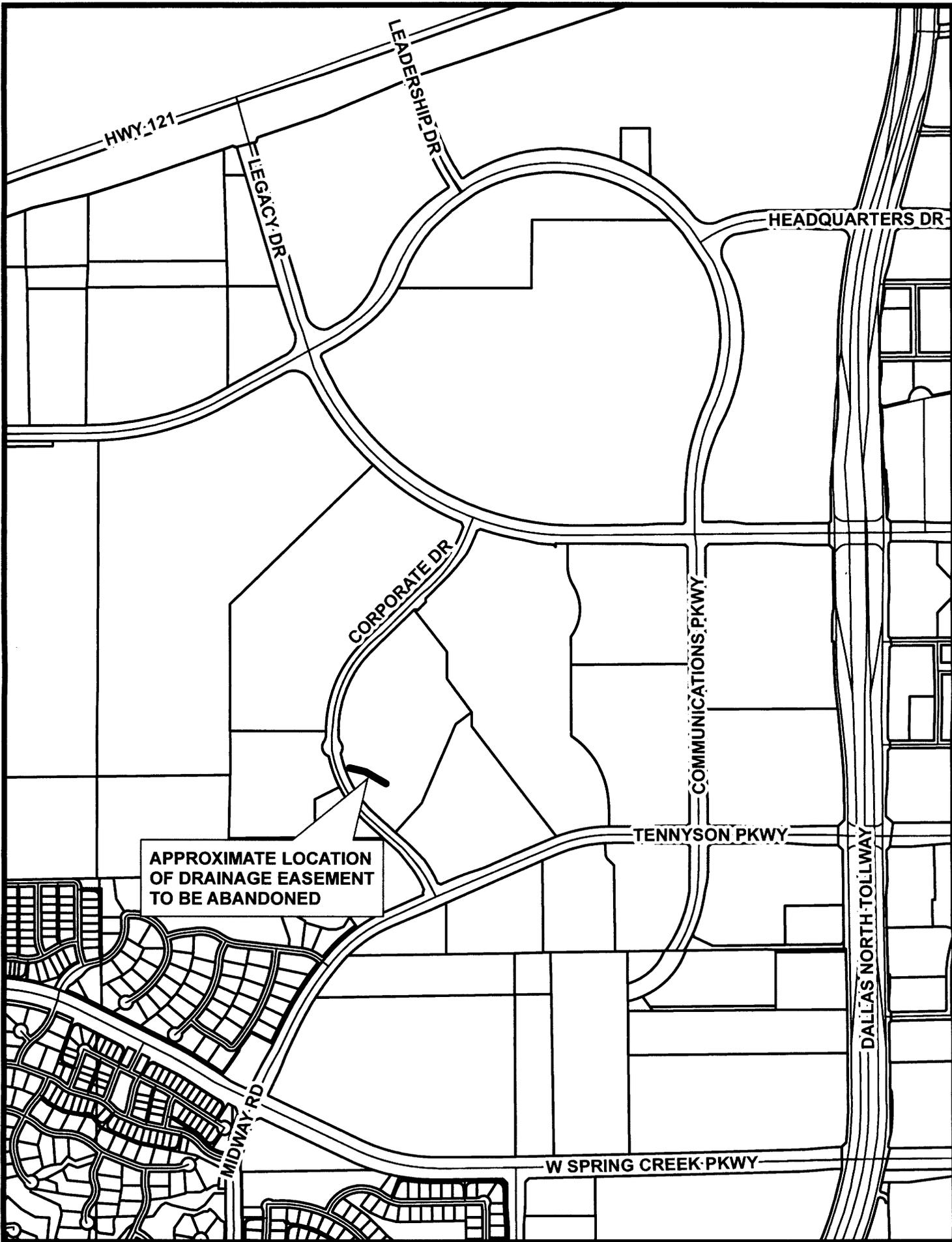
APPROVED AS TO FORM:

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:		7/26/10		
Department:		Public Works & Engineering		
Department Head		Alan L. Upchurch		
Agenda Coordinator (include phone #): Irene Pegues (X-7152)				
CAPTION				
<p>An ordinance of the City of Plano, Texas, abandoning all right, title and interest of the City, in and to the remainder of that Variable Width Drainage Easement recorded in Volume 2242, Page 945 of the Deed Records of Collin County, Texas and being situated in the Collin County School Survey, Abstract No. 150, which is located within the city limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such easement to the abutting property owner, Pizza Hut of America, Inc., to the extent of its interest; authorizing the City Manager or his authorized designee, to execute any documents deemed necessary; and providing an effective date.</p>				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input checked="" type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	2009-10	Prior Year (CIP Only)	Current Year	Future Years
Budget		0	0	0
Encumbered/Expended Amount		0	0	0
This Item		0	0	0
BALANCE		0	0	0
FUND(S): GENERAL FUND AND GENERAL OBLIGATION DEBT FUND				
<p>COMMENTS: This item will add 11,186 square feet of land back on the tax rolls and subsequently, increase property tax receipts. The specific revenue increase associated with this property is undeterminable at this time.</p> <p>STRATEGIC PLAN GOAL: Right-of-Way adjustments relate to the City's Goals of Financially Strong City with Service Excellence and Strong Local Economy.</p>				
SUMMARY OF ITEM				
<p>This existing drainage easement is no longer required since the drainage conveyed to this easement is being relocated and a new drainage easement is dedicated with the development of Pizza Hut Addition, Lot 1, Block 1.</p>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Location Map			N/A	



Legend
□ LOT LINE



An ordinance of the City of Plano, Texas, abandoning all right, title and interest of the City, in and to the remainder of that Variable Width Drainage Easement recorded in Volume 2242, Page 945 of the Deed Records of Collin County, Texas and being situated in the Collin Country School Survey, Abstract No. 150, which is located within the city limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such easement to the abutting property owner, Pizza Hut of America, Inc., to the extent of its interest; authorizing the City Manager or his authorized designee, to execute any documents deemed necessary; and providing an effective date.

WHEREAS, the City Council of the City of Plano has been requested to abandon all right, title and interest of the City in and to the remainder of that Variable Width Drainage Easement recorded in Volume 2242, Page 945 of the Deed Records of Collin County, Texas (hereinafter called "Easement") being situated in the Collin Country School Survey, Abstract No. 150, which is located within the city limits of Plano, Collin County, Texas, and which is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, the Property Owner has filed with the City a Petition for Abandonment, a copy of which is attached hereto as Exhibit "B" and made a part hereof by reference; and

WHEREAS, the Engineering Department has determined that there will be no detrimental effect on the City if the Easement is abandoned and quitclaimed to the abutting Property Owner; and has advised that the Easement should be abandoned;

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

Section I. All the right, title and interest of the City of Plano, Texas, in and to the Easement is hereby abandoned, and all right, title and interest of the City in and to the Easement is hereby quitclaimed to the abutting Property Owner in accordance with its respective interest. A certified copy of this Ordinance may be recorded in the Collin County Land Records to reflect this abandonment and quitclaim. The City Manager or his authorized designee, is hereby authorized to execute on behalf of the City of Plano, Texas, any instruments necessary to complete the abandonment and quitclaim of the Easement by the City of Plano.

Section II. The abandonment and quitclaim is without prejudice to any and all improvements, facilities, equipment or lines of any public utility, municipal or otherwise, if any, which are presently located within any portion of the Easement. Any such utility shall have the continued right to locate, maintain, repair, reconstruct, preserve or relocate improvements, facilities, equipment or lines in such portion of the Easement.

Section III. The City Council hereby finds and determines that the abandonment of the Easement is in the public interest of the City of Plano, Texas, and its citizens, and will inure to the benefit of the public generally.

Section IV. This Ordinance shall become effective immediately upon its passage as set forth below.

DULY PASSED AND APPROVED this the 26th day of July, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

Remainder of Variable Width
Drainage Easement

BEING a 11,186 square feet of land in the Collin County School Survey, Abstract No. 150, situated in the City of Plano, Collin County, Texas, and being the remainder of that Variable Width Drainage Easement to the City of Plano recorded in Volume 2242, Page 945, of the Deed Records of Collin County, Texas, and being a portion of Lot 1, Block 1, of the Pizza Hut Addition, as shown on the Conveyance Plat and recorded in Document No. 20100507010000880, of the Official Public Records of Collin County, Texas, and being more particularly described by metes and bounds as follows:

COMMENCING at a 1/2-inch found iron rod with yellow plastic cap stamped "HALFF ASSOC" (hereinafter referred to as "with cap) for the southernmost corner of said Lot 1 on the northeast right-of-way line of Corporate Drive (85 foot right-of-way);

THENCE North 48 degrees 08 minutes 28 seconds West, along said northeast right-of-way line, a distance of 192.00 feet to 1-inch found iron rod for the point of curvature of a circular curve to the right having a radius of 807.50 feet and whose chord bears North 33 degrees 56 minutes 51 seconds West, a distance of 395.96 feet;

THENCE Northwesterly, continuing along said northeast right-of-way line and said curve, through a central angle of 28 degrees 23 minutes 05 seconds, an arc distance of 400.04 feet to the POINT OF BEGINNING, said point being on a circular curve to the right having a radius of 807.50 feet and whose chord bears North 18 degrees 07 minutes 52 seconds West, a distance of 45.77 feet;

THENCE Northwesterly, continuing along said east right-of-way line and said curve, through a central angle of 03 degrees 14 minutes 52 seconds, an arc distance of 45.77 feet to a point for corner;

THENCE South 67 degrees 21 minutes 02 seconds East, departing said east right-of-way line and said curve, over and across said Lot 1, a distance of 119.20 feet to the point of curvature of a circular curve to the right having a radius of 72.50 feet and whose chord bears South 56 degrees 24 minutes 15 seconds East, a distance of 27.53 feet;

THENCE Southeasterly, continuing across said Lot 1 and along said curve, through a central angle of 21 degrees 53 minutes 35 seconds, an arc distance of 27.70 feet to the point of tangency;

THENCE South 45 degrees 27 minutes 27 seconds East, continuing across said Lot 1, a distance of 297.34 feet to a point for corner;

THENCE South 44 degrees 32 minutes 33 seconds West, continuing across said Lot 1, a distance of 25.00 feet to a point for corner;

Remainder of Variable Width
Drainage Easement

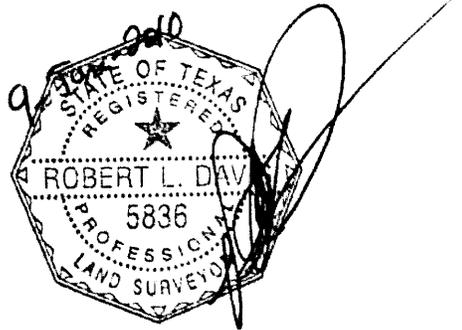
THENCE North 45 degrees 27 minutes 27 seconds West, continuing across said Lot 1, a distance of 297.34 feet to the point of curvature of a circular curve to the left having a radius of 47.50 feet and whose chord bears North 59 degrees 34 minutes 58 seconds West, a distance of 23.18 feet;

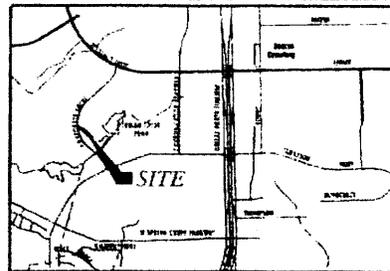
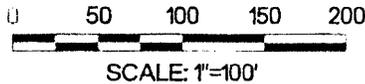
THENCE Northwesterly, continuing across said Lot 1 and along said curve, through a central angle of 28 degrees 15 minutes 02 seconds, an arc distance of 23.42 feet to the point of tangency;

THENCE North 73 degrees 42 minutes 29 seconds West, continuing across said Lot 1, a distance of 84.57 feet to the POINT OF BEGINNING AND CONTAINING 11,186 square feet or 0.2568 acres of land, more or less.

The basis of bearing is the northeast right-of-way line of Corporate Drive as indicated on the Pizza Hut Addition Conveyance Plat, as recorded in Document No. 20100507010000880, O.P.R.C.C.T., and being North 48 degrees 08 minutes 28 seconds West.

A plat accompanies this legal description.





$\Delta=03^{\circ}14'52''$
 $R=807.50'$
 $T=22.89'$
 $L=45.77'$
 $CL=45.77'$
 $CB=N18^{\circ}07'52''W$

$S67^{\circ}21'02''E$
 $119.20'$

$\Delta=21^{\circ}53'35''$
 $R=72.50'$
 $T=14.02'$
 $L=27.70'$
 $CL=27.53'$
 $CB=S56^{\circ}24'15''E$

POINT OF BEGINNING

$N73^{\circ}42'29''W$
 $84.57'$

$\Delta=28^{\circ}15'02''$
 $R=47.50'$
 $T=11.95'$
 $L=23.42'$
 $CL=23.18'$
 $CB=N59^{\circ}34'58''W$

REMAINDER OF VARIABLE WIDTH DRAINAGE EASEMENT VOL.2242, PG. 945 O.P.R.C.C.T.

LOT 1, BLOCK 1 PIZZA HUT ADDITION DOC. NO. 20100507010000880 O.P.R.C.C.T.

PIZZA HUT OF AMERICA, INC. DOC. NO. 20100204000117940 O.P.R.C.C.T.

11,186 SQ. FT.
 0.2568 AC.

$\Delta=28^{\circ}23'05''$
 $R=807.50'$
 $T=204.22'$
 $L=400.04'$
 $CL=395.96'$
 $CB=N33^{\circ}56'51''W$

CORPORATE DRIVE
 85' RIGHT-OF-WAY

$S45^{\circ}27'27''E$
 $N45^{\circ}27'27''W$

$291.34'$
 $291.34'$

$S44^{\circ}32'33''W$
 $25.00'$

COLLIN COUNTY SCHOOL SURVEY
 ABSTRACT NO. 150



1" FIR (C.M.)

$N48^{\circ}08'28''W$
 $192.00'$

1/2" FIR W/CAP (C.M.)

LOT 2, BLOCK 1

POINT OF COMMENCING

A legal description accompanies this plat.

The basis of bearing is the northeast right-of-way line of Corporate Drive as indicated on the Pizza Hut Addition Conveyance Plat, as recorded in Document No. 20100207010000880, O.P.R.C.C.T., and being North 48 degrees 08 minutes 28 seconds West.

LEGEND

- 1" FIR ONE INCH FOUND IRON ROD
- 1/2" FIR ONE HALF INCH FOUND IRON ROD
- W/CAP WITH CAP STAMPED 'HALFF ASSOC.'
- C.M. CONTROL MONUMENT
- O.P.R.C.C.T. OFFICIAL PUBLIC RECORDS OF COLLIN COUNTY, TEXAS
- D.R.C.C.T. DEED RECORDS OF COLLIN COUNTY, TEXAS

EXHIBIT
 REMAINDER OF
 VARIABLE WIDTH EASEMENT
 11,186 SQ. FT. (0.2568 AC.)
 SITUATED IN THE
 COLLIN COUNTY SCHOOL SURVEY,
 ABSTRACT NO. 150
 CITY OF PLANO, COLLIN COUNTY, TEXAS
 FOR
 PIZZA HUT OF AMERICA, INC.



EXHIBIT "B"

PETITION FOR ABANDONMENT

[For Easement Abandonment]

We, the undersigned, (hereinafter "Owners"), being all of the owners of real property abutting variable width drainage easement (hereinafter called "Easement"), more particularly described by metes and bounds in the field note description attached hereto and incorporated herein as **Exhibit "A-1"** do hereby request that the City of Plano, Texas (called "City") abandon the Easement.

1. The Owners are requesting the abandonment of the Easement for the following reasons:
The proposed development requires revisions to the existing drainage divides. The easement is no longer needed because runoff has been redirected and additional easements will be dedicated.
2. The following public interest will be served as a result of the abandonment:
Improvement of the real property with a new headquarters office building.
3. Unless the City determines that this abandonment is exempt from payment of fair market value, the Owners agree to pay to the City the fair market value of the Easement as determined by an appraisal obtained by the City (called "Price"). The appraisal shall be conclusive as to the fair market value. The Owners shall reimburse the City for the cost of the appraisal and other costs *incident to the abandonment* (called "Costs"). The Price and Costs shall be paid to the City prior to the abandonment. Should the Plano City Council decide not to abandon the Easement, the Price shall be returned to the Owners, but the Costs shall be retained by the City. Each Owner's share of the Price and Costs shall be in the same proportion as their abutting ownership as hereinafter defined.
4. If the Owners are providing a replacement easement for the Easement requested to be abandoned herein, Owners will attach a metes and bounds description or plat identifying the replacement easement and attach same to this Petition as **Exhibit "B-1"**.
5. The Owners hereby represent and affirm to the City that no other property owner, lessee, tenant or easement or license holder uses the Easement to access or to serve their property.
6. **The Owners further agree to release, defend, indemnify and hold the City, its officers, agents and employees harmless from and against any and all claims, losses, demands, suits, judgments and costs, including reasonable**

and necessary attorney's fees and expenses, arising out of, related to or resulting from the abandonment of the Easement by City.

7. The Owners understand and agree that the abandonment is in the sole discretion of the Plano City Council. The Owners also understand and agree that the Easement will be abandoned to them in proportion to their abutting ownership. The abutting ownership will be determined by the number of linear feet of frontage adjacent to the Easement owned by each property owner. Based on the foregoing, the Owners hereby represent and affirm that they have searched the public land records and determined that the abutting ownership is in the following proportions:

NA

8. Owners shall also prepare a map or drawing showing the Easement to be abandoned along with a designation of all abutting property owners. This map or drawing shall be attached hereto and incorporated herein as **Exhibit "C-1"**.
9. Owners shall also prepare a separate field note description for each portion of the Easement to be released to each abutting property owner. This description shall be attached hereto and incorporated herein as **Exhibit "D-1"**.

[Remainder of page blank]

10. The undersigned officers and/or agents of the Owners hereby represent and affirm that they have the necessary authority to execute this Petition for Abandonment on behalf of the Owners.

AL LITCHENBURG, PIZZA HUT, INC.

Typed Name of Owner

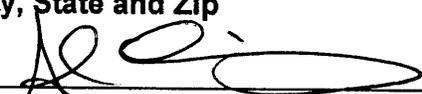
14841 N. DALLAS PARKWAY

Address

DALLAS, TX 75254

City, State and Zip

Dated: 6-22-10


Signature of Owner

Contact Person for Property Owners:

Name: AL LITCHENBURG

Phone No: 972-338-8495

FOR DEPARTMENTAL USE ONLY

The Easement to be abandoned is to one or more abutting property owners and is exempt from the requirement that fair market value be paid for the following reason(s):

- The Easement consists of narrow strips of land, or land that because of its shape, lack of access to public roads, or small area cannot be used independently under its current zoning or under applicable subdivision or other development code ordinances;
- The Easement consists of streets or alleys, owned in fee or used by easement;
- The Easement consists of land or a real property interest originally acquired for streets, rights-of-way, or easements that the City of Plano has decided to exchange with Owner for other land to be dedicated and used for streets, rights of way, easements, or other public purposes, including transactions partly for cash;
- The Easement contains land that the City wants to have developed by an independent foundation;
- The Easement is located within a reinvestment zone designated by law that the City desires to have developed under a project plan adopted by the municipality for the zone.



Public Works & Engineering Department
City of Plano, 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:		7/26/10		
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 Advocare International, LP., a Delaware Limited Partnership; 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	-4,217,175	-4,593,500	-8,810,675
This Item	0	-75,000		-75,000
BALANCE	0	8,286,535	-4,593,500	3,693,035
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 Advocare International, LP 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. Advocare International agrees to occupy not less than 97,000 sq. ft of commercial space by 6/30/11 and create or transfer 103 jobs by 6/30/11.				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Economic Development Incentive Agreement				

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 Advocare International, LP., a Delaware Limited Partnership; 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 Advocare International, LP., a Delaware Limited Partnership, 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 26th day of July, 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 Advocare International, LP., a Delaware Limited Partnership ("Company"), acting by and through its respective authorized officers and representatives.

WITNESSETH:

WHEREAS, Company is a health and wellness company offering energy, weight-loss, nutrition and sports performance products; 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 up to One Million Two Hundred Thousand Dollars (\$1,200,000.00) of taxable Real Property improvements to its new location in Plano and to add up to One Million Dollars (\$1,000,000.00) of taxable Business Personal Property in Plano; and

WHEREAS, the Company, as consideration for a grant, will occupy not less than a total of 97,000 square feet of commercial space located at 2801 Summit Drive, Plano, Texas 75074 (the "Property"); and create 103 Job Equivalents on the Property and maintain those positions for the remainder of the term of this Agreement; and

WHEREAS, occupancy of 97,000 square feet of commercial space on the Property and the creation of 103 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 June 30, 2011, 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, excluding third party contractors, 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 29, 2021, 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 97,000 square feet of commercial/industrial space on the Property on or before June 30, 2011;
- (b) Create or transfer 103 Job Equivalents to the Property on or before June 30, 2011;

(c) Continue to occupy the 97,000 square feet of commercial/industrial space on the Property for the full term of this agreement; 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 Seventy Five Thousand Dollars (\$75,000.00) for the Company's relocation expenses and for the occupancy of 97,000 square feet of commercial space on the Property and the creation of 103 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 Seventy Five Thousand Dollars (\$75,000.00) 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 AUGUST 1, 2011.**

4.03 **Refunds.**

(a) In the event the Company allows Job Equivalents at the Property to fall below 103 Job Equivalents 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 Seven Hundred and Twenty Eight Dollars (\$728.00) 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.

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

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

6.10 **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 26th day of July, 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

ADVOCARE INTERNATIONAL, LP.,
a Delaware Limited Partnership

By: _____
Richard H. Wright, Manager
AdvoCare GP, LLC
General Partner

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 Advocare International, LP., ("Company")
Economic Development Incentive Agreement between Company and the City of Plano
dated as of 7/26/10(the "Agreement")

I hereby certify that Company has occupied not less than 97,000 square feet of commercial/industrial space located at 2801 Summit Drive, Plano, Texas (the "Property") and has created 103 new Job Equivalent (as defined in the Agreement) positions to the Property. Company is in compliance with subsections (a) and (b) of Article 3 of the Agreement and is entitled to receive payment under the terms of the Agreement.

Advocare International, LP.,
a Delaware limited partnership

By: _____
Name:
Title:

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 Advocare International, LP ("Company")
Economic Development Incentive Agreement between Company and the City of Plano
dated as of 7/26/10(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 June 30, 2011 through June 29, 2021. 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.

Advocare International, LP.,
a Delaware limited partnership

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:		7/26/10		
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 Women of Faith, Inc., a Delaware 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	-4,217,175	-4,593,500	-8,810,675
This Item	0	-56,000	-10,500	-66,500
BALANCE	0	8,305,535	-4,604,000	3,701,535
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 Women of Faith, 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. Women of Faith agrees to occupy not less than 23,000 sq. ft of commercial space by 11/1/10 and create or transfer 80 jobs by 11/1/10. Women of Faith may also create or transfer up to 15 additional jobs by 12/31/12.				
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 Women of Faith, Inc., a Delaware 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 Women of Faith, Inc., a Delaware 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 26th day of July, 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 Women of Faith, Inc., a Delaware corporation ("Company"), acting by and through its respective authorized officers and representatives.

WITNESSETH:

WHEREAS, Company is a Christian-themed company that has inspired women by creating live events (conferences) and published resources since 1996; and

WHEREAS, Company has plans to increase its real property improvements by \$578,700 and its business personal property in Plano from its current level of \$1,020,000.00 by an additional \$424,00.00 to a total of \$1,444,000; 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 agrees to occupy not less than a total of 23,000 square feet of commercial/industrial space located at 5300 Democracy Drive, Suite 120, Plano, Texas 75024 (the "Property") and retain, transfer or create not less than 80 Job Equivalents on the Property and maintain those positions for the remainder of the term of this Agreement; and

WHEREAS, the addition of taxable business personal property to the Property and the retention, creation or transfer of not less than 80 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 November 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.

"Taxable Value" shall mean the assessed value of business personal property for tax purposes as determined solely by the Collin County Appraisal District.

Article 2
Term

The term of this Agreement shall begin on the Commencement Date and continue until May 1, 2018, 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 23,000 square feet of commercial space on the Property on or before November 1, 2010;

(b) Create or transfer at least 80 Job Equivalents to the Property on or before November 1, 2010;

(c) May, but is not required to, create or transfer approximately 15 additional Job Equivalents (“Additional Jobs”) (total of 95 including the initial Job Equivalents created or transferred as of November 1, 2010) to the Property on or before December 31, 2012, 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 Sixty-Six Thousand Five Hundred Dollars (\$66,500.00) for the occupancy of 23,000 square feet of commercial space on the Property and transferring or creating up to 95 Job Equivalent positions on the Property in accordance with Article 3 above. The Company agrees to maintain the transferred or created Job Equivalents for which a cash grant has been paid by the City to the Company 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 Fifty-Six Thousand Dollars (\$56,000.00) 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 FEBRUARY 1, 2011.** The Company shall be entitled to a second payment of Seven Hundred Dollars (\$700.00) for each of the Additional Jobs created at the Property after December 31, 2010 but before December 31, 2012, subject to a maximum total grant payment, inclusive of the Fifty-Six Thousand Dollars (\$56,000.00) Initial Grant Payment, of Sixty-Six Thousand Five Hundred Dollars (\$66,500.00) 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 APRIL 1, 2013.**

4.03 **Refunds.**

(a) In the event the Company fails to occupy 23,000 square feet of commercial space on the Property for the full term of this Agreement, not the result of an Event of Force Majeure, the Company shall repay the grant in full. If the Company allows its 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 Seven Hundred Dollars (\$700.00) 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, 2012, 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 actually received from the City.

(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.

concerning this Agreement, the transactions contemplated hereby or the liabilities or obligations imposed hereunder shall be in the State District Court of Collin County, Texas.

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

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

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

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

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

6.12 **Time is of the Essence.** Time is of the essence in this Agreement.

EXECUTED on this ____ day of _____, 20__.

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

WOMEN OF FAITH, INC.,
a Delaware corporation

By: _____
Name
Title

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 Women of Faith, Inc.
Economic Development Incentive Agreement between Women of Faith, Inc., and the
City of Plano dated as of _____ (the "Agreement")

I hereby certify that Women of Faith, Inc., has occupied not less than 23,000 square feet of commercial space located at 5300 Democracy Drive, Suite 120, Plano, Texas (the "Property") and has retained, transferred or added ____ new Job Equivalent (as defined in the Agreement) positions to the Property. Women of Faith, Inc., is in compliance with subsections [(a) and (b)] or [(c)]* of Article 3 of the Agreement and is entitled to receive payment under the terms of the Agreement.

Women of Faith, Inc.,
a Delaware corporation

By: _____
Name:
Title:

*To be used if Company is reporting the addition of Additional Jobs as per Article 3(c) of the Agreement.

EXHIBIT "B"

ANNUAL CERTIFICATE OF COMPLIANCE

(This form is due on January 1st of each year the Agreement is in force.)

[DATE]

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

RE: Annual Certificate of Compliance by Women of Faith, Inc.
Economic Development Incentive Agreement between Women of Faith, Inc., and the
City of Plano dated as of _____ (the "Agreement")

I hereby certify that Women of Faith, Inc., is in compliance with each applicable term as set forth in Article 3 of the Agreement. The term of the Agreement is November 1, 2010 through May 1, 2018. The number of new, transferred or retained Job Equivalents, calculated as set forth in the Agreement and maintained pursuant to the Agreement since its inception, has not fallen below _____ for more than one hundred eighty (180) consecutive days and is _____ as of the date of this Certificate of Compliance. If the Taxable Value of business personal property or the number of Job Equivalents herein reported is below the amount or 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.

Women of Faith, Inc.,
a Delaware corporation

By: _____
Name: _____
Title: _____

DATE: June 22, 2010
TO: Honorable Mayor & City Council
FROM: James Duggan, Chairman, Planning & Zoning Commission
SUBJECT: Results of Planning & Zoning Commission Meeting of June 21, 2010

**AGENDA ITEM NO. 6A - PUBLIC HEARING
ZONING CASE 2010- 07
APPLICANT: MESSIAH LUTHERAN CHURCH**

Request to amend Planned Development-377-Retail/General Office on 22.7± acres located at the northeast corner of Plano Parkway and Custer Road to increase the maximum height allowed for church steeples. Zoned Planned Development-377-Retail/General Office/190 Tollway/Plano Parkway Overlay District.

APPROVED: 7-0 **DENIED:** _____ **TABLED:** _____

LETTERS RECEIVED WITHIN 200 FOOT NOTICE AREA: SUPPORT: 9 OPPOSE: 2

LETTERS RECEIVED OUTSIDE 200 FOOT NOTICE AREA: SUPPORT: 0 OPPOSE: 0

PETITION(S) RECEIVED: N/A # OF SIGNATURES: N/A

STIPULATIONS:

Approved as follows: (Additions are indicated in underlined text; deletions are indicated in strikethrough text.)

Amend Planned Development-377-Retail/General Office as follows:

6.d. Between 200 feet from the north property line and the south property line - church steeple maximum height ~~85~~ 140 feet.

FOR CITY COUNCIL MEETING OF: July 26, 2010 (To view the agenda for this meeting, see www.planotx.org)

PUBLIC HEARING - ORDINANCE

BM/dc

xc: Rev. Victor Kollmann, Messiah Lutheran Church
James Hewlett, Hewlett Architects

CITY OF PLANO
PLANNING & ZONING COMMISSION

June 21, 2010

Agenda Item No. 6A

Public Hearing: Zoning Case 2010-07

Applicant: Messiah Lutheran Church

DESCRIPTION:

Request to amend Planned Development-377-Retail/General Office on 22.7± acres located at the northeast corner of Plano Parkway and Custer Road to increase the maximum height allowed for church steeples. Zoned Planned Development-377-Retail/General Office/190 Tollway/Plano Parkway Overlay District. Neighborhood #66.

REMARKS:

The subject property is 22.7± acres with existing religious and general office uses located at the northeast corner of Plano Parkway and Custer Road.

The applicant is proposing to amend Planned Development-377-Retail/General Office (PD-377-R/O-2). The R district is primarily intended to provide areas for neighborhood, local, and regional shopping facilities for the retail sales of goods and services including convenience stores, shopping centers, and regional malls, but not including wholesaling or warehousing. The O-2 district is intended to allow for a variety of low-, mid-, and high-rise office developments providing for professional, financial, medical, and similar services to local residents; corporate offices for regional and national operations; and major centers of employment for Plano and surrounding communities. A PD district provides the ability to amend use, height, setback, and other development standards at the time of zoning to promote innovative design and better development controls appropriate to both off and onsite conditions.

The applicant is proposing to amend PD-377-R/O-2 to increase the maximum height limit for church steeples from 85 feet to 140 feet. PD-377-R/O-2 presently restricts church steeples to a maximum of 85 feet and the applicant is requesting that the PD be amended to allow for an increased steeple height of 140 feet, with all the other remaining restrictions within the PD-377-R/O-2 zoning district remaining unchanged.

Subsection 3.801 of Section 3.800 (Height Regulations) of Article 3 (Supplementary Regulations) of the Zoning Ordinance allows water standpipes and tanks, church steeples, bell towers, domes and spires on school buildings and institutional buildings,

the roofs of auditoriums and sanctuaries of one story construction to exceed the district's maximum height in all districts and planned developments. Furthermore, Subsection 3.511 of Section 3.500 (Front Yard Regulation) of Article 3 (Supplementary Regulations) of the Zoning Ordinance allows structures and buildings that are erected or altered to exceed two stories in height to be located at distance equal to the sum of the required yard specified for the zoning district in which such building or structure is located, plus 25 feet, plus twice the height of the portion of the building above 25 feet.

When the PD was first amended to address the height of church steeples, Subsection 3.801 only applied to properties with a two story or less height limit. The church's additional steeple height could only be allowed through a PD amendment. The ordinance has since been amended to allow religious institutions in all districts to benefit from the additional height if the increased building setbacks are provided. The proposed steeple location also meets the additional setbacks of the Zoning Ordinance in Subsections 3.511 as well as 3.801 requirements.

Surrounding Properties

The property is surrounded by Single-Family Residence-9 zoned property with existing single-family residences to the north; Planned Development-378-Retail/General Office zoned and vacant property to the east; vacant and Planned Development-384-Retail/General Office zoned property to the south and Planned Development-376-Retail/General Office zoned vacant and general office uses to the west.

Conformance to the Comprehensive Plan

Future Land Use Plan - The future land use plan designates this property as Light Intensity Office (LIO). LIO development serves local needs with uses that include office towers, medical centers, corporate campuses, and small neighborhood offices. The proposed increase does not have any negative impact on the future land use plan designated for this property.

Adequacy of Public Facilities - Water and sanitary sewer services are available.

Traffic Impact Analysis (TIA) - A TIA is not required for this zoning request since the applicant is not proposing to amend densities currently allowed by the existing zoning.

Summary

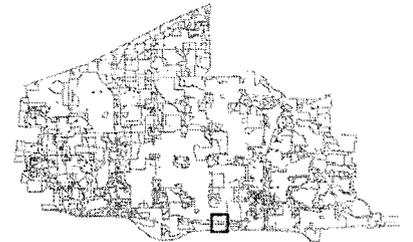
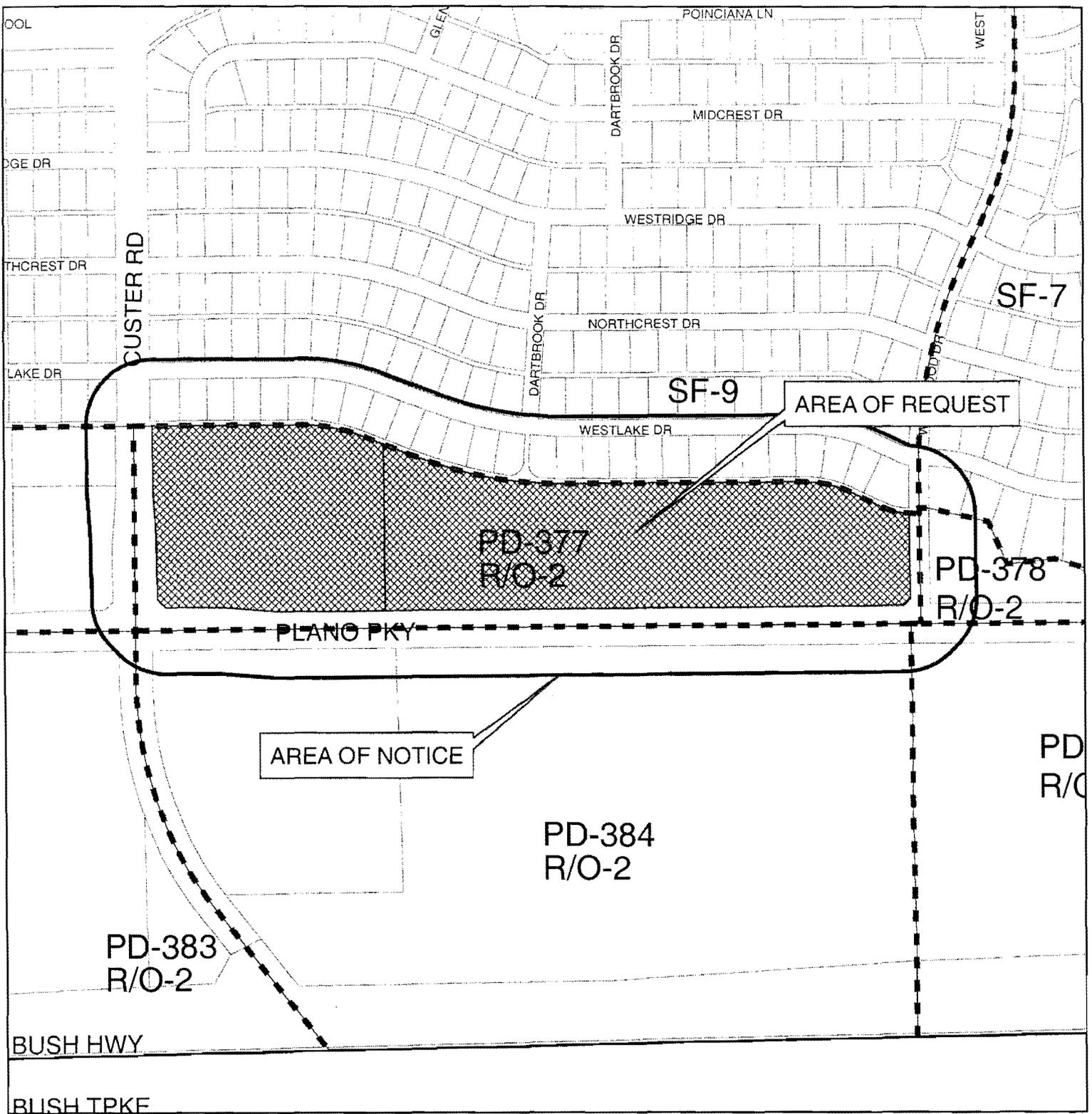
The applicant is requesting to amend PD-377-R/O-2 to increase the maximum height for church steeples from 85 feet to 140 feet with all the other remaining restrictions within the PD-377-R/O-2 zoning district remaining unchanged. Staff recommends the approval of the requested steeple height from 85 feet to 140 feet since it does not negatively impact the surrounding uses.

RECOMMENDATION:

Recommended for approval as follows: (Additions are indicated in underlined text; deletions are indicated in strikethrough text.)

Amend Planned Development-377-Retail/General Office as follows:

- 6.d. Between 200 feet from the north property line and the south property line - church steeple maximum height ~~85~~ 140 feet.



Zoning Case #: 2010-07

Existing Zoning: PLANNED DEVELOPMENT-377-RETAIL/GENERAL OFFICE/
190 TOLLWAY/PLANO PARKWAY OVERLAY DISTRICT



○ 200' Notification Buffer

Zoning Case 2010-07

An Ordinance of the City of Plano amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to amend Planned Development-377-Retail/General Office on 22.7± acres out of the William Beverly Survey, Abstract No. 75, located at the northeast corner of Plano Parkway and Custer Road in the City of Plano, Collin County, Texas, to increase the maximum height allowed for church steeples; 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 26th day of July, 2010, for the purpose of considering amending Planned Development-377-Retail/General Office on 22.7± acres out of the William Beverly Survey, Abstract No. 75, located at the northeast corner of Plano Parkway and Custer Road in the City of Plano, Collin County, Texas, to increase the maximum height allowed for church steeples; 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 26th day of July, 2010; and

WHEREAS, the City Council is of the opinion and finds that such amendment would not be detrimental to the public health, safety, or general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. The Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended so as to amend Planned Development-377-Retail/General Office on 22.7± acres out of the William Beverly Survey, Abstract No. 75, located at the northeast corner of Plano Parkway and Custer Road in the City of Plano, Collin County, Texas, to increase the maximum height allowed for church steeples, said property being described in the legal description on Exhibit "A" attached hereto. Such portion of the planned development to read as follows:

6.d. Between 200 feet from the north property line and the south property line - church steeple maximum height 140 feet.

Section II. It is directed that the official zoning map of the City of Plano (which is retained in electronic record format) be changed to reflect the zoning classification established by this Ordinance.

Section III. All provisions of the ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Plano not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section IV. The repeal of any ordinance or part of ordinances affectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

Section V. Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section VI. It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable, and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

Section VII. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED THIS THE 26TH DAY OF JULY, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

LEGAL DESCRIPTION

WHEREAS the Hope Center Foundation is the owner of a tract of land situated in the William Beverly Survey, Abstract Number 75, in the City of Plano, Collin County, Texas, and being all of that tract of land described in deed to The Hope Center Foundation as recorded under County Clerk's Document Number 20080104000019120 of the Official Public Records of Collin County, Texas (O.P.R.C.C.T.), and being more particularly described as follows:

BEGINNING at a set "X" cut in concrete for the intersection of the south line of Dallas North Estates, 9th Installment, an addition to the City of Plano, as recorded in Volume 6, Page 2 of the Map Plat Records of Collin County, Texas, same being the south line of a 15 foot wide alley dedicated by said Dallas North Estates, 9th Installment plat, with the east right-of-way line of Custer Road (a variable width right-of-way) as dedicated by said Dallas North Estates, 9th Installment plat, said point also being the northwest corner of said Hope Center Foundation tract;

THENCE North $89^{\circ} 32' 01''$ East, along the common south line of said Dallas North Estates, 9th Installment, the south line of said alley, and the north line of said Hope Center Foundation tract, at a distance of 5.00 feet passing a set concrete monument with 3 1/2-inch aluminum disk stamped "SURVEY MARKER DO NOT DISTURB" for the northeast corner of a variable width right-of-way dedication by this plat, in all a total distance of 424.75 feet to a 1/2-inch found iron rod for the point of curvature of a tangent circular curve to the right having a radius of 600.00 feet whose chord bears South $79^{\circ} 42' 59''$ East a distance of 223.83 feet;

THENCE in an easterly direction, continuing along said common line and along said curve, through a central angle of $21^{\circ} 30' 00''$, an arc distance of 225.15 feet to a 1/2-inch found iron rod for the point of tangency;

THENCE South $00^{\circ} 57' 59''$ East, continuing along said common line, a distance of 57.18 feet to a 1/2-inch found iron rod with cap stamped "JBI" for the common northeast corner of said Hope Center Foundation tract and the northwest corner of Lot 1R, Block A of Messiah Lutheran Church, an addition to the City of Plano, as recorded under county Clerk's Document Number 20091103010002790, O.P.R.D.C.T.;

THENCE South $00^{\circ} 27' 59''$ East, departing said common line and along the common east line of said Hope Center Foundation tract and the west line of said Lot 1R, Block A, at a distance of 497.39 feet passing a 1/2-inch found iron rod for the common south line of said Lot 1R, Block A and the north right-of-way line of Plano Parkway (a variable width right-of-way), said point also being the most northerly southeast corner of the aforementioned variable width right-of-way dedication by this plat, continuing along said east line of said Hope Center Foundation tract, in all a total distance of 502.39 feet to a set "X" cut in concrete for the southeast corner of said Hope Center Foundation tract, said point being in said north right-of-way line of Plano Parkway. THENCE South $89^{\circ} 32' 01''$ West, along the common south line of said Hope Center Foundation tract and said north right-of-way line of Plano Parkway, a distance of 137.04 feet to a 1/2-inch found iron rod with cap stamped "JBI" for corner;

THENCE North $89^{\circ} 41' 28''$ West, along said common line, a distance of 541.11 feet to a 1/2-inch set iron rod with yellow plastic cap stamped "HALFF" (hereinafter referred to as "with cap")

for the southerly corner of a corner clip for the intersection of said northerly right-of-way line of Plano Parkway with the aforementioned east right-of-way line of Custer Road;

THENCE N 45° 07' 38" West, departing said common line, along the southerly line of said Hope Center Foundation tract and said corner clip, a distance of 28.43 feet to a 1/2-inch set iron rod with cap for the northerly corner of said corner clip, said point being on said east right-of-way line of Custer Road;

THENCE North 00° 26' 29" West, departing said southerly line and along the common west line of said Hope Center Foundation tract and said east right-of-way line of Custer Road, a distance of 537.55 feet to the POINT OF BEGINNING and CONTAINING 386,299 square feet or 8.868 acres of land, more or less.

WHEREAS Messiah Lutheran Church, Inc. is the owner of a tract of land situated in the William Beverly Survey, Abstract Number 75, Collin County, Texas, and being a part of that tract of land described in deed to Messiah Lutheran Church, Inc. as recorded in Volume 4568, Page 2185 of the Deed Records of Collin County, Texas (D.R.C.C.T.) and being a part of Lot 1, Block A of A Final Plat of 14.004 Acres, Messiah Lutheran Church Addition, Lot 1, Block A, an addition to the City of Plano, Texas, as recorded in Cabinet P, Page 317 of the Plat Records of Collin County, Texas (P.R.C.C.T.), said tract also being all of Lot 1R, Block A of Messiah Lutheran Church, an addition to the City of Plano, Texas, as recorded in Collin County Clerk's File Number 20090911010002320 of the Official Public Records of Collin County, Texas (O.P.R.C.C.T.), and being more particularly described as follows:

BEGINNING at a 1/2-inch found iron rod for the intersection of the north right-of-way line of Plano Parkway (a variable right-of-way 105 feet at this point) with the common west line of said Lot 1 and the east line of that tract of land described in deed to the Hope Center Foundation as recorded in County Clerk's File Number 20080104000019120, O.P.R.D.C.T.;

THENCE North 00° 27' 59" West, along said common line, a distance of 497.39 feet to a 1/2-inch found iron rod with cap stamped "JBI" for the common northwest corner of said Lot 1 and northeast corner of said Hope Center Tract, said point being in the south right-of-way line of a 15 foot wide alley dedicated by Dallas North Estates, 9th Installment, an addition to the City of Plano, Texas, as recorded in Volume 6, Page 2, P.R. C.C.T.;

THENCE South 68° 57' 19" East, along the common north line of said Lot 1 and the south right-of-way line of said 15 foot wide alley, at a distance of 4.50 feet passing the common southeast corner of said Dallas North Estates, 9th Installment addition and the southwest corner of Dallas North Estates 8th Installment, an addition to the City of Plano, Texas, as recorded in Volume 5, Page 73, P.R.C.C.T., continuing along the common north line of said Lot 1 and the south right-of-way line of a 15 foot wide alley as dedicated by said Dallas North Estates, 8th Installment addition, in all a total distance of 96.76 feet to the point of curvature of a tangent circular curve to the left having a radius of 1,250.00 feet whose chord bears South 79° 42' 19" East, a distance of 466.31 feet, and from which a 1/2-inch found iron rod bears North 39° 11' 06" West a distance of 0.30 feet;

THENCE along said common north line of said Lot 1 and the south right-of-way line of said 15 foot wide alley as dedicated by said Dallas North Estates, 8th Installment addition through the following courses and distances:

Southeasterly, along said curve, through a central angle of $21^{\circ} 30' 00''$, an arc distance of 469.06 feet to a 1/2-inch found iron rod with cap stamped "RLG" for the point of tangency, and from which point a 1/2-inch found iron rod bears North $68^{\circ} 04' 09''$ West a distance of 0.33 feet;

North $89^{\circ} 32' 41''$ East a distance of 722.60 feet to a 1/2-inch found iron rod with cap stamped "RLG" for the point of curvature of a tangent circular curve to the right having a radius of 310.00 feet whose chord bears South $77^{\circ} 42' 19''$ East a distance of 136.83 feet, and from which point a 1/2-inch found iron rod bears North $66^{\circ} 27' 09''$ West a distance of 0.43 feet;

Southeasterly along said curve, through a central angle of $25^{\circ} 30' 00''$, an arc distance of 137.97 feet to a 1/2-inch found iron rod for the point of tangency;

South $64^{\circ} 57' 19''$ East a distance of 120.09 feet to a 1/2-inch found iron rod with cap stamped "RLG" for the point of curvature of a tangent circular curve to the left having a radius of 163.98 feet whose chord bears South $76^{\circ} 11' 52''$ East a distance of 63.94 feet;

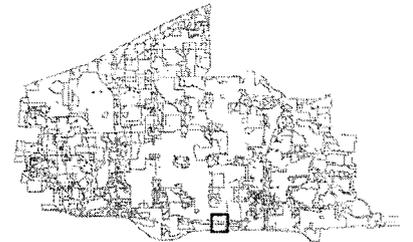
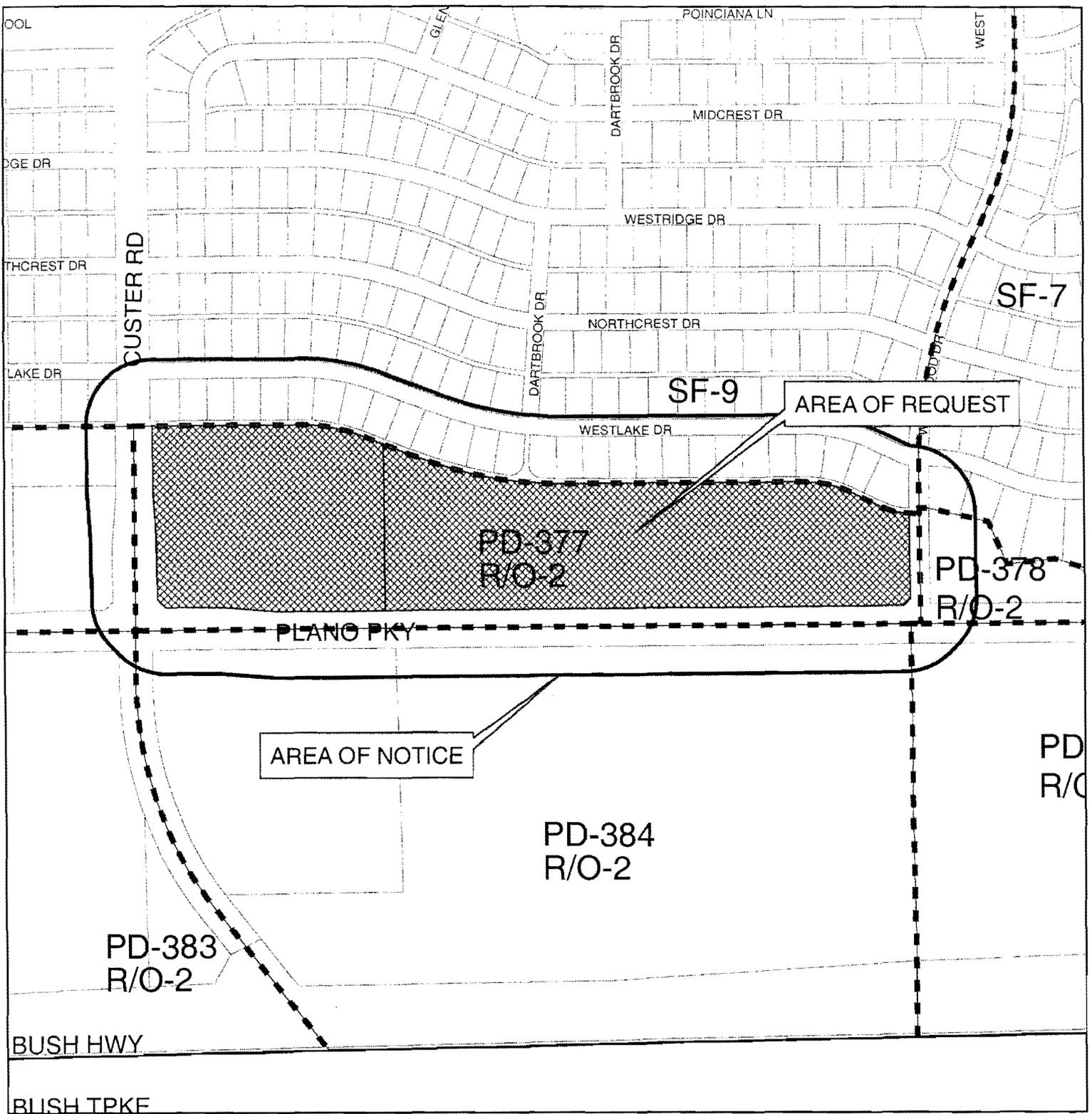
Southeasterly, along said curve, through a central angle of $22^{\circ} 29' 07''$, an arc distance of 64.35 feet to a 1/2-inch set iron rod cap stamped "HALFF" for corner, said point being the most westerly corner of a Corner clip for the intersection of the south right-of-way line of said 15 foot wide alley with the west right-of-way line of Westwood Drive (a 60 foot wide right-of-way as shown on the said Messiah Lutheran Church plat);

THENCE South $83^{\circ} 04' 28''$ East, departing said common line, along said corner clip, a distance of 8.30 feet to a 1/2-inch found iron rod with cap stamped "BW2" for the southeast corner of said Corner clip, said point being in said west right-of-way line of Westwood Drive;

THENCE South $00^{\circ} 27' 59''$ East, along the common west right-of-way line of Westwood Drive and the east line of said Lot 1, a distance of 256.03 feet to a 1/2-inch found iron rod with cap stamped "BW2" for the northeast corner of a corner clip for the intersection of said west right-of-way line of Westwood Drive with the aforementioned north right-of-way line of Plano Parkway;

THENCE South $44^{\circ} 32' 01''$ West, along said corner clip, a distance of 28.14 feet to a 1/2-inch found iron rod with cap stamped "BW2" for the southwest corner of said corner clip, said point being in said north right-of-way line of Plano Parkway;

THENCE South $89^{\circ} 32' 01''$ West, along said north right-of-way line, a distance of 1,562.87 feet to the POINT OF BEGINNING and CONTAINING 601,636 square feet or 13.812 acres of land, more or less.

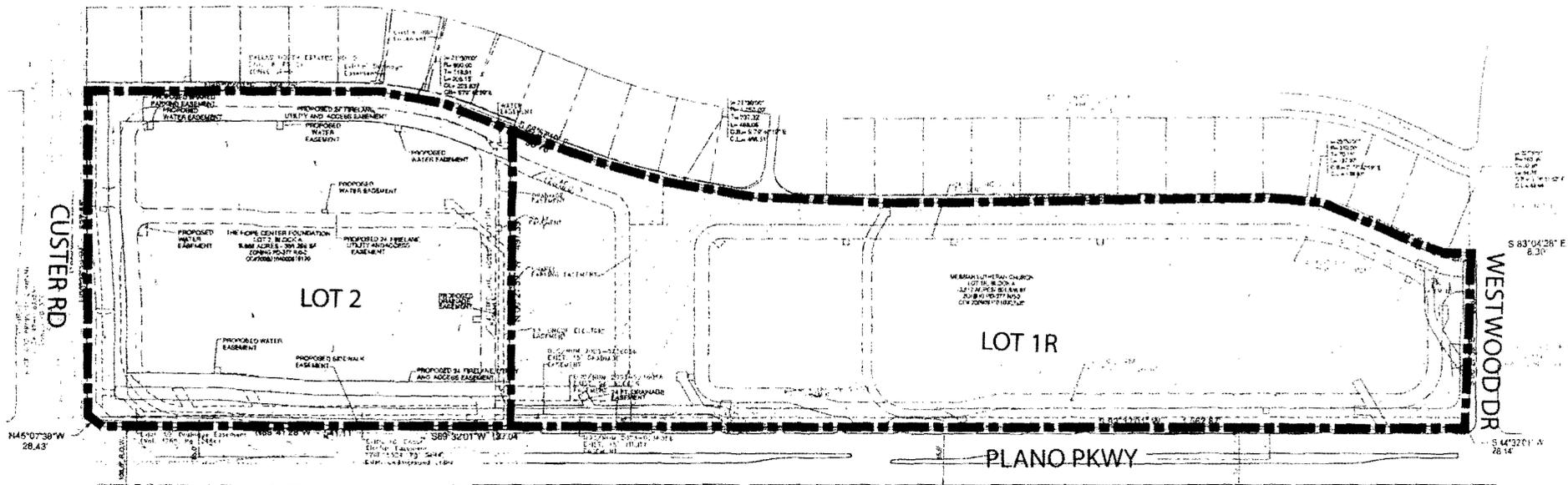


Zoning Case #: 2010-07

Existing Zoning: PLANNED DEVELOPMENT-377-RETAIL/GENERAL OFFICE/
190 TOLLWAY/PLANO PARKWAY OVERLAY DISTRICT



○ 200' Notification Buffer



OVERLAY THE SITE LAYOUT... (Detailed site description and zoning requirements)

SECTION 1... (Zoning code details)

SECTION 2... (Zoning code details)

SECTION 3... (Zoning code details)

SECTION 4... (Zoning code details)

SECTION 5... (Zoning code details)

SECTION 6... (Zoning code details)

SECTION 7... (Zoning code details)

SECTION 8... (Zoning code details)

SECTION 9... (Zoning code details)

SECTION 10... (Zoning code details)

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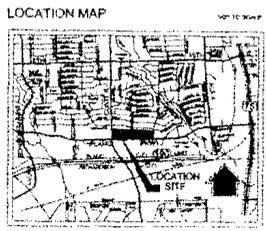
SECTION 36... (Zoning code details)

SECTION 37... (Zoning code details)

SECTION 38... (Zoning code details)

SECTION 39... (Zoning code details)

SECTION 40... (Zoning code details)



1 ZONING EXHIBIT

SCALE: 1" = 80' 0"

PURPOSE STATEMENT:

THE PURPOSE OF THIS ZONING EXHIBIT IS TO AMEND PRO-374-RDC TO INCREASE THE MAX. HEIGHT FOR CHURCH STEEPLE FROM 85 FEET TO 140 FEET.

APPROVAL OF THE PROPOSED ZONING EXHIBIT... (Approval text)

ZC-2010-07

ZONING EXHIBIT

LOT 1R, BLOCK A - 13.812 ACRES/ 601,636 SF

LOT 2, BLOCK A - 8.868 ACRES - 386,299 SF

(MESSIAH LUTHERAN CHURCH & HOPE CENTER)

PLANO, COLLIN COUNTY, TEXAS

RESUBMITTED: MAY 18, 2010

SURVEYOR:

HALFF ASSOCIATES, INC.

1201 NORTH BONNER ROAD

RICHARDSON, TEXAS 75081

PHONE 214-546-6200

CONTACT: JASON A. JERNIGAN

OWNERS:

MESSIAH LUTHERAN CHURCH 2001 W. PLANO PARKWAY

PLANO, TX 75075-8620

(972) 386-7500

CONTACT: IAN R. DITTMANN

THE HOPE CENTER

2001 W. PLANO PARKWAY

PLANO, TX 75075-8632

(972) 217-6190

hewlett architects

1201 NORTH BONNER ROAD

RICHARDSON, TEXAS 75081

PHONE 214-546-6200

CONTACT: JASON A. JERNIGAN

SHEET NO.

ZE-1

REGISTERED ARCHITECT

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:		07/26/2010		
Department:		Police		
Department Head		Gregory W. Rushin		
Agenda Coordinator (include phone #): Pam Haines, ext 2538				
CAPTION				
<p>An Ordinance of the City of Plano, Texas repealing Section 14-6, Drug Paraphernalia, of Article I, In General, of Chapter 14, Offenses-Miscellaneous of the Code of Ordinances of the City of Plano, Texas and adopting a new Article X, Illegal Smoking Products and Ingestion Devices to Chapter 14, Offenses-Miscellaneous to prohibit the use, purchase, possession and sale of illegal smoking products containing certain plant, plant products or derivatives, chemical compounds applied to plants, and plant products and their derivatives or other substances, and ingestion devices used in connection with the illegal smoking products; dispensing with a culpable mental state and providing a penalty; providing an affirmative defense for authorized medical use or use in landscaping; 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:	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				
<p>The City Council deems it necessary to prohibit the use, purchase, possession and sale of illegal smoking products containing certain plant, plant products or derivatives, chemical compounds applied to plants, and plant products and their derivatives or other substances, and ingestion devices used in connection with the illegal smoking products.</p>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Ordinance and memo				



P.O. Box 860358
Plano, Texas 75086-0358
972-424-5678
Fax 972-424-0099
<http://www.planopolice.org>

MEMORANDUM

DATE: July 18, 2010
TO: Bruce D. Glasscock, Deputy City Manager
FROM:  Gregory W. Rushin, Chief of Police
SUBJECT: K2 and Salvia Ordinance

Based on a Council request I made a presentation on K2 and salvia at the June 28, 2010 City Council meeting. After the presentation Council indicated a desire to pursue an ordinance banning K2 and salvia until the state can address this through state law. The City Attorney in cooperation with the Police Department crafted this proposed ordinance.

The proposed ordinance defines "*Illegal Smoking Product*" as "*any plant or other substance, whether described as tobacco, herbs, incense, spice or any blend thereof, regardless of whether the substance is marketed for the purpose of being smoked, which includes any one or more of the following substances or chemicals:*

- (1) *Salvinorin A: Contained within the Salvia Divinorum plant, whether growing or not; or possessed as an extract, compound, manufacture, derivative, mixture, or preparation of such plant;*
- (2) *2-[(1R, 3S)-3-hydroxycyclohexyl]-5-(2-methylcatan-2-yl) phenol (also known as CP 47, 497) and homologues;*
- (3) *1-Pentyl-3-(1-naphthoyl) indole (also known as JWH-018); or*
- (4) *Butyl-3-(1-naphthoyl) indole (also known as JWH-073)."*

These are the chemicals found in salvia and K2 type products.

It also defines "*Ingestion Device*" as "*equipment, a product or material that is used or intended for use in ingesting, inhaling, or otherwise introducing an illegal smoking product into the human body, including:*

- (1) *a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe with or without a screen, permanent screen, hashish head, or punctured metal bowl;*
- (2) *a water pipe;*
- (3) *a carburetion tube or device;*
- (4) *a smoking or carburetion mask;*
- (5) *a chamber pipe;*

- (6) *a carburetor pipe;*
- (7) *an electric pipe;*
- (8) *an air-driven pipe;*
- (9) *a chillum;*
- (10) *a bong; or*
- (11) *an ice pipe or chiller.”*

These are drug paraphernalia used to smoke or ingest illegal smoking products.

The proposed ordinance would prohibit the use, possession, sale, ingestion, or smoking of K2 and salvia, as well as possession of ingestion devices. To enforce the ordinance for possession of ingestion devices an officer would have to show intent to use the ingestion devices to ingest an illegal smoking product. Thus merely selling ingestion devices will not be an enforceable violation of this ordinance, as these items could be used for a number of legal purposes. This intent is determined by the totality of the circumstances.

There are affirmative defenses for possession of K2 and salvia with a prescription of a licensed doctor or dentist, and for salvia that is used solely for ornamental landscaping.

The maximum fine for an offense of this ordinance is \$500.

I have revealed to Council enforcement difficulties due a lack of field tests and lab tests at this time. Since then we have located an out of state lab prepared to do lab testing for these chemicals for \$338 per test. We have submitted samples to 3 local labs so they can develop necessary testing standards, and we will continue to work toward obtaining lower cost testing in the future that is local.



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<http://www.planopolice.org>

MEMORANDUM

DATE: June 23, 2010
TO: Gregory W. Rushin, Chief of Police
FROM: Glenn Cavin, Administrative Lieutenant to the Chief
SUBJECT: Synthetic Marihuana Substitutes ("K2", Spice, etc.) and Salvia Divinorum

K2

AKA: "Legal Marijuana", "Spice", "Genie", "Dascents", "Zohai", "Sage", and "Jdub"



A significant amount of media attention has been focused lately on a widely available substance called "K2" (AKA "Legal Marijuana", "Spice", "Genie", "Dascents", "Zohai", "Sage", and "Jdub"), which has gained popularity among teenagers and young adults as a legal substitute for Marihuana. Although no such effects have been locally confirmed; it is believed that K2 could cause increased heart rate, loss of consciousness, paranoia, hallucinations and psychotic episodes. Users report that smoking small amounts can result in intense highs comparable to much larger amounts of marijuana.

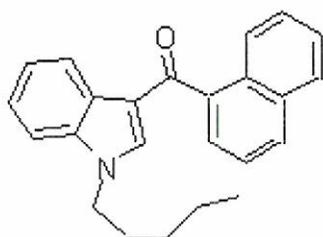
While all of the facts regarding K2 and its effects are not yet clear; we do know that it is being openly sold and consumed within our community, and that it is potentially dangerous. During a recent [interview](#) with WFAA News, Tommy Blakeman with the [Collin County Substance Abuse Program](#) referred to an incident in May that involved several Plano ISD students who had to be hospitalized after smoking K2 during lunch at school. After checking with the Officer who made contact with the juveniles, however, it seems that they were actually examined and released at the scene by the school nurse.

More recently, upon arrival at a welfare concern call, Plano FD Paramedics discovered a 20-year old male who was lying on the living room floor vomiting. The subject violently resisted attempts by both Fire and Police Department officials to assist and had to be physically restrained during transport to the hospital. While still on-scene, Officers observed baggies labeled as containing "K2", and the male admitted to smoking a small quantity of the powder. Unfortunately, however, our local labs are not yet equipped to test for the active ingredients in K2, so it could not be confirmed what caused the subject's adverse reaction.

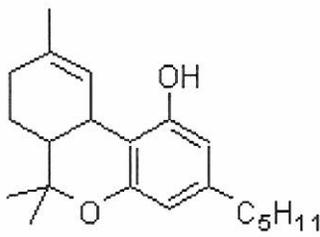
In March 2009, Customs and Border Protection officials conducted laboratory analysis of several seized "Spice" samples and found them to contain the chemicals [JWH-018](#) and [HU-210](#) (see related [DEA Microgram Bulletin](#)). While these substances differ in chemical structure, both reportedly produce effects that mimic those of THC; although much more potent. First synthesized in 1995 by Clemson University Professor John W. Huffman, JWH-018 is a chemical

compound believed to be contained within most, if not all, of the "K2" and "Spice" products being sold. Behavioral pharmacology studies revealed that JWH-018 caused effects in animals very similar to those of Δ 9-tetrahydrocannabinol (Δ 9-THC), the main active ingredient of Marihuana, but with a longer duration of action. In mice, it produced cataplexy, analgesia, decreased body temperature, and diminished overall activity. Although JWH-018's activity in lab tests suggests that it is likely to produce the same Marihuana-like effects in humans; its chemical structure is not similar enough to that of Δ 9-THC for it to be prohibited under state law or the U.S. Controlled Substances Act (CSA).

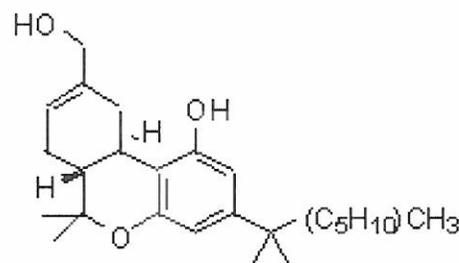
HU-210 was first synthesized around 1988 and recently found to be contained within several tested samples of "Spice" being sold in European countries. It is believed to also be present in some, if not all of the similar products now available in the United States. HU-210 abusers report that it is up to 800 times more potent than THC. Since HU-210 is structurally and pharmacologically similar to the Tetrahydrocannabinols, it is considered a Schedule 1 controlled substance under the CSA and already unlawful to possess in the U.S.



JWH-018



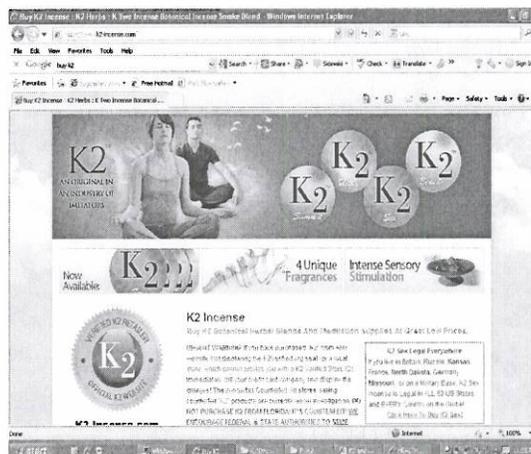
THC



HU-210

Although it is currently unknown who is now manufacturing the JWH-018 and HU-210 being made available throughout the U.S.; it is believed to be originating in China.

"K2" and "Spice", which are almost always falsely represented and sold as incense "not for human consumption", can be purchased by anyone at smoke shops and convenience stores throughout the metroplex, including Plano. It is also readily available from a large number of internet retailers. Although it has been reported repeatedly by the media and generally assumed that K2 is completely legal for sale and possession, it is believed that one or more of the chemicals it contains might actually be controlled under federal or state law as analogues of Tetrahydrocannabinols (see Health & Safety Code Sections 481.103 and 481.106).



**HEALTH AND SAFETY CODE
CHAPTER 481. TEXAS CONTROLLED SUBSTANCES ACT**

Sec. 481.103. PENALTY GROUP 2.

(a) Penalty Group 2 consists of:

(1) any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, if the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- Tetrahydrocannabinols, other than marihuana, and synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, or synthetic substances,

derivatives, and their isomers with similar chemical structure and pharmacological activity such as:

- delta-1 cis or trans tetrahydrocannabinol, and their optical isomers;
- delta-6 cis or trans tetrahydrocannabinol, and their optical isomers;
- delta-3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;
- compounds of these structures, regardless of numerical designation of atomic positions, since nomenclature of these substances is not internationally standardized;

Sec. 481.106. CLASSIFICATION OF CONTROLLED SUBSTANCE ANALOGUE.

For the purposes of the prosecution of an offense under this subchapter involving the manufacture, delivery, or possession of a controlled substance, Penalty Groups 1, 1-A, and 2 include a controlled substance analogue that:

- (1) has a chemical structure substantially similar to the chemical structure of a controlled substance listed in the applicable penalty group; or
- (2) is specifically designed to produce an effect substantially similar to, or greater than, a controlled substance listed in the applicable penalty group.

Unfortunately, though, the current unavailability of lab tests for the relevant substances makes it impossible for local law enforcement agencies to file criminal cases, as the evidence presented must be sufficient to prove guilt beyond a reasonable doubt. In researching this issue, we contacted a number of authorities for suggestions and ideas. While it is painfully clear that no one knows for sure what the most effective solution is to this problem; it is agreed that something must be done as quickly as possible to help keep these products away from our kids. As a result, some area cities are now proposing local ordinances; however, the previously mentioned lack of toxicology results will seriously hinder any enforcement efforts, either under state law or local ordinance, as the burden of proof remains the same. It seems that some other important questions must also be answered before municipalities take responsibility for outlawing specific chemicals, and that prudent thought must be given to the possible unintended consequences of such actions.

It should also be noted that, while the recent increase in the popularity of K2 certainly merits sincere consideration; it is undeniable that both kids and adults, throughout history, have always found ways to abuse a wide range of entirely legal substances. These include some of the most commonly available chemicals, such as glue, paint, gasoline, whipping crème propellants, aerosols, Freon, and many others. In addition, a number of common herbal plants such as Salvia Divinorum, Morning Glory, Jimson Weed, and even Dandelions have become legal implements for inexpensive intoxication by those willing to ingest them.

SALVIA DIVINORUM

AKA: "Maria Pastora", "Sage of the Seers", "Diviner's Sage", "Salvia", "Sally-D", and "Magic Mint"

The Salvia Divinorum plant belongs to the genus Salvia, better known as Sage. The primary difference between Salvia Divinorum and other types of sage is the presence of Salvinorin A, which has psychoactive properties that have been known to the Mexican Mazatec Indians for ages. It was only recently that the plant drew the attention of Western ethnobotanists, and its active component was not isolated / identified until the 1990's. Salvinorin A turned out to be the strongest natural hallucinogen known to man. Salvia extracts generally come in 5x, 10x and 20x concentrations; although they are now available at up to 140x. A warning on one website states "be very careful when using extracts: a single hit of extract may be enough at any of these concentrations."

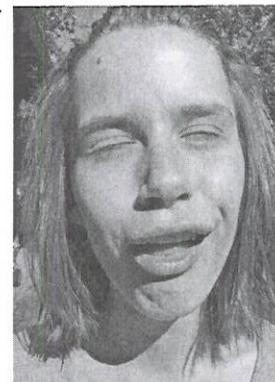
From the DEA Office of Diversion Control:

"Salvia Divinorum is a perennial herb in the mint family native to certain areas of the Sierra Mazateca region of Oaxaca, Mexico. The plant, which can grow to over three feet in height, has large green leaves, hollow square stems and white flowers with purple calyces, can also be grown successfully outside of this region. Salvia divinorum has been used by the Mazatec Indians for its ritual divination and healing. The active constituent of Salvia divinorum has been identified as salvinorin A. Salvia divinorum is grown domestically and imported from Mexico and Central and South America. The Internet is used for the promotion and distribution of Salvia divinorum. It is sold as seeds, plant cuttings, whole plants, fresh and dried leaves, extract-enhanced leaves of various strengths (e.g., 5x, 10x, 20x, 30x), and liquid extracts purported to contain salvinorin A. These products are also sold at local shops (e.g., head shops and tobacco shops).



In the U.S., plant material is typically either chewed or smoked. When chewed, the leaf mass and juice are maintained within the cheek area with absorption occurring across the lining of the oral mucosa (buccal). Effects first appear within 5 to 10 minutes. Dried leaves, as well as extract-enhanced leaves purported to be enriched with salvinorin A, are also smoked. Smoking pure salvinorin A, at a dose of 200-500 micrograms, results in effects within 30 seconds and lasts about 30 minutes. A limited number of studies have reported the effects of using either plant material or salvinorin A. Psychic effects include perceptions of bright lights, vivid colors and shapes, as well as body movements and body or object distortions. Other effects include dysphoria, uncontrolled laughter, a sense of loss of body, overlapping realities, and hallucinations (seeing objects that are not present). Adverse physical effects may include incoordination, dizziness, and slurred speech.

According to the National Survey on Drug Use and Health Report (NSDUH), Use of Specific Hallucinogens: 2006, published by SAMHSA in February 2008, it is estimated that 1.8 million persons aged 12 or older used Salvia divinorum in their lifetime, and approximately 750,000 did so in the past year. Use was more common among young adults (18 to 25 years old) as opposed to older adults (>26 years of age). Young adults were 3 times more likely than youths aged 12 to 17 to have used Salvia divinorum in the past year. Use is more common in males than females according to NSDUH. Seizures of Salvia divinorum and salvinorin A by federal, state and local law enforcement officials have increased from 1 in 2004 to 70 in 2008, according to the National Forensic Laboratory Information System (NFLIS). In the first half of 2009, 34 seizures have already been reported to forensic laboratories.



Salvia divinorum and salvinorin A are not currently controlled under the CSA. As of October 2009, fourteen states have enacted legislation placing regulatory controls on Salvia divinorum and/or salvinorin A. Delaware, Florida, Illinois, Kansas, North Dakota, Oklahoma, Virginia, Ohio, and Nebraska have placed Salvia divinorum and/or salvinorin A into schedule I of state law. California, Louisiana, Maine, North Carolina, and Tennessee enacted legislation restricting the distribution of the plant. Legislative bills proposing regulatory controls died in Alabama, Alaska, Indiana, South Carolina, Maryland, Texas, West Virginia and Georgia. Salvinorin A and/or Salvia divinorum have been placed under regulatory controls in Australia, Belgium, Denmark, Estonia, Finland, Italy, Japan, Spain, and Sweden."

USAGE STATISTICS AND COMMUNITY IMPACT

- It is estimated that 1.8 million people aged 12 or older used Salvia Divinorum in their lifetime (approximately 750,000 did so in the past year).
- Use was more common among young adults (18 to 25 years old) as opposed to older adults (>26 years of age), and young adults were 3 times more likely than youths (ages 12 to 17) to have used Salvia Divinorum in the past year.
- Use is more common in males than females.
- Frequency of purchase or use in Plano is not clear; although it is known to be available from some local "head shops" and tobacco stores.
- There have been a handful of incidents reported since 2005 involving subjects found to be in possession of the substance; however, no Salvia Divinorum intoxication or overdose cases have been investigated.

LOCAL GOVERNMENT RESPONSE

Some other metroplex cities, including Allen and Mansfield, have recent taken steps to disrupt the sale of K2 and Salvia, and to make citizens aware of its existence in their communities.

NOTICE TO ALLEN CITIZENS



It has come to the attention of the Allen Police Department that there is a new drug by the name of K2 that has made its way into Allen. K2 is a chemical compound that can be sprayed onto marijuana, tobacco, or other organic materials and smoked. This gives the user the same type of high or buzz that would be found in the active ingredient of marijuana, THC. Many effects have been reported to be as much as 12% more potent than those of marijuana. K2 is completely legal at this time.

In addition to K2, salvia divinorum, or salvia, is another legal substance that gives the user the same type of hallucinogenic effects as LSD. Salvia is a plant stem oil also smoked, and can be found in Allen.

The Police Department has the full support of the Mayor, the City Council, the City Manager's Office, as well as other city departments, as we investigate the safety of the full extent and effects of K2 and salvia. If more actions are proven to be true, the police department will bring this matter before the City Council. At that time, the appropriate actions will be presented to the City Council to prevent the production, manufacture, usage, or distribution of K2. The solution could come in the form of a city ordinance, working with the state legislature for new laws, or other actions.

We ask parents and teachers to warn their children of the unknown dangers of K2 and salvia. This substance has not been fully researched, therefore some effects and long term effects are unknown. **IT'S NOT WORTH THE RISK!**

If you have any information on K2 or salvia, you are asked to call or email Sgt. Mike at 214-599-4206 or info@cityofallen.org.

As more information becomes available, the police department will keep you updated.



DATE : June 10, 2010
For Immediate Release

Contact: Sergeant Nicole Starr
Public Information Office
Allen Police Department
214.599.4206
nicostarr@cityofallen.org

CLOSURE OF JABARY MEDITERRANEAN

Officers with the Allen Police Department have received numerous citizen complaints that Jabary Mediterranean was selling tobacco to underage minors. As a result of these complaints, officers conducted an inspection of the business as they do with all businesses that sell alcohol and tobacco products within the city limits of Allen. As officers were conducting an inspection of Jabary Mediterranean, they observed what they believed to be environmental health code violations and other code violations. They also observed (2) citations for minor in possession of tobacco in nature of Jabary Mediterranean. As a result of the officers' inspection, the Police Department requested the assistance of the Building and Code Department as well as the Planning and Development Department to ensure they were in compliance with their Certificate of Occupancy.

The Building and Code Department and the Planning and Development Department conducted an inspection of Jabary Mediterranean in which they requested the presence of the Police Department. It was determined that Jabary Mediterranean was not in compliance with their Certificate of Occupancy. The Certificate of Occupancy was to be renewed.

300 WEST McDERMOTT DRIVE, ALLEN, TEXAS 75013
214-599-2300
EMAIL: info@cityofallen.org



DATE : June 10, 2010
For Immediate Release

Contact: Sergeant Nicole Starr
Public Information Office
Allen Police Department
214.599.4206
nicostarr@cityofallen.org

City Staff discovered by the lack of food, the unsatisfactory conditions of the food preparatory area and the use of raw food products that were not fit for human consumption, Jabary was not operating as a restaurant. For this reason, the Certificate of Occupancy was revoked.

City Staff will continue to monitor this and all other permitted locations in Allen. Should Jabary Mediterranean continue to operate they could face a fine up to \$1,000 for each day they are in operation.

Any citizens that may have additional information regarding this incident may contact the Public Information Office of the Allen Police Department at 214.599.4206, or you may contact Anonymous and call the TIPS line at 972.723.TIPS, or text an anonymous text to 194111.

Upon obtaining any further pertinent information concerning this incident, an updated News Release will be disseminated. **END**

300 WEST McDERMOTT DRIVE, ALLEN, TEXAS 75013
214-599-2300
EMAIL: info@cityofallen.org

The Plano Police Department clearly recognizes the serious health and safety risks associated with recently popularized drugs such as "K2", as with many others (legal and illicit) that law enforcement agencies have been forced to deal with in the past (Ecstasy, Ketamine, Rohypnol, GHB, GBL, etc.); and that decisive action must be taken, without unnecessary delay, to control them. Unfortunately, however, several important factors must be properly considered before any final decision is made, such as those listed below:

- The many laws we depend upon to define and regulate these types of substances are quite complex in their language and structure. Care must be taken to ensure that the specific offending chemicals are clearly identified, and that any possible unintended consequences have been properly considered.

CURRENT PLANO PD STRATEGY

- Utilize existing laws (DWI, PI, drug statutes, etc.) - The Collin County District Attorney's Office was notified of the recent publicity related to K2. Upon careful review of the Health and Safety Code, it was determined that one or more of the chemicals believed to be present in K2, such as HU-210, might already be prohibited under existing state law, and that such a case would be accepted for review if accompanied by a definitive laboratory analysis. Offenses involving impaired driving or public intoxication can already be enforced using existing DWI and PI statutes, as they are not specific to a particular substance.
- Work with state and local labs to develop testing procedures for the chemicals in K2 and Salvia Divinorum - Kenneth Evans at the DPS Laboratory in Garland was contacted and advised that they do not yet have the necessary standards to test for any of the suspected chemicals in K2 or Spice. He asked that we send a sample, so the lab could determine what type is needed and acquire it. Our Narcotics Unit Detectives promptly purchased two samples of K2 from a local merchant and they have been submitted to DPS for this purpose. In addition, Dr. Sarah Kerrigan, Director of the Sam Houston State University Regional Crime Laboratory, was contacted and advised that they are now in the process of acquiring the necessary methodology for testing chemicals in K2. We will continue working with this and other available labs to establish alternate channels for drug sample analysis, (in addition to DPS).
- Provide additional training for our Officers - A training bulletin is being prepared for our Officers, with information about "K2" and Salvia Divinorum, to help them recognize these substances and make them more aware of the possible effects they can produce.
- Implement educational programs for our citizens.
- Support state legislative efforts to ban these substances.
- Develop better procedures for tracking and monitoring incidents involving these substances.

ORDINANCE CONSIDERATIONS

- Unintended Consequences
- Lack of lab support / no means for chemical analysis
- Enforcement difficulties
- Inappropriate level of punishment for drug offense
- No graduation of penalties based on quantity
- Lack of consistency across the state / displacement

March 24, 2010

Jessica Wehrman
(703) 894-1863
wehrman@aapcc.org
www.aapcc.org

American Association of Poison Control Centers Warn About Dangers of Synthetic Marijuana Products

Doctors and clinicians at U.S. poison centers say that a synthetic version of marijuana that is frequently sold as incense has spurred symptoms including a fast heart rate, confusion and nausea.

K2, an herbal marijuana substitute also known as "Spice," is a blend of herbs sprayed with a synthetic marijuana-like drug, and has spurred at least 112 calls to U.S. poison centers since 2009, including 59 calls since March 1, 2010.

Poison centers in Arkansas, Colorado, Delaware, Georgia, Idaho, Indiana, Iowa, Kentucky, Louisiana, Maryland, Missouri, North Carolina, Texas, Virginia and Wyoming have been among those reporting calls regarding synthetic marijuana.

Among the states that have seen the highest number of calls: Missouri, which Missouri Poison Center Medical Director Anthony Scalzo says has received approximately 40 calls about the substance since last November.

In response to the calls, the state of Missouri issued a health alert about the products, and the St. Charles County Council recently passed an emergency ordinance banning the sale of such products, which are sold in gas stations, convenience stores and "head shops."

Scalzo said the reactions being reported – including agitation, anxiety, an extremely fast, racing heartbeat and elevated blood pressure – are the opposite of what would be expected from marijuana, which is a source of concern.

"This is not what we'd expect from these compounds," he said.

The product is marketed as incense or potpourri and has been sold since 2006 for about \$30 to \$40 per three-gram bag. Scalzo said parents should be on the lookout for what looks like incense in their child's room and watch to see if their children seem more anxious than usual.

No deaths have been reported, but symptoms have also included agitation, dizziness, nausea, vomiting, tremors and chest pain in some cases.

Earlier this month, Kansas became the first state to ban the substance when Gov. Mark Parkinson signed a bill outlawing the substance on March 10. States including Missouri, Nebraska and Georgia are also considering measures that would ban the sale of such products.

Jim Hirt, executive director of the American Association of Poison Control Centers, urged those with questions about K2 to call their local poison center.

"Poison centers are available 24 hours a day, seven days a week, to answer questions about K2 or any other substance that could be harmful to your health," he said. "These poison centers are staffed with medical professionals who are trained to know the impact of a substance and how to treat a poison exposure." The American Association of Poison Control Centers supports the nation's poison control centers. Poison centers offer free and confidential services 24 hours a day, seven days a week.

For questions about poison or poison prevention, call your local poison control center at 1 (800) 222-1222.

An Ordinance of the City of Plano, Texas repealing Section 14-6, Drug Paraphernalia, of Article I, In General, of Chapter 14, Offenses-Miscellaneous of the Code of Ordinances of the City of Plano, Texas and adopting a new Article X, Illegal Smoking Products and Ingestion Devices to Chapter 14, Offenses-Miscellaneous to prohibit the use, purchase, possession and sale of illegal smoking products containing certain plant, plant products or derivatives, chemical compounds applied to plants, and plant products and their derivatives or other substances, and ingestion devices used in connection with the illegal smoking products; dispensing with a culpable mental state and providing a penalty; providing an affirmative defense for authorized medical use or use in landscaping; and providing a repealer clause, a severability clause, a savings clause, and an effective date.

WHEREAS, City Council has been informed by the Police Department that the American Association of Poison Control Centers and the U.S. Department of Justice have published articles and opinions on the dangers and physiological effects of K2 and similar substances, which are believed to pose a significant health concern to the citizens of the City of Plano; and

WHEREAS, City of Plano Police and Fire Department officials have already responded to at least two recent calls involving the ingestion of products marketed as “K2” by young members of our community, whereby each had to be transported to the hospital for medical treatment; and

WHEREAS, based upon further information from the Plano Police Department, certain substances are sold under various names including but not limited to: “Salvia Divinorum”, “Salvinorin A”, “Spice”, “Genie”, “Dascents”, “Zohai”, “Sage”, “K-2” and “KO Knock-Out 2” and are likely to contain chemical compounds or otherwise cause effects similar to marijuana or hallucinogens and may cause harmful effects by their use and further, the long term effects are not yet known; and

WHEREAS, to the best of Council’s knowledge, the substances are not yet categorized as illegal controlled substances under state or federal law; and

WHEREAS, the Council finds that the effect of these substances can be a health concern to the citizens of the City of Plano; and

WHEREAS, the City Council of the City of Plano, Texas, has determined that it is in the best interest of the public health, safety and welfare to prohibit the use, possession and sale of these substances and the devices used to ingest these substances; and

WHEREAS, the City Council also finds that the existing ordinance related to drug paraphernalia is no longer required as that conduct is now covered by the Texas Health and Safety Code Sec. 481.125.

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

Section I. Section 14-6, Drug Paraphernalia of Article I, In General of Chapter 14, Offenses-Miscellaneous of the Code of Ordinances of the City of Plano Texas, is hereby repealed upon the date of passage of this Ordinance. The repeal of this Ordinance shall not affect the prosecution of any violation which was committed prior to the effective date of repeal.

Section II. A new Article X, Illegal Smoking Products and Ingestion Devices of Chapter 14, Offenses-Miscellaneous is adopted to prohibit the use, purchase, possession, sale and offering for sale of illegal smoking products and ingestion devices to read in its entirety as follows:

“ARTICLE X. ILLEGAL SMOKING PRODUCTS AND INGESTION DEVICES

Purpose.

The purpose of this article is to prohibit the use, possession, sale, ingestion or smoking of illegal smoking products and ingestion devices hereinafter defined within the city limits of the City of Plano.

Section 14-124. Definitions. The following words and phrases as used in this section shall have the meanings as set forth in this subsection.

“*Person*” shall mean an individual, corporation, partnership, wholesaler, retailer or any licensed or unlicensed business.

“*Illegal Smoking Product*” shall mean any plant or other substance, whether described as tobacco, herbs, incense, spice or any blend thereof, regardless of whether the substance is marketed for the purpose of being smoked, which includes any one or more of the following substances or chemicals:

- (1) Salvinorin A: Contained within the *Salvia Divinorum* plant, whether growing or not; or possessed as an extract, compound, manufacture, derivative, mixture, or preparation of such plant;
- (2) 2-[(1R, 3S)-3-hydroxycyclohexyl]-5-(2-methylcatan-2-yl) phenol (also known as CP 47, 497) and homologues;
- (3) 1-Pentyl-3-(1-naphthoyl) indole (also known as JWH-018); or
- (4) Butyl-3-(1-naphthoyl) indole (also known as JWH-073).

“*Ingestion Device*” shall mean equipment, a product or material that is used or intended for use in ingesting, inhaling, or otherwise introducing an illegal smoking product into the human body, including:

- (1) a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe with or without a screen, permanent screen, hashish head, or punctured metal bowl;
- (2) a water pipe;
- (3) a carburetion tube or device;
- (4) a smoking or carburetion mask;
- (5) a chamber pipe;
- (6) a carburetor pipe;
- (7) an electric pipe;

- (8) an air-driven pipe;
- (9) a chillum;
- (10) a bong; or
- (11) an ice pipe or chiller.

Sec. 14-125. Violation.

(a) It shall be unlawful for any person to use, possess, purchase, barter, give, publicly display, sell or offer for sale any illegal smoking product.

(b) It shall be unlawful for any person to use or possess an ingestion device with the intent to inject, ingest, inhale or otherwise introduce into the human body an illegal smoking product.

(c) The culpable mental state required by Chapter 6.02 of the Texas Penal Code is specifically negated and dispensed with and a violation is a strict liability offense.

(d) 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(b) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Sec. 14-126. Affirmative Defense.

(a) It shall be an affirmative defense for a person charged with an offense for possession or use of an illegal smoking product that the use or possession was pursuant to the direction or prescription of a licensed physician or dentist authorized to direct or prescribe such act.

(b) It shall be an affirmative defense that the sale or possession of Salvinorin A was in conjunction with ornamental landscaping and used solely for that purpose.”

Section III. 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 IV. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, or section of this Ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining phrase, clause, sentence, paragraph or section of this Ordinance.

Section V. The repeal of any Ordinance or part of Ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such Ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as

affecting any rights of the municipality under any section or provisions at the time of passage of this ordinance.

Section VI. This Ordinance shall become effective immediately upon its passage and publication as required by law.

DULY PASSED AND APPROVED this the 26th day of July, 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:	7/26/10
Department:	Parks and Recreation
Department Head	Amy Fortenberry
Agenda Coordinator (include phone #): Susan Berger (7255)	

CAPTION

A Resolution of the City of Plano, Texas, approving the terms and conditions of a Management Services Agreement by and between the City of Plano and the Boys and Girls Club of Collin County to operate and manage the Douglass Community Center; authorizing its execution by the City Manager or his authorized donee; and providing an effective date.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2010-11, Continue 15 Years with two 5-Year Renewals	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0

FUND(S): GENERAL, RECREATION REVOLVING

COMMENTS: Approval of this item will save the City a combined net amount of \$508,213 per year. Of this amount, the General Fund will realize an annual savings of \$540,413 with a loss of annual revenue in the amount of \$30,200 (General Fund net savings of \$510,213). The Recreation Revolving Fund will realize an annual savings of \$15,000 with a loss of annual revenue in the amount of \$17,000 (Recreation Revolving Fund net loss of -\$2,000). Combined General Fund and Recreation Revolving Fund net savings total \$508,213 per year. The Boys and Girls Club of Collin County will pay the City an annual rental fee equal to \$1 per year.

STRATEGIC PLAN GOAL: Allowing the Boys and Girls Club of Collin County to operate and manage the Douglass Community Center relates to the City's Goals of Great Neighborhood-1st Choice to Live and Partnering for Community Benefit.

SUMMARY OF ITEM

The City of Plano has operated the Douglass Community Center, via lease agreement with PISD since 1987. Current budget shortfalls have resulted in a city wide effort to reduce expenses through a variety of means including: service reductions, elimination of personnel/positions, and budget cuts. In the ongoing effort to provide excellent services to our citizens while being good resource stewards, staff is proposing to expand an agreement with the Boys and Girls Club of Collin County (BGCCC) for a period of fifteen (15) years with two (2)



CITY OF PLANO COUNCIL AGENDA ITEM

five (5)-year renewal options. Approval of this agreement would result in the daily operations of the Community Center being transferred to the BGCCC along with all operational expenses saving Plano citizens \$508,213 annually. The BGCCC will assume daily management of the building within 30 days from City Council approval.

List of Supporting Documents:

Memorandum

Public Sector Agency Service Assessment

Resolution

Agreement

Other Departments, Boards, Commissions or Agencies

Memorandum

To: Thomas H. Muehlenbeck, City Manager

CC: LaShon Ross, Deputy City Manager

From: Amy Fortenberry, Director of Parks & Recreation

Date: 7/19/2010

Re: Proposed Service Agreement – Douglass Community Center

The Parks and Recreation Department is exploring creative opportunities to continue service delivery during the current recession and into the future. The Department has adopted the mission statement of “Enriching Plano through parks, facilities, programs, and *resource stewardship*.”

We have started using a tool based on the MacMillan Matrix for nonprofit agencies that has been modified for the public sector to determine how to approach our budget recommendations. We have found that each service must be evaluated individually due to the unique qualities of each. The matrix relates back to the mission and vision of the organization and is based on the assumption that duplication of existing comparable services will eventually weaken those services resulting in quality degradation and decreased cost effectiveness. The tool helps to organize thoughts and focus efforts because we are financially unable to be all things to all people. This exercise helps determine if we are the best organization to provide a service for the community. Are there adequate resources to provide the service? And, are there opportunities to work with another organization to provide services in a more efficient and responsible manner?

In working the Douglass Community Center operations through this matrix, we have concluded that, while the Douglass Community Center “fits” our agency’s values and vision, it is not economically viable in its current structure, our market position is weak, and alternative coverage in this neighborhood is high (due to the presence of the Boys and Girls Club of Collin County in the same building and the close proximity to the Plano Senior Recreation Center). The matrix suggests that we either divest ourselves of this service or collaborate to enhance and improve the service while avoiding duplication of effort to achieve our mission of resource stewardship. Based on this information, I recommend that the City expand its agreement with the Boys and Girls Club of Collin County (BGCCC) to include the daily operational functions of the Douglass Community Center. By doing so, we can continue to provide services to our residents and decrease the financial burden on the General Fund.

I have attached a proposed agreement for your consideration. In broad terms, the agreement extends the responsibility of daily operation to the BGCCC and includes service provisions for the Community Center functions. As part of the agreement, the BGCCC will assume the cost for utilities, maintenance, landscaping, etc. This agreement will allow the City to save \$452,569 in cost center 661, \$66,708 from cost center 352, \$21,136 from cost center 353, and \$15,000 from cost center 845. The annual revenues are projected to be \$47,200 (\$19,200-BGCCC payment and \$28,000 program fees and room rentals) making the potential net savings for the agreement **\$508,213**.

In the following pages, I have attempted to outline what the perceived gains and losses might be under this agreement:

What will the neighborhood gain?

- Continuation of community center services. Under an agreement with the BGCCC the center jumps from 11% cost recovery in FY 2008-09 to 100%. This preserves services at the center and makes additional reductions in future years unnecessary. FY 2010-11 is the third consecutive year requiring significant budget reductions. With large deficits projected for at least two more years (FY 2011-12 and FY 2012-13), programs with little to no revenue are likely to be hit hard with reductions.
- Expanded programs for children ages 6-18. The BGCCC touts award winning programs with measurable results. Children must be enrolled in the club to participate in the programs. The fee is \$25 annually; however, the Club has a policy that no child is turned away for inability to pay.
- Education and career development. The BGCCC provides comprehensive homework help and after school tutoring. 99% of club members advance to the next grade on schedule and club members have a 100% high school graduation rate. In 2009 every one of the BGCCC's graduating seniors was accepted to a four year college.
- Health and life skill programs. These programs are designed to help young people resist alcohol, tobacco and drug use, as well as premature sexual activity. Since the beginning of the SMART Moves program 10 years ago, the BGCCC has no current members involved in gangs or in the juvenile justice system.
- Community events. The Club will continue to provide and/or participate in Community events such as: Lights after School, Day for Kids, Thanksgiving and Christmas Community Dinners, Anti-Drug Rallies, School Supply Drive, Christmas Toy Drive as well as continuing with culturally rich programs such as MLK Day and Black History Month programs.
- Character development programs for youth and teens to explore education and career opportunities, free enterprise, and social recreation
- Transportation from PISD schools (with a co-pay) for the after school care program where children receive academic assistance and access to the other BGCCC programs.

- Hot dinner. Children are fed a hot, cooked meal each day in corroboration between the North Texas Food Bank, the BGCCC and Capital One. In the summer months, members will receive three meals per day. A snack and hot dinner will be provided during the school year.
- Programmatic and/or policy differences between Douglass Community Center and recreation centers would be more accepted under BGCCC management than City. For example, organized practices are not allowed in the recreation center gymnasiums due to space limitations. This could be a component of the operation under the BGCCC. It is difficult to explain to area teams why they cannot practice in the gyms while a Douglass team is allowed to hold an organized practice at the Thomas Gymnasium. Similarly, classes that are low fee or no fee would not be directly compared to the same offering at a recreation center.
- Exposure to the arts. Youth have the opportunity to develop their creativity and cultural awareness through knowledge and appreciation of performing arts, music, art, literature, and drama.
- BGCCC partnerships allow for resources not available due to fiscal limitations in City budget. The City has to rank its budget priorities and during leaner years legal mandates and/or safety issues will take priority over needs at the Community Center.
- Peer support groups. Activities and programs that promote responsibility and reinforces positive behavior. The programs are age specific and designed to help teach youth and teens develop the confidence needed to make intelligent choices.
- Eliminates the separation between the Community and the BGCCC. Currently, some of the children are labeled as “Douglass kids” while the majority of the children using the center are in enrolled in the BGCCC programs. This led to perceived inequities when a Douglass kid couldn’t have access to a program or hot meal. In reality, the only thing barring the Douglass kid from accessing these services was the fact that they hadn’t registered with the BGCCC. I believe the mere presence of the City staff limits the ability of the BGCCC to provide these services to all of the youth. Similarly, the presence of the BGCCC limits the City staff’s effectiveness.
- At-Risk Adult Programs. The BGCCC plans to partner with PISD to provide parent and family services. This will include: parent education, GED, literacy, and computer classes, access to PISD online student resources, career training, and more.

What will the neighborhood lose?

- Individual attention for senior citizens. A full time employee is dedicated to providing programs for approximately 20 senior citizens including transportation to/from the center, one day per week. The Plano Senior Recreation Center, however, is 1.1 miles by car (4 minutes) or 1 mile walk (20 minutes) and offers expanded services for this age group. In FY 2008-09, transportation to and from the Plano Senior Recreation Center was discontinued and the Plano Senior Rides program was promoted as a way to get transported to and from the center. It went unnoticed that the Douglass Seniors were afforded this transportation while seniors in other parts of town had their free service eliminated.

- Reduced hours of operation. Currently, the posted hours of operation are Monday-Thursday 1-9 pm, Friday 1-7 pm, Saturday 9 am-5 pm, and Sunday 1-5 pm. The proposed agreement allows children ages 6 - 18 into the building on Monday-Friday 3-9 pm and adults age 19 and older from 11 am - 1 pm and 7-9 pm. On Saturdays the proposed agreement calls for a reduced schedule with open hours from 9 am – 1 pm and no hours of operation proposed for Sundays. The proposed reduction of hours is based on historic patterns of use. Weekdays from 1-3 pm the facility has few participants. Saturday afternoons for the last year and a half, we held 3 to 4 piano classes each with 2 students and badminton class with an enrollment of 12. Drop in play from 1-5 pm on Saturday averages of 40 to 50 participants. Of those 40-50 people, 15-20 are there for badminton and the others, primarily for basketball. Thus, Saturday afternoons average 10-15 people per hour. On Sundays, we do not offer any classes and the drop in attendance is similar to Saturday afternoons, averaging around 10 people per hour.
- Badminton players will be routed to another center. The badminton players can play at the Tom Muehlenbeck Center and Carpenter Park Recreation Center. Additionally, we have offered to add badminton at Oak Point Center. All of these centers are membership based and would require a daily fee payment or membership purchase for participation.
- The center could experience a decrease in adult programs. Our records show that four people from the Douglass Community participated in our programs over a 15 month timeframe. Classes of similar nature are offered at the four recreation centers in town for a fee and a membership is not required to participate in classes.
- Familiar faces of City staff. It is safe to say that relationships have been formed with City employees through the years and some program participants are partial to the person they are accustomed to working with. The senior program is probably the most notable example.

There has been extensive discussion and review of this concept since early fall. A group of citizens has expressed their concerns about the center's future. While there are no guarantees to provide for perpetual existence for the center, I do think that a nationally known entity with a successful history in the Douglass Community is a solid partnering choice. Nationally, the Boys and Girls Club has provided community center functions in other cities and locally, they can tap into their past experience and history of service in the Douglass Community. If the City retains the center operations, significant reductions are likely due to the budget deficits that are projected for the next two years. In short, this agreement preserves services and hopefully keeps them from being subject to future reductions.

Thank you for your consideration of this potential agreement.

Attachment: Public Sector Agency Service Assessment

Public Sector Agency Service Assessment

Based on MacMillan Matrix for Nonprofit agencies from the Alliance For Nonprofit Management. Adapted by GreenPlay, LLC and GP RED for Public Sector Agencies. April 2009.

Public agencies have not traditionally been thought of as organizations that need to be competitively oriented. Unlike private and commercial enterprises, which compete for customers and whose survival depends on satisfying paying customers, many public and non-profit organizations operate in a non-market, or grants economy - one in which services may not be commercially viable. In other words, the marketplace may not supply sufficient and adequate resources.

In the public sector, our customers (taxpayers) do not decide how funding is allocated and which services get adequate, ongoing funding. (In fact, many public agencies and non-profits can be considered "sole-source," the only place to get a service, so there is little to no market saturation and therefore, potential for apathetic service enhancement and improvement). Consequently, public and non-profit organizations have not necessarily had an incentive to question the status quo, to assess whether customer needs were being met, or to examine the cost-effectiveness or quality of available services.

The public sector and market environments have changed, funders and customers alike are beginning to demand more accountability. And both traditional (taxes and mandatory fees) and alternative funding (grants and contributions) are getting harder to come by, even as needs and demands increase. This increasing demand for a smaller pool of resources requires today's public and non-profit agencies to rethink how they do business, to provide services where appropriate, to avoid duplicating existing comparable services, and to increase collaboration, wherever possible. In addition, organizations are leveraging all available resources where possible.

An assessment of a **Public Sector Agency Services** is an intensive review of organizational services including activities, facilities, and parklands that leads to the development of an agency's **Service Portfolio**. Additional results indicate whether the service is "**core to the organization's values and vision**" and provides recommended provision strategies that can include, but are not limited to enhancement of service, reduction of service, collaboration, advancing or affirming market position. This assessment provides a nexus relative to which services are central to the organization's purpose. The process includes an analysis of services relevance to the organization's values and vision; organization market position in the community; other service providers in the service area; and the economic viability of the service.

Based on the **MacMillan Matrix for Competitive Analysis of Programs**¹, the Public Sector Services Assessment Matrix is a valuable tool that is specifically adapted to help public agencies assess their services. The MacMillan Matrix realizes significant success in the non-profit environment and leads to application in the public sector. The **Public Sector Agency Services Assessment Matrix** is based on the assumption that duplication of existing comparable services (unnecessary competition) among public and non-profit organizations can fragment limited resources available, leaving all providers too weak to increase the quality and cost-effectiveness of customer services. This is also true for public agencies.

The **Public Sector Agency Service Assessment Matrix** assumes that trying to be all things to all people can result in mediocre or low-quality service and that agencies should emphasize delivering higher-

¹ Alliance for Nonprofit Management

quality service in a more focused (and perhaps limited) way. The Matrix helps organizations think about some very pragmatic questions.

Q: Is the agency the best or most appropriate organization to provide the service?

Q: Is market competition good for the citizenry?

Q: Is the agency spreading its resources too thin without the capacity to sustain core services and the system in general?

Q: Are there opportunities to work with another organization to provide services in a more efficient and responsible manner?

Services Assessment Matrix © 2009 GreenPlay LLC and GP RED		Financial Capacity Economically Viable		Financial Capacity Not Economically Viable	
		Alternative Coverage High	Alternative Coverage Low	Alternative Coverage High	Alternative Coverage Low
Good Fit	Strong Market Position	Affirm Market Position 1	Advance Market Position 2	Complementary Development 5	"Core Service" 6
	Weak Market Position	Divest 3	Invest, Collaborate or Divest 4	Collaborate or Divest 7	Collaborate or Divest 8
Poor Fit	Divest				9

Note: Based on MacMillan Matrix for Nonprofit agencies from the Alliance For Nonprofit Management. Adapted by GreenPlay, LLC and GP RED for Public Sector Agencies. April 2009.

Fit

Fit is the degree to which a service aligns with the agency's values and vision, reflecting the community's interests. If a service aligns with the agency's values and vision, and it contributes to the overall enhancement of the community, it is classified as "good fit". If not, the service is considered a "poor fit".

- Does the service align with agency values and vision?
- Does the service provide community-wide return on investment (i.e. community, individual, environmental, or economic benefits and outcomes that align with agency values such as crime prevention, improved health and well-being, enhancement of property values)?

Financial Capacity

Financial Capacity is the degree to which a service (including a program, facility or land asset) is currently or potentially attractive as an investment of current and future resources to an agency from an economic perspective.

No program should be classified as "highly attractive" unless it is ranked as attractive on a substantial majority of the criteria below.

- Does the service have the capacity to sustain itself (break even) independent of General Fund or taxpayer subsidy/support?
- Can the service reasonably generate at least XXXXX% from fees and charges?
- Can the service reasonably generate excess revenues over direct expenditures through the assessment of fees and charges?
- Are there consistent and stable alternative funding sources such as donations, sponsorships, grants and/or volunteer contributions for this service?
- Can the service reasonably generate at least XXXXX% of the costs of service from alternative funding sources ?
- Is there demand for this service from a significant/large portion of the service's target market?
- Can the user self-direct or operate/maintain the service without agency support?

Market Position

Market Position is the degree to which the organization has a stronger capability and potential to deliver the service than other agencies – a combination of the agency's effectiveness, quality, credibility, and market share dominance. No service should be classified as being in a "strong market position" unless it has some clear basis for declaring superiority over all providers in that service category and is ranked as affirmative on a substantial majority of the criteria below.

- Does the agency have the adequate resources necessary to effectively operate and maintain the service?
- Is the service provided at a convenient or good location in relation to the target market?
- Does the agency have a superior track record of quality service delivery?
- Does the agency currently own a large share of the target market currently served?
- Is the agency currently gaining momentum or growing its customer base in relation to other providers? (e.g., "Is there a consistent waiting list for the service?")
- Can you clearly define the community, individual, environmental and/or economic benefits realized as a result of the service
- Does agency staff have superior technical skills needed for quality service delivery?
- Does the agency have the ability to conduct necessary research, pre and post participation assessments, and/or properly monitor and evaluate service performance therefore justifying the agency's continued provision of the service? (Benchmarking performance or impact to community issues, values, or vision)
- Are marketing efforts and resources effective in reaching and engaging the target market?

Alternative Coverage

Alternative Coverage is the extent to which like or similar services are provided in the service area to meet customer demand and need. If there are no other large (significant), or very few small agencies producing or providing comparable services in the same region or service area, the service should be classified as "low coverage." Otherwise, coverage is "high."

Unfair Competition

It has become somewhat challenging to draw a line of demarcation between those services that are recognized to be the prerogative of the private sector and those thought to be the responsibility of the public sector. Overlap of service production and provision are common. A continuing problem today is the lack of clarification between what sector should be producing or providing which services, therefore, developing boundaries. What is needed is the reshaping of how public and private sector agencies work independent of each other or together in a more effective way, becoming complementary rather than duplicative.

Service lines are blurred due to a variety of factors. Whether it is due to the emergence of new services, in response to customer demand, or reduced availability of public funds and therefore greater dependence on revenue generation, these blurred lines sometimes result in charges that the public sector engages in unfair competition practices by offering similar or like services to those of the private sector. These charges result from the resource advantages that public sector has over the private sector including, but not limited to, immunity from taxation and the ability to charge lower fees for similar or like services due to receipt of subsidy dollars.

Recommended Provision Strategies - Defined

Affirm Market Position – A number (or one significant) *alternative provider(s)* exists yet the service has *financial capacity*, and the agency is in a *strong market position* to provide the service to customers or the community. **Affirming market position** includes efforts to capture more of the market and investigating the merits of competitive pricing strategies. This includes investment of resources to realize a financial return on investment. Typically, these services have the ability to generate excess revenue.

Advance Market Position – A smaller number or no alternative providers exist to provide the service, the service has *financial capacity*, and the agency is in a *strong market position* to provide the service. Due primarily to the fact that there are fewer if any alternative providers, **advancing market position** of the service is a logical operational strategy. This includes efforts to capture more of the market, investigating the merits of market pricing, and various outreach efforts. Also, this service may be an excess revenue generator by increasing volume.

Divestment – The agency has determined that the service does not fit with the agency's values and vision, and/or the agency has determined it is in a *weak market position* with little or no opportunity to strengthen its position. Further, the agency deems the service to be contrary to the agency's interest in the responsible use of resources, therefore, the agency is positioned to consider **divestment** of the service.

Investment – **Investment** of resources is the agency's best course of action as the service is a *good fit* with values and vision, and an opportunity exists to strengthen the agency's current *weak market position* in the marketplace.

Complementary Development – The service is a *good fit*, a number of or one significant *alternative provider(s)* exists which provide the service, the agency is in a *strong market position* to provide the service, yet it does not have *financially capacity* to the agency. **"Complementary Development"** encourages planning efforts that lead to complementary service development rather than duplication, broadening the reach of all providers. Although there may be perceived market saturation for the

service due to the number or like services of alternative providers, demand and need exists justifying the service's continued place in the market.

Collaboration – The agency determines that the service can be enhanced or improved through the development of a collaborative effort as the agency's current *market position is weak*. **Collaborations** (e.g., partnerships) with other service providers (internal or external) that minimize or eliminate duplication of services while most responsibly utilizing agency resources are recommended.

Core Service – These services *fit* with the agency's values and vision, there are few if any alternative providers, yet the agency is in a *strong market position* to provide the service. However, the agency does not have the *financial capacity* to sustain the service outside of General Fund support and the service is deemed to not be economically viable. These services are **"core" to satisfying the agency's values and vision** typically benefiting all community members, or are seen as essential to the lives of under-served populations.

Glossary

Ability - the quality or state of being able; power to perform; competence in doing

Adequate - sufficient for a specific requirement; reasonably sufficient

Capacity - the potential or suitability for accommodating; the maximum amount or number that can be contained or accommodated; the facility or power to produce, perform, or deploy; capability

Quality - meeting or exceeding expectations; degree of excellence; superiority in kind

Superior - of higher rank, quality, or importance; excellent of its kind

Target market – the specific market of a service (e.g., age, sex, race/ethnicity, education level, ability level, residence)

A Resolution of the City of Plano, Texas, approving the terms and conditions of a Management Services Agreement by and between the City of Plano and the Boys and Girls Club of Collin County to operate and manage the Douglass Community Center; authorizing its execution by the City Manager or his authorized designee; and providing and effective date.

WHEREAS, the City Council has been presented a proposed Management Services Agreement by and between the City of Plano and the Boys and Girls Club of Collin County, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (herein called the "Agreement"); and

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

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

Section I. The terms and conditions of the 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 from and after its passage.

DULY PASSED AND APPROVED this the 26th day of July, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

EXHIBIT A

AGREEMENT BETWEEN THE CITY OF PLANO, TEXAS AND BOYS AND GIRLS CLUBS OF COLLIN COUNTY, INC.

THIS AGREEMENT is made and entered into this ____ day of _____, 2010 by and between the CITY OF PLANO, TEXAS, a Texas home rule municipal corporation (hereafter "City") and BOYS & GIRLS CLUBS OF COLLIN COUNTY, INC., a Texas non-profit corporation (hereafter "Licensee").

WHEREAS, the City, pursuant to an agreement with Plano Independent School District ("PISD") dated May 13, 1987, as amended by an agreement dated effective January 1, 1996 (collectively called "PISD Agreements"), has a right to occupy and use the property at 1111 Avenue H, Plano, Texas, known as the Douglas Community Center ("DCC"), which is more particularly described in **Exhibit "A"** attached hereto and made a part hereof by reference (the "Property") for recreational, educational and public service; and

WHEREAS, the City and Licensee entered into a separate agreement on October 7, 2008, ("Original Lease") wherein the City agreed to lease a portion of the Property to Licensee for a period of five years; and

WHEREAS, the parties now wish to amend the Original Lease in its entirety as set forth herein (this "Agreement"); and

WHEREAS, it is deemed in the best interest of the residents of the City to grant a license to Licensee as described in **Exhibit "B"** (the "Premises") so that Licensee may provide various activities, classes and educational opportunities for the residents of Plano; and

WHEREAS, the City finds that the license of the Property to Licensee for the purposes stated above is a valid public purpose.

NOW, THEREFORE, for and in consideration of the covenants, obligations, and undertakings of each of the respective parties to the Agreement, the parties hereby agree as follows:

I. LICENSE TERM

1.01 The City hereby grants a license to Licensee to occupy and use the Premises for a period of fifteen (15) years commencing as of the date of this agreement provided, however, that the City shall have the right and option to extend the term by an additional two (2) five (5) year periods. Licensee acknowledges and understands that this Agreement is subject to the PISD Agreements. The Premises are located within the DCC.

II. RENT

2.01 Licensee shall pay to City at the address specified pursuant to Article VII of this Agreement, during the term of this Agreement an annual rental equal to one (\$1.00) Dollar per year.

III. AUTHORIZED ACTIVITIES

3.01 Licensee may use the Premises for operation of a community facility and Boys and Girls Club facility, programs of a recreation or educational nature, private rentals which policies and fees will follow those already established by the City and listed in **Exhibit "D"** and such other uses as are incidental to the operation thereof, and for no other purpose without the prior written consent of City. Licensee shall not use, or permit the use of, the Premises in any manner that results in waste of the Premises, is for an illegal purpose, or constitutes a nuisance. Licensee, at its expense, will comply, and will cause its officers, employees, agents, and invitees to comply, with all applicable laws and ordinances and with all applicable rules and regulations of governmental agencies, concerning the use of the Premises.

3.02 Licensee shall maintain their current quality programming for the youth in the community, develop family programming, and provide an opportunity for open play for all ages in game room areas and Thomas gymnasium. Open play shall be provided during the school year Monday through Friday from 11:00AM to 1:00PM, Monday through Friday from 7:00 PM until 9:00 PM, and on Saturday from 9:00AM to 1:00PM. During the summer months open play shall be provided Monday through Friday from 5:00 PM until 9:00 PM, and on Saturday from 9:00AM to 1:00PM. Licensee and the City can evaluate community attendance for any adjustments of open play hours on an annual basis.

3.03 Space and supervision of the building shall be provided at least twice per week for not less than four (4) hours for the use of senior citizens of the community to meet, during the hours of 10:00AM to 2:00PM on Monday through Friday. No fee shall be assessed to the group without City's consent.

3.04 Licensee shall provide yearly reports that includes but not limited to information on attendance, programs, and events. Report must be submitted by March 1 to the Director of Parks and Recreation and/or their designee. Licensee shall hold a public meeting once per year.

3.05 Licensee shall not make any improvements or alterations to the Property or Premises including the three walled mural without the prior written approval of the City, however, Licensee shall have the right to make such changes as it desires on the interior of the premises, provided that no walls, floors, or ceilings shall be structurally modified or changed without prior written consent of the City of Plano.

3.06 Licensee shall be responsible for any and all damages to the Premises resulting from the use or occupancy by Licensee, its agents, servants or invitees.

3.07 Licensee shall be responsible for maintenance, repair and/or replacement, of all DCC improvements, including the roof, foundation, outer walls, windows, plumbing, heating and air-conditioning, fire alarm and sprinkler system, parking lot, landscape, exterior lighting and electrical systems, and outdoor basketball/multi-use courts, playgrounds, fences, and any other fixtures on the premises that become damaged or need replacing during the term of the license. Licensee shall maintain facilities in accordance with all federal, state, and local laws and ordinances. All maintenance, preventive or otherwise, shall be performed at a level to keep all site features commensurate with similar City sites and facilities and ADA compliant. All outdoor recreational facilities originally conveyed to the Licensee shall remain safe and usable by the public unless alteration or removal is approved by the City. At the termination of the license,

Licensee shall return the Premises in as good a condition as it was at the commencement of the License, normal wear and tear excepted.

3.08 Custodial services and waste disposal for the Premises will be provided and paid for by Licensee.

3.09 Licensee will be allowed to complete an inspection of the property prior to their agreement to and the execution of the license agreement. The license agreement will be contingent upon a satisfactory inspection.

IV. INDEMNIFICATION

4.01 THE LICENSEE 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 LICENSEE'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 LICENSEE, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBLICENSEES, OR SUB-SUBLICENSEES AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE LICENSEE 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 LICENSEES. 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.

4.02 LICENSEE 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 LICENSEE'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF LICENSEE'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. LICENSEE 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 LICENSEE FAILS TO RETAIN COUNSEL WITHIN THE REQUIRED TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF AND LICENSEE SHALL BE LIABLE FOR ALL COSTS INCURRED BY THE CITY.

V. INSURANCE

5.01 Licensee, at its own expense, agrees to provide and keep in full force for all terms of this Agreement, bodily injury (including death) and property damage insurance from an insurance company acceptable to the City, covering Licensee, the City and PISD, in an amount of **ONE MILLION DOLLARS (\$1,000,000.00)** per claim and **TWO MILLION DOLLARS (\$2,000,000.00)** aggregate for injuries and damages to persons, and in an amount of **ONE HUNDRED THOUSAND DOLLARS (\$100,000.00)** for property damage arising out of, or in connection with, the occupation, use or condition of the Premises. All such insurance policies shall provide that the insurance policy shall not be canceled by the insures unless and until at least thirty (30) days written notice of such cancellation is delivered to the City. Licensee shall furnish the City with Certificates of Insurance required by this paragraph in a form acceptable to the City, which includes certificates showing any renewals of such insurance. Such policies and certificates shall also provide for a waiver of subrogation in favor of the City. Such certificates must be delivered to the City before Licensee takes possession of or performs any work on the Property.

VI. UTILITIES

6.01 The Licensee shall be responsible for the payment of all utilities including electric, gas, water, sanitary sewer, solid waste services, telephone, cable, and internet or other communications services provided to the Property excluding the premises herein described as the annex (Exhibit B).

VII. TERMINATION FOR CONVENIENCE

7.01 Either party may terminate this Agreement at any time, without cause, upon giving the other party six (6) months' written notice of termination. This agreement shall terminate upon the expiration of such six (6) month period, provided, however, Licensee may extend the date of termination for up to an additional six (6) months in order to facilitate a move out by delivery of written notice to the City not less than sixty (60) days prior to the expiration of the initial six (6) month period. If the City terminates the agreement pursuant to this Section, it shall pay to Licensee an amount equal to the percentage that is represented by the number of months remaining on the Term of Agreement as of the date the Agreement terminates, divided by one hundred and eighty (180) and multiplied by the dollar value of any real property improvements made to the Premises ("Improvements"); said payment to be made by City after Licensee has vacated the Premises less than the amount Licensee owes for any unpaid rent of damages to the Premises; provided, however, the value of the Improvements shall not include any amount paid for with grants or other funds from the City or for any Improvements made by Licensee which were not approved in advance by City. Furthermore, reimbursement for an amount of the Improvements is not required by the City if termination of the Agreement by the City pursuant to this Section is during any option period described in Section 1.01.

VIII. TERMINATION FOR CAUSE

8.01 If either party defaults in the performance of this Agreement, the other party will give to the non-performing party a written and detailed notice of the default. 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 Licensee 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 Agreement effective upon giving a written notice of termination to the defaulting party. The Licensee shall not be entitled to any reimbursement for Improvements set forth in Section 7.01 above.

8.02 Any termination of this Agreement will not relieve either party of obligations previously incurred pursuant to this Agreement, including payments which may be due and owing at the time of termination. All sums owed and not in dispute by City will become due and payable immediately upon termination of this Agreement.

IX. NOTICES

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

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

If intended for the Licensee:
Boys and Girls Clubs of Collin County, Inc.
Attention: Tanya Greene
Chief Executive Officer
701 S Church Street
McKinney, TX 75069

X. AFFIDAVIT OF NO PROHIBITED INTEREST

Licensee acknowledges and represents Licensee 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. Licensee has executed the Affidavit of No Prohibited Interest, attached and incorporated herein as Exhibit "C."

XI. MISCELLANEOUS

11.01 Licensee shall not at any time encumber its interest in this Agreement by deed of trust, mortgage or other security instrument, nor shall Licensee suffer or permit any mechanic's liens or other liens to be filed against the Property or any improvements hereon. Licensee shall not assign its interest under this Agreement without prior written approval of the city, which may be withheld.

11.02 This Agreement embodies the entire agreement between the parties and cannot be varied or changed except by the written agreement of the parties.

11.03 All terms and conditions of this Agreement are hereby made binding on the executors, heirs, administrators, successors and assigns of all parties hereto.

11.04 This Agreement shall be governed by, and construed in accordance with the laws of the State of Texas. All rights and obligations under this Agreement are fully performable in Collin County, Texas.

11.05 In case of one or more of the provisions contained in this Agreement shall be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

11.06 IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the effective date first entered herein.

BOYS AND GIRLS CLUBS OF COLLIN COUNTY, INC., a Texas non-profit Corporation

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 COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2010 by _____, _____ of **BOYS AND GIRLS CLUBS OF COLLIN COUNTY, INC.**, a Texas non-profit Corporation, on behalf of said corporation.

Notary Public in and for the
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 Texas home-rule municipality, on behalf of said municipality.

Notary Public in and for the
State of Texas

EXHIBIT "A"
LEGAL DESCRIPTION OF THE PROPERTY

EXHIBIT "A"

THE PROPERTY

BEING a tract of land in the Joseph Klepper Survey, Abstract No. 213, Collin County, Texas, and being lots 1B, 2, 3, 4, 5, 6, and 7 of Block 2, and lots 2B, 3A, 3B, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 of Block 4 of the Aldridge Addition and lots 1 and 2 of Block 29 of the Original Donation, additions to the City of Plano, Texas and being particularly described as follows:

BEGINNING at a point in the west right-of-way line of "H" Avenue (30' R.O.W.) said point bears S 00°26'45" E, 44.85 feet from the intersection of the south right-of-way of 12th Street with the west right-of-way line of "H" Avenue;

THENCE S 00°26'45" E, a distance of 389.25 feet to a point for corner;

THENCE S 89°33'15" W, a distance of 110.00 feet to a point for corner;

THENCE S 00°26'45" E, a distance of 109.20 feet to a point for corner;

THENCE S 89°33'15" W, a distance of 151.79 to a point for corner;

THENCE N 00°28'25" E, a distance of 239.61 feet along the east right-of-way line of "G" Avenue;

THENCE N 00°51'30", continuing along the east right-of-way line of "G" Avenue, a distance of 195.00 feet to a point for corner;

THENCE N 89°18'06" E, a distance of 95.44 feet to a point for corner;

THENCE N 00°43'43" W, a distance of 45.18 feet to a point for corner;

THENCE N 89°18'06" E, a distance of 54.12 feet to a point for corner;

THENCE N 00°26'45" W, a distance of 14.15 feet for corner;

THENCE N 88°48'01" E, a distance of 110.01 feet to the point of beginning and containing 2.530 acres, more or less.

Exhibit B Douglass Community Center and Gymnasium

Approximately 22,203 S.F. Total

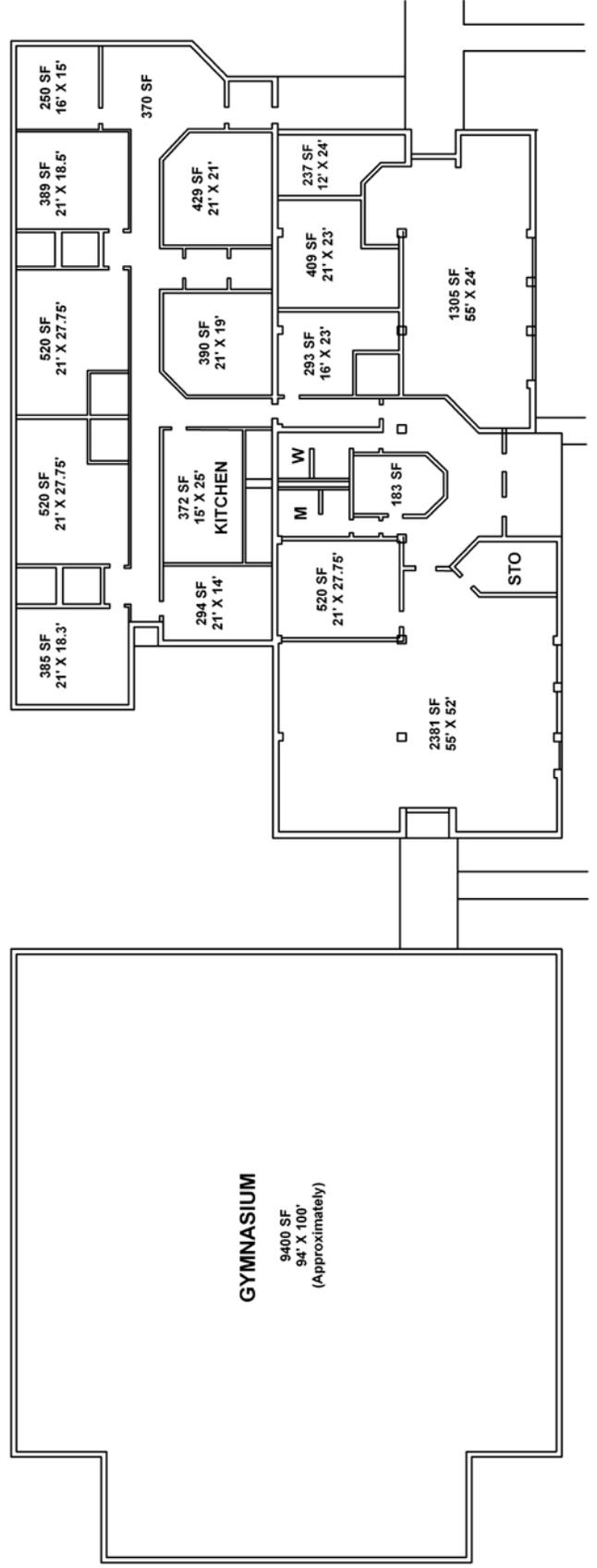


EXHIBIT "C"
AFFIDAVIT OF NO PROHIBITED INTEREST

I, the undersigned declare and affirm that no person or officer of _____ (herein "Licensee") 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 Licensee

By: _____
Signature

Print Name

Title

Date

STATE OF _____ §

COUNTY OF _____ §

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

Notary Public, State of _____

Exhibit D	Max #	Food	Resident	Non-Resident	Commercial	Resident After Hours	Non-Resident After Hours	Commercial After Hours	After Hours Days & Times	
									After Hours Days & Times	
Minimum Two (2) Hour Rentals										
Carpenter Park										
Art Room	50	Y	\$65	\$75	\$90	\$90	\$100	\$115	Sun	6:30 - 9:30 pm
Meeting Room	50	Y	\$65	\$75	\$90	\$90	\$100	\$115		
Meeting Room/Kitchen	70	Y	\$100	\$110	\$125	\$125	\$135	\$150	Sun	6:30 - 9:30 pm
Kitchen	30	Y	\$45	\$55	\$70	\$70	\$80	\$95	Sun	6:30 - 9:30 pm
Room 1	30	Y	\$45	\$55	\$70	\$70	\$80	\$95	Sun	6:30 - 9:30 pm
Gym (Single Court)*	150	N	\$60	\$70	\$85	\$75	\$85	\$100	Sun	6:30 - 9:30 pm
Preschool Room	10	N	\$40	\$50	\$65	\$65	\$75	\$90	Sun	6:30 - 9:30 pm
1 Gym/Art/Game/Lobby	250		N/A	N/A	N/A	\$125	\$135	\$150	Sun	6:30 - 9:30 pm
Both Gyms/Art/Game/Lobby	400		N/A	N/A	N/A	\$175	\$185	\$200	Sun	6:30 - 9:30 pm
Douglass Community Center										
Preschool Room	30	N	\$25	\$35	\$50	\$50	\$60	\$75	Sat/Sun	5:30 - 9:30 pm
Classroom 2 OR Classroom 3	15	N	\$25	\$35	\$50	\$50	\$60	\$75	Sat/Sun	5:30 - 9:30 pm
Senior's Room	20	Y	\$25	\$35	\$50	\$50	\$60	\$75	Sat/Sun	5:30 - 9:30 pm
Kitchen	10	Y	\$25	\$35	\$50	\$50	\$60	\$75	Sat/Sun	5:30 - 9:30 pm
Meeting Room 1	90	Y	\$50	\$60	\$75	\$75	\$85	\$100	Sat/Sun	5:30 - 9:30 pm
Recreation Room	125	N	\$50	\$60	\$75	\$75	\$85	\$100	Sat/Sun	5:30 - 9:30 pm
Annex	40	Y	N/A	N/A	N/A	\$50	\$60	\$75	Sat/Sun	5:30 - 9:30 pm
Gym (Double Court)	300	N	N/A	N/A	N/A	\$100	\$110	\$125	Sat/Sun	5:30 - 9:30 pm
Gyms/Rec Room/Meeting RM 1	500		N/A	N/A	N/A	\$175	\$185	\$200	Sat/Sun	5:30 - 9:30 pm
Liberty Recreation Center										
Meeting Room A/B	50	N	\$65	\$75	\$90	\$90	\$100	\$115	Sun	6:30 - 9:30 pm
Meeting Room D	15	N	\$25	\$35	\$50	\$50	\$60	\$75	Sun	6:30 - 9:30 pm
Meeting Room E & F	20	N	\$25	\$35	\$50	\$50	\$60	\$75	Sun	6:30 - 9:30 pm
Classroom 1 & 2	60	Y	\$75	\$85	\$100	\$100	\$110	\$125	Sun	6:30 - 9:30 pm
Classroom 4	20	Y	\$25	\$35	\$50	\$50	\$60	\$75	Sun	6:30 - 9:30 pm
Classroom 5	20	Y	\$25	\$35	\$50	\$50	\$60	\$75	Sun	6:30 - 9:30 pm
Gym (Double Court)*	300	N	N/A	N/A	N/A	\$100	\$110	\$125	Sun	6:30 - 9:30 pm
Gyms/Lobby/Meeting Room A/B*	400	N	N/A	N/A	N/A	\$175	\$185	\$200	Sun	6:30 - 9:30 pm
Tom Muehlenbeck Center										
Conference	12	N	\$100	\$110	\$125	\$125	\$135	\$150		
Room A	50	Y	\$65	\$75	\$90	\$90	\$100	\$115		
Room B	50	Y	\$65	\$75	\$90	\$90	\$100	\$115		
Room C	50	Y	\$65	\$75	\$90	\$90	\$100	\$115		
Room A/B/C	150	Y	\$195	\$225	\$270	\$270	\$300	\$345	Sat	7:30 - 9:30 pm
Gym (Double Court)*	300	N	NA	NA	NA	\$100	\$110	\$125	Sat	7:30 - 9:30 pm
Oak Point Center										
Classroom A/B	50	Y	\$65	\$75	\$90	\$90	\$100	\$115	Sun	6:30 - 9:30 pm
Classroom C	30	N	\$40	\$50	\$65	\$65	\$75	\$90	Sun	6:30 - 9:30 pm
Aerobic Room (no chairs, rehearsals)	35	N	\$65	\$75	\$90	\$90	\$100	\$115	Sun	6:30 - 9:30 pm
Gym (Double Court)*	300	N	N/A	N/A	N/A	\$100	\$110	\$125	Sun	6:30 - 9:30 pm
Preschool Room	10	N	\$25	\$35	\$50	\$50	\$60	\$75	Sun	6:30 - 9:30 pm
Gyms/Game/Classroom A/B	400		N/A	N/A	N/A	\$175	\$185	\$200	Sun	6:30 - 9:30 pm
Plano Senior Recreation Center										
Classroom 2/3	30	N	\$40	\$50	\$65	\$65	\$75	\$90	Fri/Sat	5:30 - 9:30 pm
Lonestar Room	300	Y	N/A	N/A	N/A	\$150	\$160	\$175	Fri/Sat	5:30 - 9:30 pm
Lonestar 1/4	50	Y	\$65	\$75	\$90	\$90	\$100	\$115	Fri/Sat	5:30 - 9:30 pm
Art Room	12	Y	\$25	\$35	\$50	\$50	\$60	\$75	Fri/Sat	5:30 - 9:30 pm

* Game Room may be added for after hours rentals: \$50 Resident, \$60 Non-Resident, and \$75 Commercial.

EXHIBIT "D"
City of Plano Recreation Facility Room Rental Policy

1. Recreation programs and activities shall receive first consideration in scheduling.
2. Reservations and rentals may be made up to two months in advance.
3. After hours rentals must be made at least two weeks in advance and must be paid for at the time of booking to secure the reservation. No dates will be held without payment in full.
4. Reservations and rentals must be made in person on a first come first served basis for persons at least 21 years of age.
5. The individual signing the Agreement must be at the function for the duration of the scheduled activity and have Room Rental Permit in hand.
6. Minimum rental time during facility hours is one hour. Staff reserves the right to limit the duration of the rental.
7. After hours rentals require a two-hour minimum rental and may begin 30 minutes after facility closing.
8. Maximum occupancy numbers must be adhered to during the rental. Staff may limit access to any persons that would exceed the maximum occupancy of the rental.
9. Reservations during facility operating hours shall begin no sooner than 30 minutes after the scheduled opening time for the center. Reservations must also be schedule to end at least 30 minutes prior to facility closing.
10. Renter must provide a minimum of 1 adult for every 25 youth participant's aged 7 and older. For groups with children younger than 7, a 1 adult to every 10 child ratio will be required.
11. The individual signing the Agreement is responsible and shall be responsible for any loss or damage to the property or equipment during the rental/reservation. Renter is fully responsible for any damages based upon actual repair or replacement costs.
12. Admission fees charged by the renter, or solicitation of funds in conjunction with a reservation, require approval of the Director of Parks and Recreation. The Director of Parks and Recreation must also approve the sale of food and beverages.
13. Renter may use the center only during prearranged time. Requested time must include set up and clean up time.
14. No group shall assign its space or reservation to another group.
15. Individuals and organizations making a reservation must comply with all facility rules and regulations, as well as all City, State, and Federal laws, ordinances, and policies.
16. The City facility will not accept shipments of freight or rental materials for the lessee.

17. Music or other entertainment must be pre-approved to ensure compatibility with facility activities as determined by the facility supervisor.
18. No birdseed, rice, confetti, fog machine, bubbles, sequins, or butterflies may be used in the building.
19. No glass containers of any kind are permitted.
20. Rentals/Reservations must remain in the areas reserved.
21. No open flames are allowed in the rooms. Center-piece candles must be protected by hurricane glass. Birthday candles on cakes are permissible.
22. No equipment or displays may be set up outside of the building.
23. Renter is responsible for the table/chair set up/ take down, and area clean up. Facility must be returned to the condition as it was at the beginning of the rental. Please note that the facilities are open to the public during the day. Cleanup is determined as follows:
 - All décor and or belongings must be removed by the event ending time as stated in the contract.
 - Tables and floors must be cleared of trash.
 - Trash must be bagged, tied and placed in a central location.
 - Nothing can be hung from ceilings or walls.
 - The lessee must clean up all spills.
 - The lessee is completely responsible for his or her guests.
 - The lessee shall remove excessive trash in the parking lots or any common area used during the rental/reservation.
 - The renter must remove all equipment/supplies at the end of the reservation time. The facility will not be responsible for any property and equipment left at the facility following the rental.
24. The center does not provide extension cords, boom boxes, dishware, serving utensils, tape, ladders, coffeemakers, refrigeration, etc.
25. No signage promoting the event may be hung in the building.
26. Vending machine coin slots may not be taped over, nor can machines be covered in any way.
27. The recreation staff does not provide assistance in setting up, or carrying supplies or other materials brought in by the renter.
28. Outside full-service catering is not permitted. Catering is only available through Plano Centre. However, pre-prepared food or refreshments that do not require warmers or crock-pots are permitted in designated rooms or facility areas only.
29. Tobacco and alcohol usage are prohibited.
30. The Parks and Recreation Department is not liable for any interruptions caused by power outages, emergency situations or heating/air conditioning failures during the reservation time.

31. A reduced rate for Plano based non-profits is available for reservations during regular facility hours. After hours reservations are subject to regular rental rates. The reduced rate is available one reservation at a time. Standing reservations are subject to the regular rental rates after the first reduced rate reservation. Once a discounted reservation is completed, the next discounted reservation may be made, based on facility availability.
32. Non-profits organizations are defined as groups that can show proof of non-profit status as a 501(c)3.
33. Inaccurate or untruthful statements made by the renter in the rental application or violation(s) of any rules and regulations for the use of the City facilities may result in permanent cancellation of the person's or organization's rental and/or recreation privileges.
34. Recreation staff reserves the right to revoke any reservation/rental if the program is not in full compliance with this policy. Any expenses incurred by the renter will be the renter's responsibility.
35. Failure to comply with the above Policy will result in the denial of future program use. The Recreation Services Manager will decide questions regarding interpretation of the above Policy.
36. Rentals cancelled more than a week out from the rental date will be refunded fully. Rentals cancelled less than a week from the rental date will be refunded the full amount minus a \$10 administration fee.