

CITY COUNCIL

1520 AVENUE K



DATE: 10/10/2011

CALL TO ORDER: 7:00 p.m.

INVOCATION: Reverend Kevin McClain
St. Andrew United Methodist Church

PLEDGE OF ALLEGIANCE: Jr. Girl Scout Troop 8638
Aldridge & Weatherford 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></p> <p>PROCLAMATION: Pancreatic Cancer Month, given to the Pancreatic Cancer Action Network in order to help raise awareness of pancreatic cancer</p> <p>PROCLAMATION: October is National Arts and Humanities Month, in recognition of the importance of the arts in our lives</p> <p><u>OATHS OF OFFICE</u></p> <p><u>Animal Shelter Advisory Committee</u></p> <p>Elizabeth Ann Boddan, Kevin Kimbrell, Sunny Ruth</p> <p><u>Arts of Collin County Commission Board of Directors</u></p> <p>Bobby Baggett, Bill Shaddock</p> <p><u>Board of Adjustment</u></p> <p>Mark Godfrey, Carolyn Kalchthaler, Steven D. Patten</p> <p><u>Building Standards Commission</u></p> <p>Marsha Griggs, Sylvia Reid, Arthur Stone</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p><u>Civil Service Commission</u> David M. O'Dens</p> <p><u>Community Relations Commission</u> Richard Grady, Philip F. Pollacia, Cynthia Thomas, Mandy Tschoepe, Al Valente</p> <p><u>Cultural Affairs Commission</u> Marion L. Brockette, Jr., Mark Greer, Margaret S.C. Tsai</p> <p><u>Heritage Commission</u> Gregory Blair Carter, Edward L. Coyle, Gary J. Graley, Sheila H. Huckaby</p> <p><u>Library Advisory Board</u> Shelly Bracken, Gary Graham, PE, Russ Kissick, Kimberley Malouf, John Pillow</p> <p><u>Parks and Recreation Planning Board</u> Kayci Brooks Prince, Pamela G. Weaver, Beth S. Webb</p> <p><u>Photographic Traffic Signal Advisory Committee</u> Doug A. Bender, Greg Price</p> <p><u>Planning and Zoning Commission</u> Douglas Cargo, Christopher J. Caso, David L. Downs, Doug Hazelbaker, Alan E. Smith</p> <p><u>Plano Housing Authority</u> Earnest Burke, Linda K. Prindiville, Wanda F. Russell</p> <p><u>Retirement Security Plan Committee</u> Casey Srader, Sean Sullivan</p> <p><u>Self Sufficiency Committee</u> Jason H. Beck, Janet Denney, Pat Hartman, Charles Ho, Emmanuel I. Umoh, Stephen E. Vitasek</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p><u>Senior Citizens Advisory Board</u></p> <p>Nancy Jensen, Barbara Johnson, Jane Sackett, Ralph J. Steckel</p> <p><u>Tax Increment Financing Reinvestment Zone No. 2 Board</u></p> <p>Russell G. Coolik, Shawn Gay, Chris Hatcher, Alan L. Johnson, Brett Little, Pat Miner, Nathan Nash, James F. Schell, Alan Michael Then</p> <p><u>COMMENTS OF PUBLIC INTEREST</u></p> <p><u>This portion of the meeting is to allow up to five (5) minutes per speaker with thirty (30) total minutes on items of interest or concern and not on items that are on the current agenda. The Council may not discuss these items, but may respond with factual or policy information. The Council may choose to place the item on a future agenda.</u></p> <p><u>CONSENT AGENDA</u></p> <p><u>The Consent Agenda will be acted upon in one motion and contains items which are routine and typically noncontroversial. Items may be removed from this agenda for individual discussion by a Council Member, the City Manager or any citizen. Citizens are limited to two (2) items and discussion time of three (3) minutes each.</u></p> <p><u>Approval of Minutes</u></p> <p>(a) September 26, 2011</p> <p><u>Approval of Expenditures</u></p> <p><u>Award/Rejection of Bid/Proposal: (Purchase of products/services through formal procurement process by this agency)</u></p> <p>(b) Bid No. 2011-272-B for the Bob Woodruff Park, North Pavilion Renovation, Project No. 6081, to T & G Constructors in the amount of \$388,500 and authorizing the City Manager to execute all necessary documents.</p> <p><u>Purchase from an Existing Contract</u></p> <p>(c) To approve the purchase of library materials for Plano Public Library System (PPLS) in the amount of \$100,000 from Brodart 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>	

ITEM NO.	EXPLANATION	ACTION TAKEN
(d)	To approve the purchase of library materials for Plano Public Library System (PPLS) in the amount of \$150,000 from Ingram Library Services 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.	
(e)	To approve the purchase of library materials for Plano Public Library System (PPLS) in the amount of \$300,000 from Midwest Tapes 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.	
(f)	To approve the purchase of library materials for Plano Public Library System (PPLS) in the amount of \$450,000 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.	
	Approval of Contract: (Purchase of products/services exempt from State of Texas Competitive Bid Laws)	
(g)	To approve a Landscape Architecture Services Agreement by and between the City of Plano and Mesa Design Associates, Inc., in the amount of \$94,920 for master planning services associated with the White Rock Creek Community Park Site and authorizing the City Manager to execute all necessary documents.	
	Approval of Change Order	
(h)	To Jerusalem Corporation, increasing the contract by \$83,438 for the 2009-2010 Residential Concrete Pavement Rehabilitation Project, Zone J5 North, Project No. 6091, Change Order No. 1, Bid No. 2010-241-B, and authorizing the City Manager to execute all necessary documents.	
	Adoption of Resolutions	
(i)	To approve the terms and conditions of funding agreements between the City of Plano, Texas and various arts organizations; authorizing their execution by the City Manager; and providing an effective date.	
(j)	To approve the terms and conditions of funding agreements between the City of Plano, Texas and various special event organizers; authorizing their execution by the City Manager; and providing an effective date.	
(k)	To approve the terms and conditions of a First Amendment to the Economic Development Incentive Agreement by and between the City of Plano, Texas and Aimbridge Hospitality, L.P., a Texas Limited Partnership and authorizing its execution by the City Manager; and providing an effective date.	
(l)	To approve the terms and conditions of an Economic Development Incentive Agreement by and between Sears Holdings Management Corporation and the City of Plano; authorizing its execution by the City Manager; and providing an effective date.	

ITEM NO.	EXPLANATION	ACTION TAKEN
(m)	<p>To affirm the appointment of a Shared Member and reaffirm the appointment of a Member to serve on the Dallas Area Rapid Transit (DART) Board of Directors; and providing an effective date.</p>	
(n)	<p><u>Adoption of Ordinances</u></p> <p>To abandon all right, title and interest of the City, in and to that certain drainage easement recorded in Volume 5949, Page 46, of the Land Records of Collin County, and to that certain drainage easement recorded in Instrument No. 20081113001330600, Official Public Records of Collin County, Texas, and to that certain temporary drainage easement recorded in Collin County Clerk's File No. 2005-0085575 of the Land Records of Collin County, Texas being situated in the M. C. Vela Survey, Abstract No. 935, located north of Windhaven Parkway and west of Spring Creek Parkway, which are located within the City limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such easements to the abutting property owner, Toll Dallas TX LLC., to the extent of its interest; authorizing the City Manager to execute any documents deemed necessary; and providing an effective date.</p>	
(o)	<p>To amend Section 8-3 of Article I of Chapter 8, Fire Prevention and Protection, of the Code of Ordinances of the City of Plano, Texas, to delete provisions involving the City's policy to respond to emergency ambulance calls and the boundaries for transporting patients for medical care, and providing a repealer clause, a savings clause, a severability clause, and an effective date.</p>	
(p)	<p>To provide for the issuance of City of Plano, Texas, General Obligation Refunding and Improvement Bonds, Series 2011 in an amount not to exceed \$53,000,000; levying a tax in payment thereof; approving the Official Statement; approving execution of a purchase contract and escrow agreement; and enacting other provisions relating thereto; and providing an effective date.</p> <p><u>ITEMS FOR INDIVIDUAL CONSIDERATION:</u></p> <p><u>Public Hearing Items: Applicants are limited to fifteen (15) minutes presentation time with a five (5) minute rebuttal, if needed. Remaining speakers are limited to thirty (30) total minutes of testimony time, with three (3) minutes assigned per speaker. The presiding officer may extend these times as deemed necessary.</u></p> <p><u>Non-Public Hearing Items: The Presiding Officer may permit limited public comment for items on the agenda not posted for a Public Hearing. The Presiding Officer will establish time limits based upon the number of speaker requests, length of the agenda, and to ensure meeting efficiency, and may include a cumulative time limit. Speakers will be called in the order cards are received until the cumulative time is exhausted.</u></p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
(1)	<p>Public Hearing and consideration of an Ordinance as requested in Zoning Case 2011-24 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 614 so as to allow the additional use of Day Care Center (In-home) on 0.1± acre of land located on the east side of Grenoble Court, 110± feet north of Renaissance Drive, in the City of Plano, Collin County, Texas, presently zoned Planned Development-74-Single-Family Residence-7, Two-Family Residence (Duplex), and Planned Residential Development-7; 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: Jetzaman Velazquez</p>	
(2)	<p>Public Hearing and consideration of an Ordinance as requested in Zoning Case 2011-26 to amend Subsection 3.1605 (Downtown Sign District) of Section 3.1600 (Sign Regulations) of Article 3 (Supplementary Regulations) and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to allow for reader board/electronic message center signs; and providing a publication clause, a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: City of Plano</p>	
(3)	<p>Public Hearing and consideration of an Ordinance as requested in Zoning Case 2011-28 to amend Section 1.600 (Definitions) of Article 1 (General Regulations) of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, pertaining to private recreation facility and recreation center uses; and providing a publication clause, a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: City of Plano</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:		10/10/2011		
Department:		City Manager's Office		
Department Head		Bruce Glasscock		
Agenda Coordinator (include phone #): Melinda White X7548, Cindy Pierce X5161				
CAPTION				
PROCLAMATION: Pancreatic Cancer Month, given to the Pancreatic Cancer Action Network in order to help raise awareness of pancreatic cancer				
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	



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COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		10/10/2011		
Department:		City Manager's Office		
Department Head		Bruce Glasscock		
Agenda Coordinator (include phone #): Melinda White X7548, Cindy Pierce X5161				
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PROCLAMATION: October is National Arts and Humanities Month, in recognition of the importance of the arts in our lives				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS:				
SUMMARY OF ITEM				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	

**PLANO CITY COUNCIL
PRELIMINARY OPEN MEETING
September 26, 2011**

COUNCIL MEMBERS

Phil Dyer, Mayor
Pat Miner, Mayor Pro Tem
Lissa Smith, Deputy Mayor Pro Tem
Ben Harris
André Davidson
James Duggan
Patrick Gallagher
Lee Dunlap

STAFF

Bruce Glasscock, City Manager
Frank Turner, Deputy City Manager
LaShon Ross, Deputy City Manager
Diane C. Wetherbee, City Attorney
Diane Zucco, City Secretary

Mayor Dyer called the meeting to order at 5:05 p.m., Monday, September 26, 2011, in Training Room A of the Municipal Center, 1520 K Avenue. All Council Members were present. Deputy Mayor Pro Tem Smith arrived at 5:30 p.m. 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, Section 551.071; to discuss Personnel, Section 551.074; and to receive information regarding Economic Development, Section 551.087; for which a certified agenda will be kept in the office of the City Secretary for a period of two years as required.

Mayor Dyer reconvened the meeting back into the Preliminary Open Meeting at 5:54 p.m.

Consideration and action resulting from Executive Session discussion – Personnel – Appointments/Nominations of Members/Chairs:

Arts of Collin County Commission Board of Directors

Upon a motion made by Mayor Dyer and seconded by Council Member Dunlap, the Council voted 8-0 to appoint Bill Shaddock as a joint at-large member.

Board of Adjustment

Upon a motion made by Council Member Gallagher and seconded by Council Member Harris, the Council voted 8-0 to appoint Mark Richard Godfrey as an alternate member, move Steven D. Patten to a regular position and appoint Michael Pirek as Chair.

Building Standards Commission

Upon a motion made by Council Member Dunlap and seconded by Council Member Harris, the Council voted 8-0 to move Sylvia Reid to a regular position and reappoint Arthur Stone as Chair. The Council deferred appointment of an alternate member.

Denton Central Appraisal District Board of Directors

Mayor Dyer stated that the Council would not bring forward a nomination for the board.

Heritage Commission

Upon a motion made by Deputy Mayor Pro Tem Smith and seconded by Council Member Dunlap, the Council voted 8-0 to appoint Gary James Graley as a member and reappoint Anne Quaintance-Howard as Chair.

Planning and Zoning Commission

Upon a motion made by Mayor Pro Tem Miner and seconded by Council Member Dunlap, the Council voted 8-0 to appoint Douglas Bruce Cargo as a member and reappoint Christopher J. Caso as Chair.

Personnel – Appointments/Reappointments

Animal Shelter Advisory Committee

Upon a motion made by Mayor Pro Tem Miner and seconded by Council Member Gallagher, the Council voted 8-0 to appoint Kevin Michael Kimbrell as a member and reappoint Sunny Ruth as Chair.

Community Relations Commission

Upon a motion made by Deputy Mayor Pro Tem Smith and seconded by Council Member Davidson, the Council voted 8-0 to appoint Amanda (Mandy) Lea Tschoepe and Cynthia Thomas as members and to reappoint Richard Grady as Chair.

Cultural Affairs Commission

Upon a motion made by Council Member Davidson and seconded by Council Member Gallagher, the Council voted 8-0 to appoint Marion L. Brochette and Mark Greer as members and to appoint Marilyn Mahoney as Chair.

Library Advisory Board

Upon a motion made by Mayor Pro Tem Miner and seconded by Deputy Mayor Pro Tem Smith, the Council voted 8-0 to appoint John Graham Pillow as a member and Gary Graham as Chair.

Parks and Recreation Planning Board

Upon a motion made by Mayor Pro Tem Miner and seconded by Council Member Harris, the Council voted 8-0 to appoint Pamela Godkin Weaver as a member and to reappoint Kayci Brooks Prince as Chair.

Photographic Traffic Signal Advisory Committee

Upon a motion made by Mayor Dyer and seconded by Council Member Dunlap, the Council voted 8-0 to reappoint Doug A. Bender as Chair and to appoint Robert B. Drotman as Vice Chair.

Plano Housing Authority

Upon a motion made by Mayor Dyer and seconded by Council Member Dunlap, the Council voted 8-0 to appoint Linda Karen Prindiville as Resident Member.

Retirement Security Plan Committee

Upon a motion made by Council Member Dunlap and seconded by Council Member Gallagher, the Council voted 8-0 to reappoint Casey Srader and appoint him as Chair and to appoint Sean Martin Sullivan as member thus confirming City Manager Glasscock's recommendation.

Self Sufficiency Committee

Upon a motion made by Council Member Davidson and seconded by Council Member Duggan, the Council voted 8-0 to reappoint Stephen E. Vitasek as Chair.

Senior Citizens Advisory Board

Upon a motion made by Council Member Davidson and seconded by Council Member Harris, the Council voted 8-0 to appoint Nancy Catherine Jensen, Barbara Johnson and Ralph J. Steckel as members and to appoint Jane Sackett as Chair.

DART Report

DART Board Member Faye Wilkins advised the Council regarding implementation of non-resident paid parking for the Parker Road Station beginning in November/December. She spoke regarding completion of the Northwest Plano Park & Ride in June 2012 and to "Right Sizing the DART Bus Fleet" with conversion of 20% of the fleet to 30-foot buses. Ms. Wilkins spoke to service changes coming on line in 2012, ridership levels and Texas State Fair services. She addressed continued discussions regarding the Cottonbelt line and station locations and responded to the Council regarding efforts toward greater fare collection rates. Council Member Dunlap spoke regarding utilization of the Park Boulevard/Parker Road bus route.

IV. Update Regarding Plano Partners Program

Director of Public Information Conklin provided examples of signage that would be utilized for the program and advised that implementation would require an amendment of the sign ordinance. She responded to the Council, advising that signs would include text only and no logo; revenues may not be directly tied to the facilities; and that information on banners would be negotiated with partners. Council Member Dunlap stated concern that the program may be misinterpreted as advertising and City Manager Glasscock clarified that the program will develop public/private partnerships but is not intended to provide advertising and further that requests will come to the Council for approval. Ms. Conklin spoke to the proposal's goal of five partnerships.

V. Discussion and Direction re Live Green Expo

Sustainability and Environmental Services Director Nevil spoke to attendance at the Expo, featured environmental topics, children's activities, entertainment and programs. She advised regarding plans to relocate the program to the Shops at Legacy which offers benefits of a conference center, a variety of restaurants, residents within walking distance, convenient and ample parking, co-marketing potential and economic development opportunities. Ms. Nevil spoke to outstanding issues including negotiations for conference center space and budget considerations. She advised regarding in-kind contributions and Staff time. Deputy Mayor Pro Tem Smith requested tracking the number of visitors attending from outside of the City and Ms. Nevil responded to the Council regarding expanding the role of volunteers.

Comprehensive Monthly Financial Report

Director of Finance Tacke advised that the August 2011 report finds General Fund and Water & Sewer revenues up slightly as a percentage of budget as compared to last year. She stated that actual General Fund revenues are down for the first eleven months of the year, primarily due to a decrease in ad valorem taxes offset by an increase in sales tax. Ms. Tacke advised that General Fund expenditures are slightly higher as a percent of budget for the first eleven months of the fiscal year and that Water & Sewer expenditures are down slightly. She spoke to reductions in personnel services with a large portion due to the reduction in the annual required contribution for the 115 Trust. She advised that the unemployment rate is down to 7.4%, sales tax collections are up by 8.93% and spoke regarding housing trends. Ms. Tacke advised that the Water & Sewer fund actual revenues are up by \$10 million due to decreased rainfall and a 6% rate increase.

Discussion and Direction re General Obligation Bonds and Refunding

Director of Finance Tacke spoke to the decrease in interest rates for tax-exempt bonds and the potential to lower the City's debt service payments through utilization of a *Parameter Bond Ordinance* which delegates the final pricing authority to Staff and allows for pricing at any time to take advantage of an interest rate rather than locking prices on the date of a Council meeting. City Manager Glasscock advised that an agenda item would be brought forward on October 10 for Council's consideration

Council Items on Future Agendas

Council Member Davidson spoke to future discussion regarding additional membership requirements for applicants to the Community Relations Commission to consider their service on affected agency boards prior to their appointment as is the case for Cultural Affairs Commission members.

Consent and Regular

Mayor Dyer requested that Consent Agenda Item "V," consideration of an ordinance to rezone 13.9± acres located at the northwest corner of Kathryn Lane and Rowlett Cemetery Road from Regional Commercial to Single-Family Residence-6 be removed for individual consideration due to a possible conflict of interest.

City Manager Glasscock requested that Consent Agenda Item "U," consideration of an ordinance to revise the Stage 3 water reduction actions be pulled.

Nothing further was discussed. Mayor Dyer adjourned the Preliminary Meeting at 6:53 p.m.

Phil Dyer, Mayor

ATTEST

Diane Zucco, City Secretary

PLANO CITY COUNCIL
September 26, 2011

COUNCIL MEMBERS

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Frank Turner, Deputy City Manager
LaShon Ross, Deputy City Manager
Diane C. Wetherbee, City Attorney
Diane Zucco, City Secretary

Mayor Dyer convened the Council into the Regular Session on Monday, September 26, 2011, at 7:03 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council Members were present.

Director of Prestonwood Foundation/Minister at Prestonwood Baptist Church – Plano Campus Ron Kelley led the invocation and Cub Scout Pack 261 of Christie Elementary led the Pledge of Allegiance.

PROCLAMATIONS & SPECIAL RECOGNITION

Mayor Dyer received a plaque from the State Fire Marshal's Office and the Insurance Services Office for retention of Public Protection Class 1 rating.

COMMENTS OF PUBLIC INTEREST

No one appeared to speak.

CONSENT AGENDA

Staff requested that Consent Agenda Item “U” be pulled from the agenda.

Mayor Dyer requested that Consent Agenda Item “V” be removed for individual consideration due to a possible conflict of interest.

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

Approval of Minutes (Consent Agenda Item “A”)
September 12, 2011

Approval of Expenditures

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

CSP No. 2011-253-B for Spring Creek Elevated Tank Repaint project to Classic Protective Coatings, Inc. in the amount of \$957,125 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “B”)

Bid 2011-280-B for the Pecan Hollow Golf Course Tree Planting Plan, Project No. 6176 in the amount of \$66,280 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “C”)

Bid No. 2011-246-B for Fleet Facility Roof Replacement - Project No. 6126 to Paragon Roofing, Inc. in the amount of \$257,835 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “D”)

CSP No. 2011-195-C for a one (1) year contract with three (3) optional one year renewals for Voice and Data Wiring Services to Able Communications, Inc. in the estimated annual amount of \$300,000 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item “E”)

Purchase from an Existing Contract

To approve the purchase of Ruggedized Tablet Computers for the Fire Department in the amount of \$123,698 from WAV, Inc. through an existing contract/agreement with The Cooperative Purchasing Network (TCPN) and authorizing the City Manager to execute all necessary documents. (TCPN Contract Number R5065) (Consent Agenda Item “F”)

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

To approve a contract made and entered into by and between the City of Plano and Sharon Rowe, the Elections Administrator of Collin County, Texas, pursuant to the authority in Subchapter D, Section 31.092, of Chapter 31, of the Texas Election Code, regarding the coordination, supervision, and running of the City's November 8, 2011 Special Election in the estimated amount of \$94,187. (Consent Agenda Item “G”)

To approve a contract made and entered into by and between the City of Plano and Frank Phillips, the Election Administrator of Denton County, Texas, pursuant to the authority in Subchapter D, Section 31.092, of Chapter 31, of the Texas Election Code, regarding the coordination, supervision, and running of the City's November 8, 2011 Special Election in the estimated amount of \$3,863. (Consent Agenda Item “H”)

Adoption of Resolutions

Resolution No. 2011-9-13(R): To approve pursuant to Chapter 11, License and Business Regulations, Article VIII, Special Events, of Section 11-359 Fees/Costs, of the City Code of Ordinances of the City Council of the City of Plano, Texas authorizing the establishment of non-refundable special event permit application processing fees, including a late fee, and providing an effective date. (Consent Agenda Item “I”)

Resolution No. 2011-9-14(R): To approve pursuant to Chapter 15, Parks and Recreation, Article IV, User Fees, of Section 15-81, Establishment of Fee and Chapter 11, Licenses and Business, Article VIII, Special Events, of Section 11-315 Standards for Issuance of Permit, of the City Code of Ordinances of the City Council of the City of Plano, Texas authorizing the establishment of a site restoration fee; and providing an effective date. (Consent Agenda Item “J”)

Resolution No. 2011-9-15(R): To approve the terms and conditions of agreements between the City of Plano, Texas, and various heritage preservation organizations which render services that are beneficial to the public and serve a valid public purpose in the total amount of \$685,153; authorizing the City Manager to execute such agreements with these organizations for the provision of support of heritage preservation; and providing an effective date. (Consent Agenda Item “K”)

Resolution No. 2011-9-16(R): To approve the terms and conditions of a grant awarded by the Edward Byrne Memorial Justice Assistance (JAG) State Formula Program through the Criminal Justice Division of the Office of the Governor of Texas to the City of Plano, Texas for Firearms and Ballistic Forensic Analysis; authorizing the execution of any and all documents in connection therewith by the City Manager; and providing an effective date. (Consent Agenda Item “L”)

Resolution No. 2011-9-17(R): To approve the terms and conditions of a First Amendment to Tax Abatement Agreement by and between the City of Plano, Texas, Plano Tech Center Partners, Ltd., and Lineage Power Corporation; and authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “M”)

Resolution No. 2011-9-18(R): To approve the terms and conditions of an Economic Development Incentive Agreement by and between Palo Alto Networks, Inc., a Delaware corporation, and the City of Plano; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “N”)

Resolution No. 2011-9-19(R): To approve the terms and conditions of an Assignment and Assumption of Office Lease and First Amendment to Office Lease by and between Granite Park III, Ltd., Plano Economic Development Board, Inc. and the City of Plano for Granite Park Three Office Building; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “O”)

Resolution No. 2011-9-20(R): To approve the terms and conditions of an Assignment and Acknowledgment Agreement by and among Crossmark, Inc., Plano Economic Development Board, Inc. and the City of Plano; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “P”)

Resolution No. 2011-9-21(R): To approve the terms and conditions of an Acceptance and Receipt Instrument for property from the Plano Economic Development Board, a Texas non-profit corporation, to the City of Plano; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “Q”)

Resolution No. 2011-9-22(R): To approve acceptance of the terms and conditions of a Trademark Assignment from Plano Economic Development Board, Inc. to and for the benefit of the City of Plano, Texas; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “R”)

Resolution No. 2011-9-23(R): To nominate Roy L. Wilshire for election to the Collin County Central Appraisal District Board of Directors; and providing an effective date. (Consent Agenda Item “S”)

Resolution No. 2011-9-24(R): To approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano, Texas and the City of Garland, Texas to allow the employees of the City of Garland to take classes offered by City of Plano Human Resources Department; authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item “T”)

Adoption of Ordinances

To amend Chapter 21 (Utilities), Article II (Water), Division 4 – Drought Contingency Plan, Section 21-59.6(c)(3) of the City of Plano Code of Ordinances, to revise the Stage 3 water reduction actions; and providing a repealer clause, a severability clause, a savings clause, a penalty clause and an effective date. (Consent Agenda Item “U”) (Item Pulled)

Ordinance No. 2011-9-25: To adopt revised City Council district boundaries for Districts 1-4; and providing a repealer clause, a savings clause, a severability clause, and an effective date. (Public Hearings held August 22, 2011 and September 12, 2011). (Consent Agenda Item “W”)

Ordinance No. 2011-9-26: To amend Section 6-487 Prohibited Signs and 6-496 Special Event Signage of Article XII Temporary Signs, of Chapter 6. Buildings and Building Regulations of the Code of Ordinances of the City of Plano; providing a repealer clause, a severability clause, a penalty clause, a publication clause and an effective date. (Consent Agenda Item “X”)

Ordinance No. 2011-9-27: To repeal in its entirety Ordinance No. 2010-11- 14, codified as Section 18-34 of Article II, Commercial Container Rates, of Chapter 18, Solid Waste of the Code of Ordinances of the City of Plano, Texas and enacting this new Section 18-34 of Article II, Commercial Container Rates, of Chapter 18, Solid Waste, of the Code of Ordinances of the City of Plano, establishing a revised schedule of rates and charges for solid waste disposal and collection applicable to commercial accounts; providing a repealer clause, a severability clause, and providing an effective date. (Consent Agenda Item “Y”)

Ordinance No. 2011-9-28: To amend Division 3 of Chapter 12, “Motor Vehicles and Traffic,” Section 12-226.-Definitions, of the Code of Ordinances of the City of Plano by revising the definition of junked vehicle to conform to a change in state law, and providing a repealer clause, a severability clause, a savings clause, a penalty clause, a publication clause and an effective date. (Consent Agenda Item “Z”)

Ordinance No. 2011-9-29: To transfer the sum of \$94,187 from the General Fund unappropriated fund balance to the General Fund operating appropriation for fiscal year 2011-12 for the purpose of providing funds for the estimated costs associated with conducting a Special Election, November 8, 2011, which was ordered on August 31, 2011; amending the Budget of the City and Ordinance 2011-9-8, declaring this action to be a case of public necessity; and providing an effective date. (Consent Agenda Item “AA”)

Ordinance No. 2011-9-30: To transfer the sum of \$3,863 from the General Fund unappropriated fund balance to the General Fund operating appropriation for fiscal year 2011-12 for the purpose of providing additional funds for the estimated costs associated with conducting a Special Election on November 8, 2011, which was ordered on August 31, 2011; amending the Budget of the City and Ordinance 2011-9-8, declaring this action to be a case of public necessity; and providing an effective date. (Consent Agenda Item “BB”)

Ordinance No. 2011-9-31: To repeal Ordinance No. 2011-8-14; establishing the number of certain classifications within the Fire Department for fiscal year 2011-12; establishing the authorized number and effective dates of such positions for each classification effective September 26, 2011; establishing a salary plan for the Fire Department effective September 26, 2011; and providing a repealer clause, a severability clause and an effective date. (Consent Agenda Item “CC”)

Ordinance No. 2011-9-32: To repeal Ordinance No. 2011-8-14; establishing the number of certain classifications within the Police Department for fiscal year 2011-12; establishing the authorized number and effective dates of such positions for each classification effective September 26, 2011; establishing a salary plan for the Police Department effective September 26, 2011; and providing a repealer clause, a severability clause and an effective date. (Consent Agenda Item “DD”)

Ordinance No. 2011-9-33: To terminate Tax Increment Reinvestment Zone Number One, City of Plano, Texas; authorizing the distribution of tax increment funds of the zone to taxing units participating in the zone in accordance with the Texas Tax Code; and providing a repealer clause, a savings clause, a severability clause, and an effective date. (Consent Agenda Item “EE”)

Ordinance No. 2011-9-34: To adopt and enact Supplement Number 95 to the Code of Ordinances for the City of Plano; providing for amendment to certain sections of the Code; and providing an effective date. (Consent Agenda Item “FF”)

END OF CONSENT

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

Ordinance No. 2011-9-35: To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 13.9± acres located at the northwest corner of Kathryn Lane and Rowlett Cemetery Road in the City of Plano, Collin County, Texas, from Regional Commercial to Single-Family Residence-6; directing a change accordingly in the official zoning map of the City; and providing a publication clause, a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: Birkel Custer 121 Partners Ltd. (Zoning Case 2011-18 - Public Hearing held September 12, 2011). (Consent Agenda Item “V”)

Upon a motion made by Council Member Duggan and seconded by Council Member Davidson, the Council voted 8-0 to rezone 13.9± acres located at the northwest corner of Kathryn Lane and Rowlett Cemetery Road in the City of Plano, from Regional Commercial to Single-Family Residence-6; as requested in Zoning Case 2011-18; and further to adopt Ordinance No. 2011-9-35.

Mayor Dyer resumed his seat at the bench.

Public Hearing and adoption of Ordinance No. 2011-9-36 as requested in Zoning Case 2011-22 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 613 so as to allow the additional use of Gymnastics/Dance Studio on 0.7± acre of land located 80± feet west of N Avenue, 350± feet south of Plano Parkway in the City of Plano, Collin County, Texas, presently zoned Light Industrial-1; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, a publication clause, and an effective date. Applicant: Randall Haefli (Regular Agenda Item “1”)

Planning Manager Firgens advised that the Planning and Zoning Commission recommended approval of the request as submitted.

Mayor Dyer opened the Public Hearing. No one appeared to speak for or against the request. The Public Hearing was closed.

Upon a motion made by Mayor Pro Tem Miner and seconded by Deputy Mayor Pro Tem Smith, the Council voted 8-0 to grant Specific Use Permit No. 613 so as to allow the additional use of Gymnastics/Dance Studio on 0.7± acre of land located 80± feet west of N Avenue, 350± feet south of Plano Parkway in the City of Plano, presently zoned Light Industrial-1 as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2011-22; and further to adopt Ordinance No. 2011-9-36.

Public Hearing and adoption of Ordinance No. 2011-9-37 as requested in Zoning Case 2011-23 to amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, so as to rezone 13.2± acres located at the northeast corner of Parker Road and U.S. Highway 75 in the City of Plano, Collin County, Texas, from Corridor Commercial to Planned Development-Corridor Commercial; directing a change accordingly in the official zoning map of the City; and providing a publication clause, a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: Parker Central Plaza Ltd. (Regular Agenda Item “2”)

Ordinance No. 2011-9-37 (cont'd)

Planning Manager Firgens spoke to the request for additional height and size of pole signs at the location which has experienced a decrease in visibility as a result of recent overpass construction. She advised that the current sign ordinance would permit multiple tenants on pole signs as well as a shopping center's name and advised that the Planning and Zoning Commission recommended approval as follows:

Restrictions:

The permitted uses and standards shall be in accordance with the Corridor Commercial (CC) zoning district unless otherwise specified herein.

General Provisions of the Planned Development

Signage shall be allowed in accordance with Section 3.1600 (Sign Regulations) except that a maximum of six freestanding pole signs along U.S. Highway 75 shall be allowed within the planned development district, and at a maximum 50 feet in height. Additionally, three of the freestanding pole signs shall have a maximum allowable sign area of 200 square feet each, and the three remaining freestanding pole signs shall have a maximum allowable sign area of 100 square feet each.

Ms. Firgens responded to the Council, advising that the number of tenants on each sign would be determined by the property owner and that other regulations within the zoning district would remain unchanged.

Mayor Dyer opened the Public Hearing. Executive Vice-President of Masterplan Dallas Cothrum spoke to the unique nature of this location, challenges related to visibility and requested approval. No one else appeared to speak for or against the request. The Public Hearing was closed.

Upon a motion made by Mayor Pro Tem Miner and seconded by Council Member Gallagher, the Council voted 8-0 to rezone 13.2± acres located at the northeast corner of Parker Road and U.S. Highway 75 in the City of Plano, from Corridor Commercial to Planned Development-Corridor Commercial as recommended by the Planning and Zoning Commission and as requested in Zoning Case 2011-23; and further to adopt Ordinance No. 2011-9-37.

Nothing further was discussed and Mayor Pro Tem Miner adjourned the meeting at 7:33 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:	10/10/11
Department:	Parks and Recreation
Department Head	Amy Fortenberry
Agenda Coordinator (include phone #): Susan Berger (7255)	

CAPTION

Award of Bid 2011-272-B, for the Bob Woodruff Park, North Pavilion Renovation, Project No. 6081, to T & G Constructors in the amount of \$388,500.00 and authorizing the City Manager or his designee to execute all necessary documents.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2011-12	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	3,825	696,175	100,000	800,000
Encumbered/Expended Amount	-3,825	-675	0	-4,500
This Item	0	-388,500	0	-388,500
BALANCE	0	307,000	100,000	407,000

FUND(S): CAPITAL RESERVE CIP

COMMENTS: Funds are included in the 2011-12 Capital Reserve Fund. This item, in the amount of \$388,500, will leave a 2011-12 balance of \$307,000 for the Park Shelter Replacements project.

STRATEGIC PLAN GOAL: The Park Shelter Replacements project relates to the City's Goal of Great Neighborhoods - 1st Choice to Live.

SUMMARY OF ITEM

Staff recommends the bid of T & G Constructors in the amount of \$388,500.00 be accepted as the lowest responsible bid for the Bob Woodruff Park, North Pavilion Renovation project conditioned on timely execution of all necessary documents.

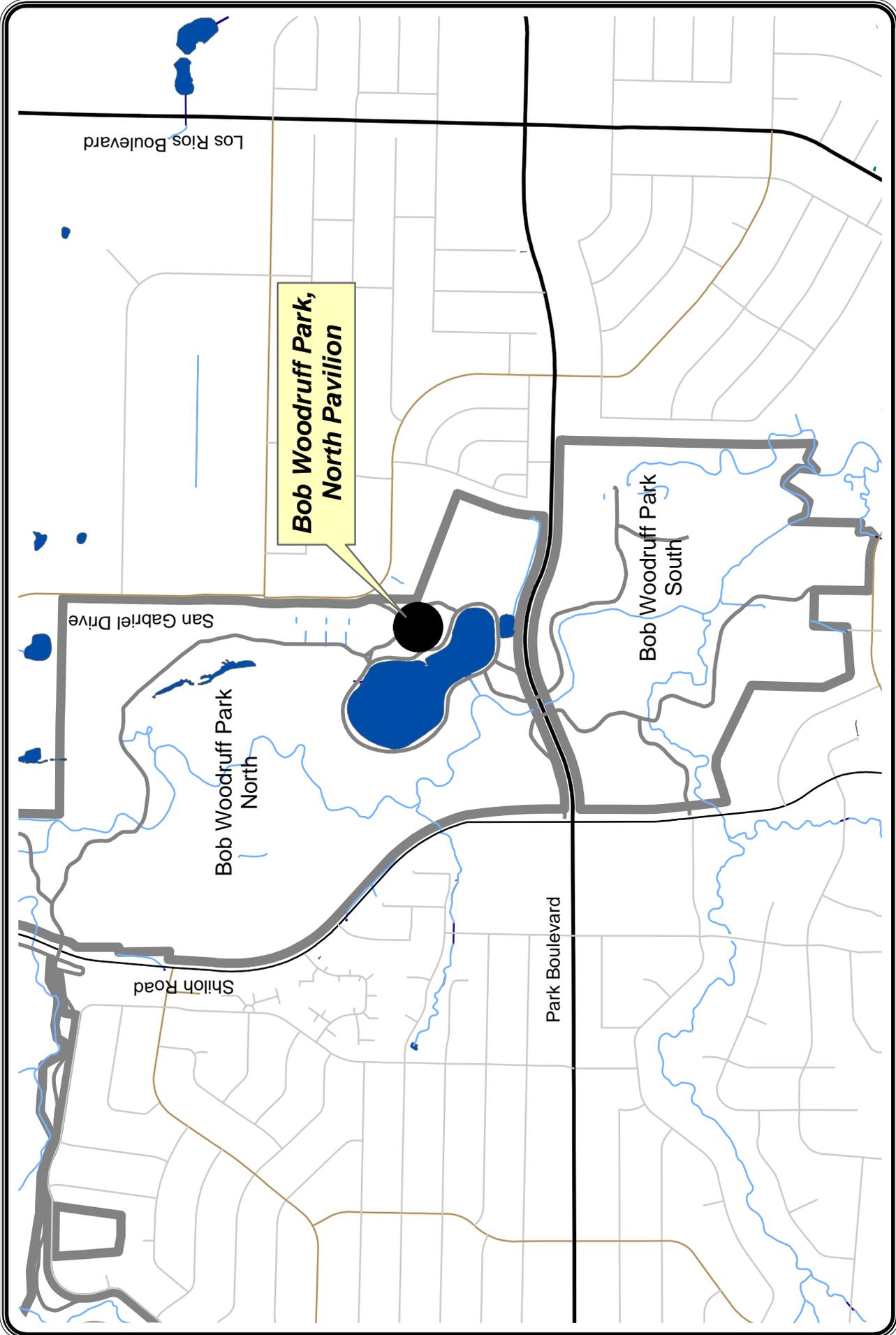
The project includes the demolition of the 27 year old north pavilion structure and replacement with a prefabricated system similar in appearance to the existing wood structure. Work also includes replacement of the lighting system and all pavement in and around the pavilion.

In the event T & G Constructors fails to execute contract documents staff recommends the bid of Wall Enterprises in the amount of \$394,877.14.



**CITY OF PLANO
COUNCIL AGENDA ITEM**

List of Supporting Documents: Location Map Bid Recap	Other Departments, Boards, Commissions or Agencies



Bob Woodruff Park, North Pavilion Renovation

CITY OF PLANO

BID NO. 2011-272-B
Bob Woodruff Park, North Pavilion Renovation
Project No. 6081

BID RECAP

Bid opening Date/Time: September 2, 2011 @ 2:00 pm

Number of Vendors Notified: 4399

Vendors Submitting "No Bids": 0

Bids Evaluated Non-Responsive to Specifications: 0

Number of Bids Submitted Responsive to Bid: 9

T & G CONSTRUCTORS	\$388,500.00
WALL ENTERPRISES	\$394,877.14
TAB CONSTRUCTION, INC.	\$401,550.00
COOPER GENERAL CONTRACTORS	\$409,500.00
TURNKEY CONSTRUCTION COMPANY	\$410,012.00
DENCO CS CORP	\$411,808.00
PARKSCAPE CONSTRUCTION	\$429,389.16
THE GILBERT CONSTRUCTION GROUP, INC.	\$440,000.00
COLE CONSTRUCTION, INC	\$496,200.00

Recommended Vendor:

T & G CONSTRUCTORS	\$388,500.00
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Nicole Griffin

Nicole Griffin
Buyer I

September 6, 2011

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:		October 10, 2011		
Department:		Library Administration		
Department Head		Cathy Ziegler		
Agenda Coordinator (include phone #): Jeanne Argomaniz (4327)				
CAPTION				
Approval of the purchase of library materials for Plano Public Library System (PPLS) in the amount of \$100,000 from Brodart 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:	2011-2012	Prior Year (CIP Only)	Current Year	Future Years
				TOTALS
Budget		0	1,000,000	0
Encumbered/Expended Amount		0	0	0
This Item		0	-100,000	0
BALANCE		0	900,000	0
FUND(S): GENERAL FUND				
<p>COMMENTS: Funds are included in the FY 2011-12 adopted budget to purchase Books, Multimedia, and Library materials. Approval of this item authorizes the City to purchase \$100,000 in Books, Multimedia, and Library materials. The remaining balance of funds will be used for other multimedia and library materials.</p> <p>STRATEGIC PLAN GOAL: Providing multimedia and library materials purchases relates to the City's Goal of a Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
<p>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 Brodart in the amount of \$100,000 satisfies the law relating to this bid. Therefore, PPLS staff recommends purchase of these various library materials from Brodart 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.</p>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Memo from Julie Torstad dated 09.12.2011				



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

Memorandum

Date: September 12, 2011
To: Cathy Ziegler
From: Julie Torstad, Library Technology Services Manager
Subject: City Council Approval for Brodart

Please request City Council approval to spend approximately \$100,000 with Brodart for the purchase of various library materials including books, compact disks, and books-on-CD. Funds should be taken from 01-682-8441. Some of the funds will be transferred into 01-682-8442.

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 Brodart. 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.



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:		October 10, 2011		
Department:		Library Administration		
Department Head		Cathy Ziegler		
Agenda Coordinator (include phone #): Jeanne Argomaniz (4327)				
CAPTION				
Approval of the purchase of library materials for Plano Public Library System (PPLS) in the amount of \$150,000 from Ingram Library Services 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:	2011-2012	Prior Year (CIP Only)	Current Year	Future Years
		0	1,000,000	0
	Encumbered/Expended Amount	0	0	0
	This Item	0	-150,000	0
	BALANCE	0	850,000	0
FUND(S): GENERAL FUND				
<p>COMMENTS: Funds are included in the FY 2011-12 adopted budget to purchase Books, Multimedia, and Library materials. Approval of this item authorizes the City to purchase \$150,000 in Books, Multimedia, and Library materials. The remaining balance of funds will be used for other multimedia and library materials.</p> <p>STRATEGIC PLAN GOAL: Providing multimedia and library materials purchases relates to the City's Goal of a Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
<p>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 Ingram Library Services in the amount of \$150,000 satisfies the law relating to this bid. Therefore, PPLS staff recommends purchase of these various library materials from Ingram Library Services 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.</p>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Memo Julie Torstad dated 09.12.2011				



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

Memorandum

Date: September 12, 2011
To: Cathy Ziegler
From: Julie Torstad, Library Technology Services Manager
Subject: City Council Approval for Ingram Library Services

Please request City Council approval to spend approximately \$150,000 with Ingram Library Services for the purchase of various library materials including music CDs, books-on-CD, DVDs, downloadable audios and e-books. Funds should be taken from 01-682-8441. Some of the funds will be transferred into 01-682-8442.

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 Ingram Library Services. 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.



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:		October 10, 2011			
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 \$300,000 from Midwest Tapes 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 2011-12	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	1,000,000	0	0	1,000,000
Encumbered/Expended Amount	0	0	0	0	0
This Item	0	-300,000	0	0	-300,000
BALANCE	0	700,000	0	0	700,000
FUND(S): GENERAL FUND					
<p>COMMENTS: Funds are included in the FY 2011-12 adopted budget to purchase Books, Multimedia, and Library materials. Approval of this item authorizes the City to purchase \$300,000 in Books, Multimedia, and Library materials. The remaining balance of funds will be used for other multimedia and library materials.</p> <p>STRATEGIC PLAN GOAL: Providing multimedia and library materials purchases relates to the City's Goal of a Financially Strong City with Service Excellence.</p>					
SUMMARY OF ITEM					
<p>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 Midwest Tapes in the amount of \$300,000 satisfies the law relating to this bid. Therefore, PPLS staff recommends purchase of these various library materials from Midwest Tapes 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.</p>					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
1. Memo from Julie Torstad dated 09.12.2011					



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

Memorandum

Date: September 12, 2011
To: Cathy Ziegler
From: Julie Torstad, Library Technology Services Manager
Subject: City Council Approval for Midwest Tapes

Please request City Council approval to spend approximately \$300,000 with Midwest Tapes for the purchase of various library materials including music CDs, 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.

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 Midwest Tapes. 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.



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:		October 10, 2011		
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 \$450,000 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 2011-12	Prior Year (CIP Only)	Current Year	Future Years
		TOTALS		
Budget		0	1,000,000	0
Encumbered/Expended Amount		0	0	0
This Item		0	-450,000	0
BALANCE		0	550,000	0
FUND(S): GENERAL FUND				
<p>COMMENTS: Funds are included in the FY 2011-12 adopted budget to purchase Books, Multimedia, and Library materials. Approval of this item authorizes the City to purchase \$450,000 in Books, Multimedia, and Library materials. The remaining balance of funds will be used for other multimedia and library materials.</p> <p>STRATEGIC PLAN GOAL: Providing multimedia and library materials purchases relates to the City's Goal of a Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
<p>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 \$450,000 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.</p>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
1. Memo from Julie Torstad dated 09.12.201				



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

Memorandum

Date: September 12, 2011

To: Cathy Ziegler

From: Julie Torstad, Library Technology Services Manager

Subject: City Council Approval for Baker & Taylor

Please request City Council approval to spend approximately \$450,000 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.

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.



**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:	10/10/11
Department:	Parks and Recreation
Department Head	Amy Fortenberry
Agenda Coordinator (include phone #): Susan Berger (7255)	

CAPTION

Approval of a Landscape Architecture Services Agreement by and between the City of Plano and Mesa Design Associates, Inc., in the amount of \$94,920 for master planning services associated with the White Rock Creek Community Park Site and authorizing the City Manager or his designee to execute all necessary documents.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2011-12	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	100,000	100,000	200,000
Encumbered/Expended Amount	0	0	0	0
This Item	0	-94,920	0	-94,920
BALANCE	0	5,080	100,000	105,080

FUND(S): PARK IMPROVEMENT CIP

COMMENTS: Funds are included in the FY 2011-12 Park Improvement CIP. This item, in the amount of \$94,920, will leave a 2011-12 balance of \$5,080 for the 09 White Rock Community Park Development project.

STRATEGIC PLAN GOAL: The 09 White Rock Community Park Development project relates to the City's Goal of Great Neighborhoods - 1st Choice to Live.

SUMMARY OF ITEM

This agreement provides for landscape architecture services associated with preparing a master plan for the 124 acre White Rock Creek Community Park Site located at the intersection of the Spring Creek Parkway and Windhaven Parkway. The City completed acquisition of the site in 2009. The 2009 Bond Election included \$5,000,000 for the first phase of development at the park. This master plan is the first step toward development of the park for public use.

The master planning services include preparation of base maps, detailed site assessments, public workshops, public meeting presentations and preparation of a final master plan to guide future development at the park. The total fee is \$94,920 which is 2.11% of the estimated construction budget of \$4,500,000. This fee is consistent with other park and engineering projects of this size and scope.

Mesa Design Associates was selected for this project through Request for Qualifications No. 2011-100-B. Eighteen (18) firms submitted qualifications. After thorough review of the qualifications submitted, two (2) firms



CITY OF PLANO COUNCIL AGENDA ITEM

were selected to be interviewed. Based on the qualifications and information provided in the interviews, staff selected Mesa Design Associates as the most qualified firm to provide master planning services for the White Rock Creek Community Park Site. A list of firms who submitted qualifications is included with this agenda item.

Mesa Design Associates has successfully provided landscape architectural services for the City of Plano on several other projects including Master Planning and Design of Arbor Hills Nature Preserve.

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
List of Firms Submitting Qualifications Location Map Landscape Architecture Services Agreement	

List of Firms Submitting Qualifications
White Rock Creek Community Park

Caye Cook & Associates Landscape Architects **Rebecca Caye Cook:**
caye@ccalandscapearch.com

Clark Condon Associates **Sheila M. Condon:** scondon@clarkcondon.com

Cornerstone Design **G. Robert Adams:** rob.adams@adams-engineering.com

David C. Baldwin, Inc. **David Baldwin:** dave@davidcbaldwin.net

David McCaskill Design Group **David McCaskill:** davidkmccaskill@gmail.com

Design Workshop – **J. Rebecca Leonard:** rleonard@designworkshop.com or
jleonard@designworkshop.com

Halff Associates, Inc.

Jacobs Engineering Group, Inc. **Chad St. John:** chad.stjohn@jacobs.com

Kevin Sloan Studio – **Mary Diane Sloan:** mds@kevinsloanstudio.com

La Foy & Associates – **J. Camille La Foy:** clafoy@lafoyservices.com

La Terra Studio – **Kris Brown:** kbrown@laterrastudio.com

Land Design Partners DFW, Inc. **Henry Harshorn:** hhartshorn@landdesignpartners.com

Mesa Design Associates

NJB Landscape – **Karl Von Bieberstein:** kvb@njbinc.net

Schrickel Rollins & Associates – **Victor W. Baxter:** vbaxter@sradesign.com

SMR Landscape Architect **Brian Adams:** badams@smr-la.com

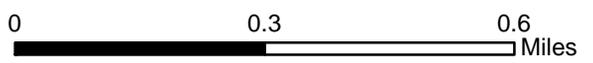
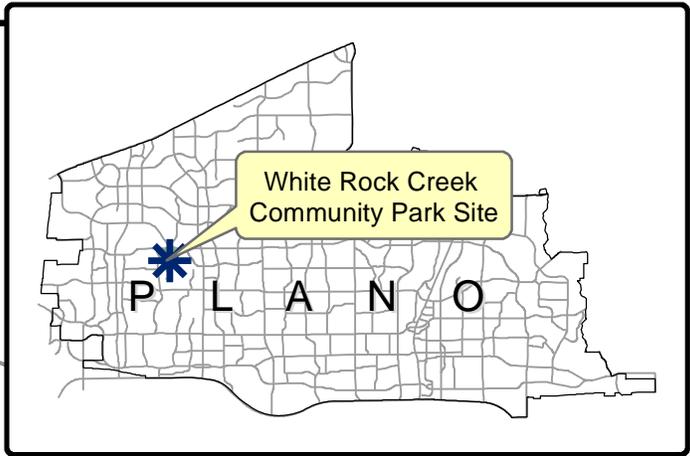
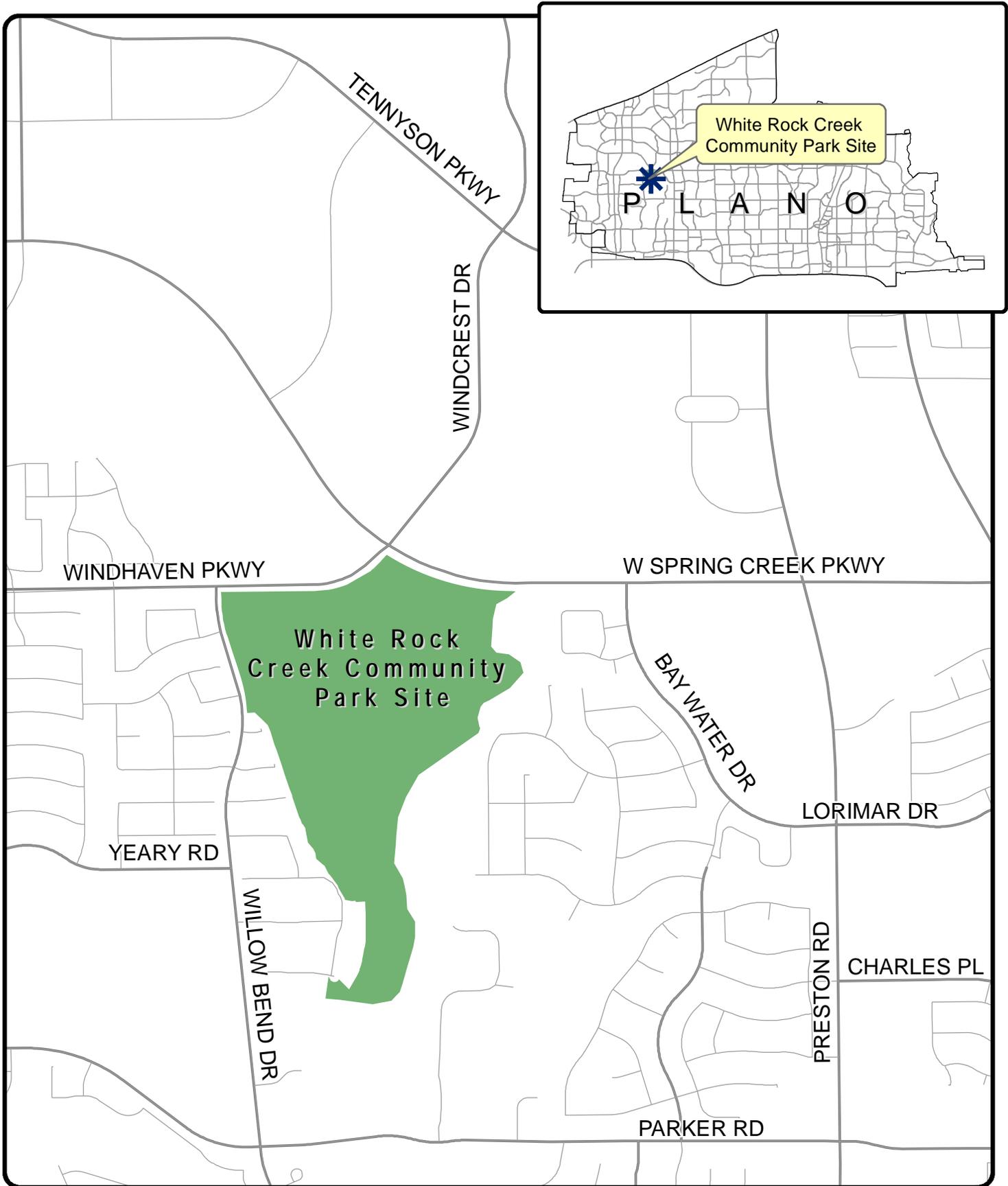
Stanley Consultants – **Mark Kopatz:** kopatzmark@stanleygroup.com

Teague Nall & Perkins- **Mark Berry:** mberry@tnp-online.com



Location Map

White Rock Creek Community Park Site



WHITE ROCK CREEK COMMUNITY PARK MASTER PLAN

PROJECT NO. 6182

LANDSCAPE ARCHITECT SERVICES AGREEMENT

THIS AGREEMENT is made and entered by and between the **CITY OF PLANO, TEXAS**, a Home-Rule Municipal Corporation, hereinafter referred to as "City", and **MESA DESIGN ASSOCIATES, INC.** a **TEXAS** Corporation, licensed to do business in the State of Texas, hereinafter referred to as "Architect", to be effective from and after the date as provided herein.

WITNESSETH:

WHEREAS, the City desires to engage the services of the Architect to perform landscape architectural services in connection with the **WHITE ROCK CREEK COMMUNITY PARK MASTER PLAN** project located in the City of Plano, Collin County, Texas, hereinafter referred to as the "Project"; and

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

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

I. Employment of the Architect

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

II. Scope of Services

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

III. Schedule of Work

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

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

IV. Compensation and Method of Payment

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

V. Information to be Provided by the City

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

VI. Insurance

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

Architect agrees to notify the City of any changes in insurance policy coverage, including but not limited to changes in limits and cancellation. The Architect shall notify the City in writing of any changes within forty-eight (48) hours of the change. The Architect'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 ARCHITECT 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 ARCHITECT'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 ARCHITECT, 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 ARCHITECT 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 ARCHITECTS. 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.

ARCHITECT 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 ARCHITECT'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF ARCHITECT'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. ARCHITECT 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 ARCHITECT FAILS TO RETAIN COUNSEL WITHIN THE REQUIRED TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF AND ARCHITECT SHALL BE LIABLE FOR ALL COSTS INCURRED BY THE CITY.

VIII. Independent Contractor

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

IX. Assignment and Subletting

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

X. Audits and Records/Prohibited Interest

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

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

XI. Contract Termination

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

XII. Architect's Opinion of Probable Construction Costs

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

XIII. Ownership of Documents

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

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

XIV. Complete Contract

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

XV. Mailing of Notices

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

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

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

Mesa Design Associates, Inc.
1807 Ross Avenue, Suite 333
Dallas, TX 75201
Attn: Fred Walters

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

E. Severability:

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

F. Effective Date:

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

G. Authority to Sign:

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.

SIGNED on the date indicated below.

MESA DESIGN ASSOCIATES, INC.
A Texas Corporation

DATE:

09.14.2011

BY:


Stan Cowan

PRESIDENT

CITY OF PLANO, TEXAS

DATE: _____

BY: _____

Bruce D. Glasscock
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 14th day of September, 2011, by **STAN COWAN, PRESIDENT** of **MESA DESIGN ASSOCIATES, INC.**, a **TEXAS** corporation, licensed to do business in the State of Texas, on behalf of said corporation.



Karen Melaun
Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2011, by **BRUCE D. GLASSCOCK, 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

PHASE I: SITE ASSESSMENTS & CRITICAL PARTY ENGAGEMENT

TASK 1.1: KICK OFF, DATA CONFIRMATION, & ASSESSMENTS

MESA will meet with the City staff and the owner, and walk the site to review all existing base data, goals previously discussed, and new initiatives identified by the City for the project. A key component of this meeting will be the confirmation of schedules (including key milestones, and critical path elements, etc.) and anticipated deliverables. We will also confirm the core client team, primary points of contact, stakeholder groups, and their roles within the planning process. Dates and formats for public workshops will be discussed. The Kick-Off Meeting will be combined with the initial site visit associated with the assessments listed below.

These activities are intended to provide a basis of policy, physical, natural, wildlife, historical, and cultural information about the sites as a foundation of the planning process and include the following:

- A. Base Maps, Code Review, and Previous Research:** MESA will gather from the City and other public domain sources, the database needed to undertake assessments described below. An on-the-ground topographic survey and tree inventory will be performed as necessary to update information already in our files. Development codes and jurisdictional restrictions will be reviewed.
- B. Site Assessment: Habitat & Systems:** MESA will gain an understanding of the criteria for park program development based the natural systems present on the site. We will comprehend and describe ecosystems through review of previously developed documentation as well as document the extent to which they have been disrupted by human intervention to date. "Layers" dealing with soils, slope, vegetation, habitat, and others, will each be considered.
- C. Use Assessment: Program Patterns & Activities:** MESA will map the anticipated patterns of usage and circulation based upon City feedback at the Kick-Off Meeting (as well as positive and negative impacts of these activities) to gain an understanding of current and potential usage levels, and the inter-relationship between various programs. Neighborhood connections will also be evaluated.
- D. Built Fabric Assessment:** MESA will evaluate the condition of existing on-site facilities, including infrastructure (roads, sidewalks, utilities, etc.), and other amenities available for adaptive re-use opportunities, making a cursory evaluation of all built elements in terms of their physical condition, current use, and longevity. Facilities will be ranked for any proposed reuse, upgrade, or removal. Functionality and maintenance challenges will be documented. Context encroachment will be addressed on adjacent tracts and mitigation strategies will be addressed to preserve the integrity of the site's anticipated experiential qualities.
- E. Sensitivity Composite Assessment:** MESA will overlay the various sensitivity maps, rendering a composite map for all facets of the assessments (natural, built, etc.). This process creates an assessment rather than inventory of the park's significant strengths, vulnerabilities, and flexibility (ability to adapt to change). This map is essential in evaluating the impact of current and future use patterns, City initiatives, programs, and facilities within the existing fabric of the park. This document will serve as a guiding instrument in the development of the Master Plan.
- F. Experiential Assessment:** MESA will evaluate the park in efforts to distinguish the experiential qualities and districts essential to the park's sense of place. The differentiation of these spaces may be a response to facilities, natural features, programs, or contextual relationships. Through the identification of "experiential" rooms, and the characteristics associated with those spaces, MESA will be able to develop a master plan responsive to site-specific opportunities and constraints.

- G. Stakeholder Engagement:** MESA will act as a facilitator to the stakeholder input process. Initially, we will develop an Information Management Plan and schedule identifying times, as deemed appropriate by the City, to conduct interview and input sessions with key critical parties/ user groups that are significant to the master plan development. This task includes two (2) stakeholder meetings. These may include City Council Members, City Staff, neighborhood associations (HOA), etc. Subsequent to these reviews MESA will present its findings to the City Council in Task 1.2.

Product: MESA will visit the sites, collect and synthesize base data into a composite existing conditions assessment plan, meet with City staff, and host the stakeholder interviews stipulated above. MESA will provide the city with one (1) hard copy of each map as well as digital files (PDF). MESA will meet with the City to prioritize all input received during citizen engagement meetings prior to moving with the following tasks.

TASK 1.2: ASSESSMENTS PRESENTATION & PROGRAMMING WORKSHOP

MESA will host a workshop with appropriate parties which may include the City staff, the tenant, Parks and Recreation Planning Board and the City Council to review the assessments, stakeholder input, and discuss potential park programming. The design team will look for a critique and evaluation/confirmation of the assessments and engage with the attendees in a "visioning" session regarding potential park programs employing methodology designed to take into account all assessments and assist in determining the most responsive direction for development. We will review anticipated phasing, adaptive re-use, temporary use for short-range initiatives, and program flexibility for the Master Plan. After this meeting, MESA will consolidate the thoughts into a new presentation to be shared with the public.

Product: MESA will host an assessment and programming workshop/presentation for City staff.

TASK 1.3: PUBLIC WORKSHOP #1 - Assessments and Programming Input

MESA will conduct a workshop session the community. The workshop will begin with a presentation of the findings and assessments associated with the park, adjusted per the input received from the City. MESA will facilitate a discussion, encouraging participants to provide additional commentary on the park's program. The goal of these discussions will be the generator of a list of program and facility goals, objectives, and initiatives for the park.

Product: Public engagement in the planning process. MESA will facilitate the public meeting and create a summary document of all public comments to be referenced in future planning tasks. Combined summary of City staff and public input goals. MESA will meet with the City to prioritize all input received prior to moving with the following tasks.

PHASE II: MASTER PLAN

TASK 2.1: CONCEPT MASTER PLAN

MESA will develop a descriptive level vision for the park that is directly derived from the goals identified in the City staff visioning and public workshops. This graphic is a preliminary concept that depicts the program for the park and comprises a checklist of effects (from the initial input) that the master plan must accomplish. It is the "structure" that the plan will be built around and serves as an opportunity for confirmation before development of the final vision. MESA will host a presentation to City staff and share the following aspects of the concept:

- A. Programs** will graphically depict zones for each activity on site and serve to describe the relationships between each.
- B. Connectivity** identifies the external and internal linkages and circulation throughout the park and connections the surrounding community.
- C. Facilities & Amenities** will describe the list of structures and infrastructure that are necessary to provide and support the programs framework, also denoting circulation patterns, arrival sequences, and other patterns.

- D. The Natural Systems Framework** will identify an approach to habitat restoration, ecological strategies, and other management agenda to increase the quality and vitality of the park's natural systems, directly addressing issues identified in the assessments.

A preliminary cost projection will be prepared for consideration. MESA will meet with the City to share the concept master plan, and adjustments will be made prior to the public presentation to be conducted in Task 2.2.

Product: MESA will prepare the concept master plan and supporting documents for internal City presentations and for use in subsequent public meetings. Task processes, findings, and recommendations will be summarized into a chapter within the final report.

TASK 2.2: PUBLIC WORKSHOP #2 – Park Goals & Concept Master Plan Confirmation

MESA will present the Concept Plan to the public to solicit commentary and approval of the structural vision for the park. The community will see their goals (from workshop #1) identified on the diagrammatic plan. Following the public meeting, the design team will meet with the City in order to refine priorities if necessary based on public input.

Product: MESA will facilitate the public meeting and create a summary document of all public comments to be incorporated into the schematic design.

TASK 2.3: FINAL MASTER PLAN

MESA will refine the Concept Master Plan into a vision for future park development. This will be a descriptive level graphic plan, including sections and perspectives necessary to convey the design, which will graphically depict all park amenities at a real scale – depicting forms, material concepts, habitat enhancements, and detailed connections. The plan will illustrate all programs and areas of park development and address the following areas of park development all comprised within one graphic:

- A. Adaptive Reuse Initiatives** identify the structures, spaces, pathways, and other features of the site that deserve and need to be preserved, maintained, restored, renovated, and/ or reconstructed.
- B. Natural Fabric Initiatives** address projects associated with the preservation, conservation, restoration, and maintenance of natural systems and habitats that influence the park's form.
- C. Thematic Structure Initiatives** represent projects that address key thematic improvements such as entrance portals and sequencing, gateways, nodes, edges, and the definition of unique park districts.
- D. Traffic and Circulation Initiatives** identify those projects that establish an efficient and humble relationship between the park and its varied circulation patterns – pedestrian, vehicular, and trails, including community connections.
- E. Program Plan & Amenity Enhancement Initiatives** will organize the preservation, restoration, integration, and removal of program opportunities with the park.
- F. Implementation and Phasing Initiatives** will identify the subsequent design stages for the project and set a framework for implementation and funding mechanisms required to move forward at the anticipated schedule.
- G. The Conceptual Interpretive Plan (optional)** - This plan will develop an interpretive theme/ story outline for the park, and note the site elements necessary for conveying that educational storyline.

While the Final Master Plan illustrates the above mentioned elements (and others) on the site, the planning team will also prepare elevation studies, sections, perspective sketches and more detailed floor plans and alignments to illustrate

the aesthetic character of the constructed vision. These schematic architectural studies of pavilions, amenities, and other thematic elements begin to give a sense of vitality and life to the plan.

MESA will prepare a refined cost projection and break out the holistic vision into a series of attainable and fundable phases for execution. The end result of this subtask will be the definition of a Phase I scope and construction budget to further refine and bring forth to implementation.

Product: MESA will prepare a master plan graphic and report that depicts the information outlined above – specific area enlargements, sections, elevations, and sketches may be prepared as necessary. The updated cost projection will break out the discussed phases of park development, and identify the scope of the first phase of construction. A summary of the master planning process, as well as project and site history, and recommendations will be components of the Final Report.

TASK 2.4: FINAL PROJECT PRESENTATION – City Council & Public – The Holistic Vision

MESA will make a final project presentation, first to the Park and Recreation Planning Board, then to the City council (potentially a joint public comment session) of the vision and proposed Phase I. If the City considers this an important component of the community outreach process, MESA will also host a meeting to share the phasing and priority breakout of particular projects with the public (rather than a joint session).

EXHIBIT "B"

Task 1.1: Kick off, Data Confirmation, & Assessments

- | | |
|---|---|
| A. Base Maps, Code Review, and Previous Research
Initiation: Immediately upon execution of contract. | Duration: 2 weeks. |
| B. Site Assessment: Habitat & Systems
Initiation: Immediately upon conclusion of Task 1.1A. | Duration: 1 week. |
| C. Use Assessment: Program Patterns & Activities
Initiation: Immediately upon conclusion of Task 1.1A. | Duration: 1 week (concurrent with 1.1B). |
| D. Built Fabric Assessment:
Initiation: Immediately upon conclusion of Task 1.1A. | Duration: 1 week (concurrent with 1.1B). |
| E. Sensitivity Composite Assessment:
Initiation: Immediately upon conclusion of Task 1.1A-D. | Duration: 1 week |
| F. Experiential Assessment:
Initiation: Immediately upon conclusion of Task 1.1A-D.
Staff Review | Duration: 1 week (concurrent with 1.1E). |
| Initiation: Immediately upon conclusion of Task 1.1F. | Duration: 2-3 weeks |
| G. Stakeholder Engagement:
Initiation: Immediately upon conclusion of Task 1.1E-F. | Duration: 2 weeks |

Task 1.1 Duration: 8-9 weeks

Task 1.2: Assessments Presentation & Programming Workshop

- | | |
|---|----------------------------|
| Initiation: Immediately upon conclusion of Task 1.1. | Duration: 1-2 weeks |
| Staff Review | |
| Initiation: Immediately upon conclusion of Task 1.2. | Duration: 2-3 weeks |

Task 1.3: Public Workshop #1

- | | |
|---|----------------------------|
| Initiation: Immediately upon conclusion of Task 1.2. | Duration: 1-2 weeks |
|---|----------------------------|

Task 1.1-1.3 Duration: 12-16 weeks

Task 2.1: Concept Master Plan

- | | |
|---|----------------------------|
| Initiation: Immediately upon conclusion of Task 1.3. | Duration: 2-3 weeks |
| Staff Review | |
| Initiation: Immediately upon conclusion of Task 2.1 | Duration: 2-3 weeks |

Task 2.2: Public Workshop #2

- | | |
|---|----------------------------|
| Initiation: Immediately upon conclusion of Task 2.1. | Duration: 1-2 weeks |
| Staff Review | |
| Initiation: Immediately upon conclusion of Task 2.2. | Duration: 2-3 weeks |

Task 2.3: Final Master Plan

- | | |
|---|----------------------------|
| Initiation: Immediately upon conclusion of Task 2.2. | Duration: 2-3 weeks |
| Staff Review | |

- | | |
|---|------------------------------|
| Initiation: Immediately upon conclusion of Task 2.3. | Duration: 10-12 weeks |
|---|------------------------------|

Task 2.4: Final Project Presentation

- | | |
|---|----------------------------|
| Initiation: Immediately upon conclusion of Task 2.3. | Duration: 1-2 weeks |
|---|----------------------------|

Task 2.1-2.4 Duration: 20-28 weeks

Total Duration of Services:

32-44 weeks

EXHIBIT "C"

Task 1.1: Kick off, Data Confirmation, & Assessments

- A.** Base Maps, Code Review, and Previous Research **Lump Sum: \$4,250.00**
- B.** Site Assessment: Habitat & Systems **Lump Sum: \$2,750.00**
- C.** Use Assessment: Program Patterns & Activities **Lump Sum: \$1,500.00**
- D.** Built Fabric Assessment: **Lump Sum: \$4,250.00**
- E.** Sensitivity Composite Assessment: **Lump Sum: \$8,250.00**
- F.** Experiential Assessment: **Lump Sum: \$3,000.00**
- G.** Stakeholder Engagement: **Lump Sum: \$4,500.00**

Task 1.1 subtotal: \$28,500.00

Task 1.2: Assessments Presentation & Programming Workshop

Lump Sum: \$5,250.00

Task 1.3: Public Workshop #1

Lump Sum: \$4,250.00

Task 1.1-1.3 Total: \$38,000.00

Task 2.1: Concept Master Plan

Lump Sum: \$7,500.00

Task 2.2: Public Workshop #2

Lump Sum: \$5,250.00

Task 2.3: Final Master Plan

Lump Sum: \$24,500.00

Task 2.4: Final Project Presentations

Lump Sum: \$9,500.00

Task 2.1-2.4 Total: \$46,750.00

Task 1.1-2.4 Total Fees: \$84,750.00

REIMBURSABLE EXPENSES

Reimbursable non-labor costs for this project are a not to exceed amount of:

\$10,170.00

Total Cost of Task 1.1-2.4 Services, and Expenses:

\$94,920.00

ADDITIONAL SERVICES/HOURLY FEE SCHEDULE

Services requested, but not specifically included in the scope of services listed above, will be considered additional services. Modifications to drawings, after approval by Owner, as a result of changes requested by Owner or other consultant will be considered additional services and billed at an hourly rate as follows:

Principal III	\$235.00
Principal II	\$200.00
Principal I	\$180.00
Associate Principal	\$150.00
Associate - Residential	\$150.00
Associate - Planning	\$150.00
Associate - Accounting	\$150.00
Associate - CA/CO	\$140.00
Associate - Landscape Architecture	\$130.00
Project Manager II	\$110.00
Project Manager I	\$100.00
Designer - Planning	\$ 90.00
Designer II	\$ 90.00
Designer I	\$ 75.00
Graphics/Marketing/Admin	\$ 75.00
Intern	\$ 50.00

CONDITIONS

The following is listing of contractual conditions that apply to this proposal:

1. The client will provide the following:
 - a. Boundary and general survey locating structures, property lines, utilities that cross the property and interior lobby plans in AutoCAD and pdf format if information is available.
 - b. Soils Report (if required).
 - c. Budgetary Considerations: construction budget, phasing timeline, etc.
2. Not included are the following:
 - a. Vehicular Paving Improvements (engineering permit/construction documentation)
 - b. Utility permit/construction design (water, sewer, storm, electrical, cable, telephone, etc.)
 - c. Electrical or mechanical engineering
 - d. Project Signage and environmental graphics detailed design. MESA may review and design a general hierarchy or conceptual aesthetic design for the project signage.
 - e. Redesign of elements due to site plan changes requested after Client approval of a previously submitted plan (i.e., buildings relocate, site grading changes)
 - f. Water features: MESA may include conceptual/aesthetic design of water features include the design intent, character and location. Detailed design and MEP design of any features is not included.
 - g. Illustrative plans, models and drawings not specifically described in the Scope of Services
3. MESA Design Associates may subcontract consultants in the performance of any services described in this agreement.
4. MESA Design Associates does not act as General Contractor in any way, or accept responsibility, for poor craftsmanship.
5. The above-described compensation for MESA Design Associates does include the following non-labor costs:

Reimbursables:

 - a. Photostats/photocopying/plotting
 - b. Binding
 - c. Printing/reprographics

- d. Photography/film/film processing
- e. Mylars and reproducibles
- f. Federal Express, courier and/or delivery fees
- g. Mailing/Postage
- h. Microfilming/scanning/digitizing
- i. Blue printing, printing or binding for bid sets
- j. Long distance telephone calls and faxes
- k. Mileage (percentage allowed by IRS) @ .51/mi.
- l. Permits and/or registration fees
- m. Travel expenses outside of Dallas such as airfare and lodging
- n. Other products and services requested by the Client and not specifically described herein
- o. Any and all Jurisdictional Submittal, Permitting or Review Fees.

There will be a 15% Administrative Fee for all reimbursable expenses to compensate for bookkeeping but the total expenses plus any administrative fee will not exceed the total Reimbursable Expenses indicated above without Client approval.

- 6. Should the Client or Owner cancel scheduled meetings with less than 72 hours notice, MESA reserves the right to invoice the Client or Owner for all related National and International travel and accommodation expenses regardless.
- 7. Either Owner or Consultant may terminate this contract with (7) seven days written notice. Upon termination, Owner will be responsible for payment of all Consultant fees and reimbursables expended through the date of termination.
- 8. Should the project go "on hold" for more than sixty (60) days, the Consultant reserves the right to charge a \$600.00 restart fee.
- 9. Compensation for all services shall be paid in Dallas, Dallas County, Texas.
- 10. Invoice Schedule: Billing will be on a design progress basis at the end of each month.
- 11. Terms: Net thirty (30) days from invoice date. Finance charge of 1.5% per month (18% per annum) will be added to accounts over thirty (30) days past due. Reasonable Attorney's fees will be charged, if necessary, to collect on unpaid invoices. MESA reserves the right to file a property lien if invoices go over sixty (60) days past due.
- 12. If the client fails to make payments to MESA in accordance with this agreement, such failure shall be considered substantial non-performance and cause for termination or, at MESA's option, cause for suspension of performance of service under this agreement. If MESA elects to suspend service, prior to suspension of services, MESA shall give seven (7) days written notice to the client. In the event of a suspension of services, MESA shall have no liability to the client for delay or damage caused to the client because of such suspension of services. Client agrees to hold MESA harmless from and completely indemnify MESA from and against any and all damages, costs, attorney's fees, and/or other expenses which MESA may incur as a result of any claim by any person or entity arising out of such suspension of work. Before resuming services, MESA shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of MESA's services. MESA's fees for the remaining services and the time schedules shall be equitably adjusted.
- 13. The hourly rates and multiples for services of the Consultant and Consultant's subconsultants as set forth in this Agreement shall be adjusted in accordance with their normal salary review practices annually or as agreed upon between the Client and Consultant. MESA reserves the right to adjust hourly-based contracts and additional service fees to compensate for inflation increases annually.

14. The initial payment of \$ Zero Dollars (\$ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Client's account at final payment. Subsequent payments for services shall be made monthly and, where applicable, shall be in proportion to services performed on the basis set forth in this Agreement.
15. The Texas Board of Architectural Examiners has jurisdiction over complaints regarding the professional practices of persons registered as Landscape Architects in Texas. Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337; tele: 512.305.9000; fax: 512.305.9005; e-mail: www.tbae.state.tx.us.
16. LIMITATION OF LIABILITY: To the maximum extent permitted by law, the Client agrees to limit MESA's liability for the Client's damages to the sum of MESA's fees indicated in this proposal. This limitation shall apply regardless of the cause of action or legal theory pled or asserted.
17. By making visits to the site, MESA is not assuming the responsibilities of the builder, Construction Manager, Construction Superintendent or any of their agents or subcontractors.
18. Plans, drawings and specifications or other writings or documents prepared or provided by MESA hereunder are prepared for this Project only, but may be used by MESA for purposes of illustrating the scope and nature of project involvement. MESA shall provide Client with a reproducible set of drawings and specifications for its records. They shall not be used by Client for other projects or extensions to the project without the written agreement of MESA.
19. It is expressly understood and agreed that MESA shall not have control of, or charge of, or be responsible for construction, means, methods, techniques, sequences or procedures, or for safety precautions or programs in connection with the Project or for the acts or omissions of any contractor, subcontractor or other persons performing work for the Project and Client shall indemnify MESA and hold MESA harmless from and against any and all claims, demands, losses, costs, liabilities and damages including, without limitation, reasonable attorney's fees and expenses, incurred by MESA and arising out of or related to any of the aforesaid.
20. Notwithstanding any other provision of this Agreement, MESA and MESA's subconsultants shall have no responsibility for the discovery, presence, handling, removal, disposal or exposure of persons to hazardous materials in any form at the project site, including but not limited to asbestos, asbestos products, mold, polychlorinated biphenyl (PCB) or other toxic substances.

EXHIBIT "D"

LANDSCAPE ARCHITECT

INSURANCE

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

1. General Insurance Requirements:

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

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

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

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

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

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

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

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

3.0 Consultant's Insurance – Claims Made

Professional Errors and Omissions

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

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

ENGINEERING

City of Plano - Insurance Checklist

("X" means the coverage is required.)

<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 <u>occurrence</u> \$1,000,000 <u>general aggregate</u>
<input checked="" type="checkbox"/> 5. General aggregate applies per project (CGL)	
<input checked="" type="checkbox"/> 6. Premises/Operations	(Items No. 3-10 & 12 require)
<input checked="" type="checkbox"/> 7. Independent Contractors	\$500,000 combined single limit for bodily injury and property damage
<input type="checkbox"/> 8. Products	damage each occurrence with
<input type="checkbox"/> 9. Completed Operations	\$1,000,000 general aggregate that applies to project under contract
<input checked="" type="checkbox"/> 10. Contractual Liability	
<input checked="" type="checkbox"/> 11. Personal Injury Liability	\$500,000 each offense & aggregate
<input type="checkbox"/> 12. XCU Coverages	
<input checked="" type="checkbox"/> 13. Automobile Liability	\$500,000 Bodily Injury & Property
<input checked="" type="checkbox"/> 14. Owned, Hired & Non-owned	Damage each accident
<input type="checkbox"/> 15. Motor Carrier Act Endorsement	
<input checked="" type="checkbox"/> 16. Professional Liability	\$1,000,000 each claim \$2,000,000 aggregate
<input type="checkbox"/> 17. Garage Liability	\$ _____ BI & PD each occurrence



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
8/17/2011

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. 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).

PRODUCER McLaughlin Brunson Insurance Agency, VPP 6600 LBJ Freeway, Suite 220 Dallas TX 75240	CONTACT NAME: Patrick P McLaughlin PHONE (A/C, No, Ext): (214) 503-1212 FAX (A/C, No): (214) 503-8899 E-MAIL ADDRESS: ADDRESS: PRODUCER CUSTOMER ID #:
INSURED Mesa Design Associates, Inc. 1807 Ross Avenue Suite 233 Dallas TX 75201	INSURER(S) AFFORDING COVERAGE: NAIC #: INSURER A: XL Specialty Insurance Company 37885 INSURER B: Travelers Indemnity Company 25658 INSURER C: Travelers Lloyds Ins. Company 41262 INSURER D: Charter Oak Fire Insurance Co. 25615 INSURER E: Travelers Indemnity Co of Conn 25682 INSURER F:

Verified by Ron Underwood 9-1-2011

A+ Rating, Stable ->
A Rating, Stable ->
A- Rating, Stable ->
A+ Rating, Stable ->
Not Rated ->

COVERAGES CERTIFICATE NUMBER: Cert ID 11575 REVISION NUMBER:

THIS IS TO CERTIFY THAT 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. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CLASS LTR	TYPE OF INSURANCE	ACCIDENT SUBR. (Y/N)	POLICY NUMBER	POLICY EFF. (MM/DD/YYYY)	POLICY EXP. (MM/DD/YYYY)	LIMITS
C	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input checked="" type="checkbox"/> Indpend. Contractors <input checked="" type="checkbox"/> Contractual Liab. GEN'L AGGREGATE LIMIT APPLIES PER POLICY <input checked="" type="checkbox"/> PRO <input type="checkbox"/> LOC	Y	PACF7468L777	1/15/2011	1/15/2012	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (E & Occur) \$ 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
D	AUTOMOBILE LIABILITY <input 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"/> NONOWNED AUTOS	Y	BA7468L949	1/15/2011	1/15/2012	COMBINED SINGLE LIMIT (E & accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$
E	UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB DEDUCTIBLE \$ RETENTION \$	Y	CUB6150Y297	1/15/2011	1/15/2012	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000 \$ \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY <input checked="" type="checkbox"/> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NY) (If yes, describe in writing) DESCRIPTION OF OPERATIONS: <input type="checkbox"/> Y/N <input type="checkbox"/> N/A	Y	US6418Y500	6/1/2011	6/1/2012	<input checked="" type="checkbox"/> WC STAT. <input type="checkbox"/> BOTH-TORY LIMITS <input type="checkbox"/> PER E1 EACH ACCIDENT \$ 500,000 E1 DISEASE - EA EMPLOYEE \$ 500,000 E1 DISEASE - POLICY LIMIT \$ 500,000
A	Professional Liab	N	DDR9594800	8/1/2011	8/1/2012	\$1,000,000 Per Claim/ \$1,000,000 Annual Aggregate:

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (As per ACORD 101, Additional Remarks Schedule, if more space is required):
The claims made professional liability coverage is the total aggregate limit for all claims presented within the annual policy period and is subject to a deductible, 30 Days notice of cancellation in favor of the certificate holder on all policies. City of Plano is shown as an additional insured on the general, auto and umbrella liability coverages as required by contract. The general liability coverage is on a primary and non-contributory basis. Umbrella liability

CERTIFICATE HOLDER City of Plano Attn: Ron Underwood 1409 Avenue K Plano TX 75074	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Patrick P McLaughlin</i>
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DESCRIPTION OF OPERATIONS SECTION CONTINUED

DATE
8/27/2011

CERTIFICATE HOLDER:

City of Plano
Attn: Ron Underwood
1409 Avenue K
Plano TX 75074

INSURED:

Mesa Design Associates, Inc.
1807 Ross Avenue
Dallas TX 75201

DESCRIPTION OF OPERATIONS CONTINUED:

coverage follows form. Auto liability is on a primary basis. A waiver of subrogation is shown in favor of City of Plano on all policies as required by contract. Re: White Rock Creek Park

DOC (10/2803)

Page 7 of 8

EXHIBIT "E"

AFFIDAVIT OF NO PROHIBITED INTEREST

I, the undersigned declare that I am authorized to make this statement on behalf of Mesa Design Associates, Inc. and I have made a reasonable inquiry and, to the best of my knowledge, no person or officer of Mesa Design Associates, Inc. is employed by the City of Plano or is an elected or appointed official of the City of Plano within the restrictions of the Plano City Charter.

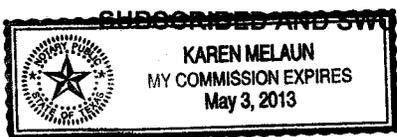
I am aware that Section 11.02 of the City Charter states:

"No officer or employee of the city shall have a financial interest, direct or indirect, in any contract with the city, nor shall be financially interested, directly or indirectly, in the sale to the city of any land, or rights or interest in any land, materials, supplies or service. The above provision shall not apply where the interest is represented by ownership of stock in a corporation involved, provided such stock ownership amounts to less than one (1) per cent of the corporation stock. Any violation of this section shall constitute malfeasance in office, and any officer or employee of the city found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, express or implied, of the persons or corporation contracting with the city shall render the contract voidable by the city manager or the city council."

I further understand and acknowledge that a violation of Section 11.02 of the City Charter at anytime during the term of this contract will render the contract voidable by the City.

Mesa Design Associates, Inc.
Name of Consultant
By: *Stan R. Cowan*
Signature
STAN R. COWAN
Print Name
PRESIDENT
Title
09.14.2011
Date

STATE OF TEXAS §
 §
COUNTY OF DALLAS §



SUBSCRIBED AND SWORN TO before me this 14 day of September 2011.

Karen Melaun
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:		10/10/2011		
Department:		Public Works Administration / David Falls		
Department Head		Gerald Cosgrove		
Agenda Coordinator (include phone #): Kim McFarland (972-769-4109)				
CAPTION				
<i>To Jerusalem Corporation, increasing the contract by \$83,438 for the 2009-2010 Residential Concrete Pavement Rehabilitation Project, Zone J5 North, Project No. 6091, Change Order No. 1, Bid No. 2010-241-B, and authorizing the City Manager or his authorized designee to execute all necessary documents.</i>				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR: 2011-12	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	3,420,728	6,089,272	0	9,510,000
Encumbered/Expended Amount	-3,420,728	-1,821,584	0	-5,242,312
This Item	0	-83,438	0	-83,438
BALANCE	0	4,184,250	0	4,184,250
FUND(s): CAPITAL RESERVE CIP				
COMMENTS: Funds are included in the 2011-12 Capital Reserve Fund. This item, in the amount of \$83,438, will leave a 2011-12 balance of \$4,184,250 for the Residential Street & Alley Replacement project.				
STRATEGIC PLAN GOAL: Residential Street & Alley Replacement relates to the City's Goal of Financially Strong City with Service Excellence.				
SUMMARY OF ITEM				
This change order, in the amount of \$83,437.70, is for additional concrete alley repairs in the project area. As the project progressed additional areas of alley pavement were identified as being in need of repair. The current drought and hot temperature have also increased the size of repairs identified in the original contract and new locations were identified in need of repair in the project area due to these conditions.				
Staff recommends approval of Change Order No. 1. The total contract will be \$1,197,008.55, which is a 7.49% increase of the original contract amount of \$1,113,570.85.				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Change Order No. 1				

CHANGE ORDER NO. 1

**2009-10 RESIDENTIAL CONCRETE PAVEMENT REHABILITATION PROJECT
ZONE J5 NORTH
PROJECT NO. 6091
PURCHASE ORDER NO.103859
CIP NO. 35-51118
BID NO.2010-241-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 **JERUSALEM CORPORATION** for the **2009-10 RESIDENTIAL CONCRETE PAVEMENT REHABILITATION PROJECT, ZONE J5 NORTH**, dated October 25, 2010.

B. DESCRIPTION OF CHANGE

The change order is for additional street and alley repairs in the project area. As work progressed additional areas of pavement repair were found and proposed locations for pavement repair had grown in size due to the dry and hot weather conditions.

C. EFFECT OF CHANGE

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

<i>ITEM NO.</i>	<i>ITEM DESCRIPTION</i>	<i>ORIGINAL QUANTITY</i>	<i>REVISED QUANTITY</i>	<i>UNIT</i>	<i>UNIT PRICE</i>	<i>AMOUNT OF CHANGE</i>
100	Full Depth Saw Cut, Street and Alley	9,931	11,141	LF	\$1.00	\$1,210.00
101	Construct Long & Transv Butt Joints	9,931	11,141	LF	\$1.75	\$2,117.50
102	R/D Existing Reinforced Concrete Street Pavement	17,784	17,962	SY	\$5.00	\$890.00
103	R/D of Existing Reinforced Alley Pavement	4,302	6,048	SY	\$5.00	\$8,730.00
105	F/ Eight (8") Reinforce Concrete Street Paving	17,784	17,962	SY	\$40.90	\$7,280.20
106	F/ Seven (7") Inch Reinforced Concrete Alley Paving	4,302	6,048	SY	\$35.00	\$61,110.00
115	R/D/R of a Type D Barrier Free Ramp	1	4	Each	\$700.00	\$2,100.00
	TOTAL:					\$83,437.70

Original Contract Amount	\$	<u>1,113,570.85</u>
Contract Amount (Including Previous Change Orders)	\$	<u>1,113,570.85</u>
Amount, Change Order No. 1	\$	<u>83,437.70</u>
Revised Contract Amount	\$	<u><u>1,197,008.55</u></u>
Total Percent Increase Including Previous Change Orders		<u>7.49%</u>

D. EFFECT OF CHANGE ON CONTRACT TIME

The work required under this change order will add 10 day(s) to this project:

Original Contract Time	<u>120 working days</u>
Amount (Including Previous Change Orders)	<u>120 working days</u>
Amount, Change Order No. 1	<u>10 working days</u>
Revised Contract Time	<u>130 working days</u>
Total Percent Increase Including Previous Change Orders	<u>8.33%</u>

E. AGREEMENT

By the signatures below, duly authorized agents of the **CITY OF PLANO, TEXAS**, and **JERUSALEM CORPORATION**, do hereby agree to append this Change Order No. 1 to the original contract between themselves, dated October 25, 2010.

F. AUTHORITY TO SIGN

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.

OWNER: CITY OF PLANO

CONTRACTOR: (INSERT CO. NAME)

By: _____
(signature)

By:  _____
(signature)

Print
Name: Bruce D. Glasscock

Print
Name: Jerusalem A. Alhakim

Print
Title: City Manager

Print
Title: President

Date: _____

Date: 9-6-2011

APPROVED AS TO FORM:

By: _____
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:	October 10, 2011
Department:	Public Information
Department Head	Dana Conklin - 7321
Agenda Coordinator (include phone #): Kimberly Simmons - 7307	

CAPTION

A Resolution of the City of Plano, Texas approving the terms and conditions of funding agreements between the City of Plano, Texas and various arts organizations; authorizing their execution by the City Manager or his designee; and providing an effective date.

FINANCIAL SUMMARY

NOT APPLICABLE
 OPERATING EXPENSE
 REVENUE
 CIP

FISCAL YEAR: 2011-2012	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	685,153	0	658,153
Encumbered/Expended Amount	0	0	0	0
This Item	0	-685,153	0	-685,153
BALANCE	0	0	0	0

FUND(S): CONVENTION AND TOURISM

COMMENTS: Funding for this item is included in the FY 2011-2012 Adopted Budget. The total amount of \$685,153 is funded from hotel/motel tax revenue in the Convention and Tourism Fund.

STRATEGIC PLAN GOALS: Providing various cultural arts programs to the City of Plano relates to the City's Goals of Financial Strong City with Service Excellence and Partnering for Community Benefit.

SUMMARY OF ITEM

This resolution establishes funding agreements with various arts organizations for a total amount of \$685,153 approved in the FY 2011-2012 budget. Funds will be distributed to the organizations on the following schedule: an amount not to exceed 50% of the funds by November 30, 2011; an amount not to exceed 25% of the funds by February 28, 2012; an amount not to exceed the remaining 25% of the funds by Aug 5, 2012. Small Grants (\$1,000 or less will be distributed in a single payment to the recipient organization by November 30, 2011).

ArtCentre of Plano	\$ 72,649
ArtCentre Theatre	\$ 1,000
Chamberlain Performing Arts	\$ 84,906
Children's Chorus of Collin Co.	\$ 9,011
Dallas Asian Amer. Youth Orch.	\$ 12,114
Dallas Chinese Choral Society	\$ 1,000



**CITY OF PLANO
COUNCIL AGENDA ITEM**

Men of Note	\$ 10,059	
Plano Art Association	\$ 18,050	
Plano Children's Theatre	\$ 133,371	
Plano Civic Chorus	\$ 12,762	
Plano Community Band	\$ 23,055	
Plano Metropolitan Ballet	\$ 10,820	
Plano Symphony Orchestra	\$ 209,152	
Rhythm Junkies	\$ 1,000	
Rover Dramawerks	\$ 57,999	
Theatre Britain	\$ 3,252	
TX Performing Chinese Arts Assoc.	\$ 5,492	
Younger Generation Chorus	\$ 19,461	
TOTAL:	\$ 685,153	
List of Supporting Documents: Sample Funding Agreements : Arts Grants		Other Departments, Boards, Commissions or Agencies

A Resolution of the City of Plano, Texas approving the terms and conditions of funding agreements between the City of Plano, Texas and various arts organizations; authorizing their execution by the City Manager or his designee; and providing an effective date.

WHEREAS, the City Council established the Cultural Affairs Commission for the purpose of considering funding requests from outside organizations; and

WHEREAS, this Commission considered funding requests, conducted extensive review, and made recommendation for funding to the City Council based on established criteria; and

WHEREAS, the City Council received such recommendations during budget deliberations, conducted a public hearing on the proposed budget and approved and adopted the 2011-12 budget; and

WHEREAS, pursuant to Ordinance No. 2011-9-8, the City Council has appropriated \$685,153 for such purposes and finds that the services provided by the eighteen organizations are beneficial to the public and serve a valid public purpose; and

WHEREAS, the City Council desires to enter into Funding Agreements with eighteen arts organizations, sample copy are attached hereto by reference as Exhibit "A", which establish the terms and conditions for funding.

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

Section I. The City Council, after reviewing the terms and conditions of the Funding Agreements and the maximum recommended funding amounts for the below named organizations, hereby approves the Agreements and funding amounts, which are proper and in the best interests of the City of Plano.

Support of the Arts:

ArtCentre of Plano	\$ 72,649
ArtCentre Theatre	\$ 1,000
Chamberlain Performing Arts	\$ 84,906
Children's Chorus of Collin Co.	\$ 9,011
Dallas Asian Amer. Youth Orch.	\$ 12,114
Dallas Chinese Choral Society	\$ 1,000
Men of Note	\$ 10,059
Plano Art Association	\$ 18,050
Plano Children's Theatre	\$ 133,371
Plano Civic Chorus	\$ 12,762
Plano Community Band	\$ 23,055
Plano Metropolitan Ballet	\$ 10,820

Plano Symphony Orchestra	\$ 209,152
Rhythm Junkies	\$ 1,000
Rover Dramawerks	\$ 57,999
Theatre Britain	\$ 3,252
TX Performing Chinese Arts Assoc.	\$ 5,492
Younger Generation Chorus	\$ 19,461

TOTAL: \$ 685,153

Section II. The City Manager, or his authorized designee, is hereby authorized to execute such Agreements on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Agreements, and to act in behalf of the City with regard to its terms and conditions.

Section III. This resolution shall become effective from and after its passage.

DULY PASSED AND APPROVED this 10th day of October, 2011.

Phil Dyer, **MAYOR**

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

**FUNDING AGREEMENT BETWEEN CITY OF PLANO
AND
_____ (ARTS ORGANIZATION) _____**

The **CITY OF PLANO**, a Texas home rule municipal corporation (hereinafter referred to as “City”), and _____, a Texas non-profit corporation, acting herein through its duly authorized representative (hereinafter referred to as “Contractor”), enter into this funding agreement for the purposes set out herein.

WHEREAS, the City Council finds that the expenditure of public funds to Contractor is in the best interest of the residents and the City of Plano; and

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

WHEREAS, the City Council determined that the City should award grant funding in a sum not to exceed \$_____ for the purposes outlined in the attachment entitled “2011-2012 (Major/Small)_____ Arts Grant Application” (hereinafter referred to as “Application”); and

WHEREAS, Contractor has established itself as having the ability to perform such activities.

NOW, THEREFORE, for and in consideration of the covenants, obligations, and undertakings of each of the respective parties to the Agreement, the parties hereby agree as follows:

**SECTION I
PURPOSES/CONSIDERATION; PRIORITY OF DOCUMENTS**

1.01 Purpose/Consideration.

This Agreement provides the terms and conditions under which City will make available grant funding in a sum not to exceed \$_____, for use to support the activities outlined in attached Exhibit A, Contractor’s funding application. The City's source of these funds is derived from the Hotel/Motel Tax revenues and total grant funding awarded to Contractor is subject to change pursuant to Section 5.07 of the agreement herein. Contractor agrees to accept responsibility for guaranteeing City grant funds are used for the items in Exhibit A. In consideration of the City of Plano providing the funding specified for the 2011-12 fiscal year, Contractor shall abide by the terms and conditions of this Agreement.

1.02 Priority of Documents.

This Agreement consists of: Agreement between City of Plano and Contractor; Application; Revised Line Item Budget of Approved Expenditures; General Conditions; Affidavit of No Prohibited Interest; Insurance, and Employee Dishonesty Bond when required. The documents are complementary, and what is called for by one shall be binding as if called for by all. In the event of inconsistency in any provisions of the documents, the inconsistency shall be resolved by giving precedence to the documents in the order in which they are listed above.

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

2.01 Contractor shall use any and all funds furnished by City under this Agreement for the purposes outlined in the Application, which is made a part hereof by reference and incorporated as Exhibit A. In the event that the amount of funds requested and outlined for expenditure in the Application differs from the amount of funds actually awarded by the City, then Contractor shall submit a revised line item budget on a form provided by the City which shall be substituted for the original budget submitted with the Application. The revised line item budget must be submitted within 10 days of the execution of this Agreement and no funds shall be disbursed by the City to Contractor unless and until the revised line item budget is submitted. The **Revised Line Item Budget of Approved Expenditures** shall be signed by two members of Contractor's executive board or, in the alternative, one member of Contractor's executive board and the executive director. The revised line item budget shall be attached hereto and incorporated herein as part of Exhibit B.

Request to encumber city funds for projects, as approved in Exhibit A, completed after September 30, 2012 shall be submitted to the Contract Administrator for review and approval by September 1, 2012. If approved by the City, the encumbered city funds for specific projects must be completed by December 31, 2012. An additional expense report, in accordance with the reporting requirements set forth in 5.08, describing the expenditure of encumbered funds must be submitted to the City no later than January 31, 2013. City funds may only be encumbered for projects that have commenced prior to September 1, 2012.

1. Subsequent to the initial contract submittal, should the Contractor wish to utilize funds for a purpose other than those stated in Exhibit A, the Contractor must submit an additional amended **Revised Line Item Budget of Approved Expenditures** and request approval from the Contractor's Board, Cultural Affairs Commission, and City Manager. No change may occur unless:
 - a. Approved by Contractor's Board, as evidenced by the official minutes of the Board authorizing the change;
 - b. Approved by the Cultural Affairs Commission, as evidenced by the official minutes of the Commission authorizing the change presented by the Contractor's Board;
 - c. Approved by the City Manager, or his designee, after submission of the requested change by the Cultural Affairs Commission.

Contractor cannot expend any funds for a purpose not listed in the funding application until receipt of written approval from the City Manager or his designee.

2.02 All expenditures of City funds must comply with the Agreement and attachments hereto. Agreement compliance is defined as:

1. At least 90% of expenses budgeted in each category of the Application and funded by City monies must be spent in that category;
2. All requests to reallocate funds from one line item to another must first be approved by the Contractor's Board, as evidenced by the official minutes of the Board authorizing the change and submitted to the Contract Administrator. If the Contract Administrator finds that the request conforms to Item 1 of 2.02 above, the amended line item budget shall be approved. If the Contract Administrator finds that the amendments do not conform to 2.02.1 above, the request must be approved in accordance with the conditions set forth in b and c of Item 1 of 2.01;
3. Contractor must meet all other conditions of this Agreement.

2.03 Contractor agrees to the general conditions of the grant as set forth in the attachment entitled “General Conditions of Contract” (hereinafter referred to as the “General Conditions”), which is attached hereto and incorporated herein for all purposes as Exhibit C.

2.04 Unexpended and unencumbered City funds that remain with the Contractor after September 30, 2012, will revert to the City and the Contractor must return said funds to the City on or before October 31, 2012. Encumbered City funds are those funds which the Contractor has received and obligated for payment by written agreement or contract to expend on approved projects listed in Exhibit A.

SECTION III NON-ASSIGNMENT

3.01 Contractor may not assign any interest in this Agreement, whether in whole or part, without prior approval of the City Council, as reflected by a duly authorized resolution.

SECTION IV INDEPENDENT CONTRACTOR

4.01 The City enters into this Agreement with Contractor for the purposes enumerated in Section I. Contractor asserts and agrees that Contractor is an independent contractor and not an officer, agent, servant or employee of the City. Contractor has exclusive control over the details of the activity, and is responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants. The doctrine of respondent superior does not apply as between City and Contractor, its officers, agents, employees, contractors, subcontractors and consultants. Further, this agreement does not create a partnership or joint enterprise between City and Contractor.

**SECTION V
DISBURSEMENT OF FUNDS**

5.01 The City will disburse funds provided under this Agreement as follows:

1. for grants of **\$1,000** or less, 100 % of the funds by November 30, 2011.
For all grants greater than \$1,000:
2. an amount not to exceed 50% of the funds by November 30, 2011.
3. an amount not to exceed 25% of the funds by February 28, 2012.
4. an amount not to exceed the remaining 25% of the funds by July 15, 2012.

5.02 Expenses incurred after the termination date will not be reimbursed under this Agreement and the City shall assume no liability for same.

5.03 Failure to comply with the quarterly reporting requirements as outlined in Section 5.08 of this agreement below, including submittal of an executed certificate of compliance, shall result in funds being withheld from disbursement to the Contractor until a properly prepared report is submitted to the City as required.

5.04 Failure to submit a Revised Line Item Budget of Approved Expenditures as required in Section II of this agreement when applicable shall result in funds being withheld from disbursement to the Contractor until it is submitted to the City.

5.05 Failure to submit an Employee Dishonesty Bond as required in Section VII of this agreement when applicable shall result in funds being withheld from disbursement to the Contractor until it is submitted to the City as required.

5.06 Contractor recognizes that this Contract shall commence upon the effective date herein and continue in full force and effect until termination in accordance with its provisions. Contractor and City herein recognize that the continuation of any contract after the close of any given fiscal year of the City of Plano, which fiscal year ends on September 30th of each year, shall be subject to Plano City Council approval. In the event that the Plano City Council does not approve the appropriation of funds for this contract, the Contract shall terminate at the end of

the fiscal year for which funds were appropriated and the parties shall have no further obligations hereunder.

5.07 Contractor recognizes that grant funding is derived from Hotel/Motel tax revenue collected by the City. In the event that the Hotel/Motel Tax revenue generated for fiscal year 2011-12 is lower than initially anticipated, Contractor agrees that the total sum of grant funding awarded by the City to the Contractor may be adjusted accordingly at the City's sole discretion.

5.08 Reporting Requirements.

Within thirty (30) days of the close of each preceding quarter of the contract term, Contractor agrees to provide financial statements to the Contract Administrator sufficiently describing the expenditure of funds provided by the City to be compared against the Revised Line Item Budget of Approved Expenditures attached in Exhibit B, a list of all bank checks dispatched per quarter relating to the approved expenditures attached in Exhibit A, as well as a description of program goals achieved and/or progress of same for the preceding quarter. These reports shall contain a Certificate of Compliance with notarized signatures of two members of Contractor's executive board or, in the alternative, one member of Contractor's executive board and the executive director. In the case of grants of **\$1,000** or less, the report is due within 30 days of the close of the quarter in which the funds were expended. Reports submitted without required notarized signatures will be rejected and considered incomplete.

At the end of the Contract Term or in the event of earlier termination, Contractor shall provide a final written report of its activities and expenditures to the Contract Administrator within 30 days.

5.09 Failure to resolve any outstanding fire, health and safety code requirements found at the Contractor's facilities shall result in funds being withheld from disbursement to the Contractor until those requirements have been resolved. Contractor is responsible for the expenses to resolve the fire, health and safety code requirements and may not use City funds unless the activity has been approved on the projects list in Exhibit A.

5.10 If the Contractor is found to be in breach of any of the terms or conditions of a prior year's City funding agreement, or has any outstanding items from previous years funding agreement, funds from the current fiscal year shall be withheld from disbursement to the Contractor until those items have been resolved.

**SECTION VI
AFFIDAVIT OF NO PROHIBITED INTEREST**

6.01 Contractor acknowledges and represents it is aware of all applicable laws, the City Charter, and the City Code of Conduct regarding prohibited interests, and that the existence of a prohibited interest at any time will render the Contract voidable. At the time of signing this Agreement, a representative of Contractor shall execute the Affidavit of No Prohibited Interest, attached and incorporated herein as Exhibit D.

**SECTION VII
INSURANCE REQUIREMENTS/INDEMNIFICATION**

7.01 Insurance.

At its own expense, Contractor agrees to maintain during the term of this Agreement, or any extension thereof, insurance in the type and amounts as shown in Exhibit E. Additionally, this insurance must specifically cover any and all activities occurring on City property, including those activities of Contractor's employees, volunteers, vendors, contractors, or subcontractors. Contractor must provide proof of this insurance to the Contract Administrator within ten (10) days of execution of this Agreement. A properly executed certificate of insurance issued by Contractor's insurance agency is sufficient proof of insurance. Contractor must maintain a current copy of the certificate(s) and provide proof of its current insurance to City throughout the entire term of this Contract. These insurance requirements shall apply only to grants of more than \$1,000.

7.02 Employee Dishonesty Bond Requirement Applicable to Contractors Receiving Funds of \$75,000 or greater

At its own expense, a Contractor receiving funds in the amount of \$75,000 or more agrees to maintain during the term of this Agreement, or any extension thereof, an Employee Dishonesty Bond (EDB) in an amount equal to the total dollar amount awarded to Contractor by the City as defined in the grant agreement. A copy of proof of EDB shall be attached to the funding agreement as an additional attachment to Exhibit E. Bonds shall be placed with insurers with an A.M. Best rating of no less than A:VI or a Standard & Poors rating of A or better.

Bonds shall be made payable to the City of Plano and shall be maintained by Contractor throughout the contract period. Contractor must provide proof of this EDB to the Contract Administrator within ten (10) days of execution of this Agreement. A properly executed bond certificate issued by Contractor's insurance agency is sufficient proof of EDB. Contractor must maintain a current copy of the certificate(s) and provide proof of its current EDB to City throughout the entire term of this Contract. Failure to provide proof of the EDB shall result in the City withholding disbursement of funds to the Contractor until proof is provided as required under this Agreement.

7.03 Indemnification.

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

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

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

SECTION VIII TERM

8.01 The term of this Agreement is November 1, 2011 through September 30, 2012. At the expiration of this Agreement, the Contractor shall have the continuing obligation to complete any unfulfilled terms and conditions of this Agreement, including the submission of a final written report to the City and any other requested written documentation verifying Contractor's compliance with the terms of this Agreement.

**SECTION IX
TERMINATION**

9.01 Each party shall have the right to an early termination of this Agreement by giving the other party written notice thirty (30) days before the desired early termination date. After a notice of early termination, Contractor may use City funds only for costs incurred before the notice of termination date. Contractor, however, must return to the City the unused balance of any funds disbursed to the Contractor pursuant to this Agreement within ten (10) days of either an early termination or at the end of the Agreement term.

9.02 In the event Contractor breaches any of the terms or conditions of this Agreement, whether in whole or part, the City may immediately terminate this Agreement by providing written notice to the Contractor, notwithstanding any other provision. Contractor is solely responsible for funds expended contrary to the terms and conditions of this Agreement, and must return the City funds within ten (10) days of the termination.

**SECTION X
MISCELLANEOUS**

10.01 Entire Agreement.

This Agreement and its attachments constitute the entire agreement between the parties. The parties may only modify, amend, or supplement this Agreement through a written instrument executed by both parties.

10.02 Authority

The undersigned represents and warrants that he or she is the duly authorized representative of the Contractor, and that the Board of Trustees (or equivalent) of the Contractor has approved and accepted this Agreement by Board resolution. Contractor at all times shall maintain a copy of the Board resolution for submission to City upon request.

This Agreement does not become binding on the City of Plano until both the Contractor and the City Manager, or his designee, has executed it.

10.03 Successors and Assigns

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

10.04 Notice.

Any Notice, Reports or Documents required to be provided by this Agreement shall be in writing and delivered to the parties as follows:

City Contract Administrator
Dana Conklin
Director of Public Information
City of Plano
P.O. Box 860358
Plano, TX 75086-0358
Telephone: 972-941-7321

Contractor

Telephone: _____

10.05 Paragraph Headings.

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

10.06 Interpretation of Contract.

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

10.07 Venue.

The parties agree that the laws of the State of Texas govern this Agreement, and which is performable in Collin County, Texas. In the event of breach of this Agreement, venue for all causes of action shall exclusively lie in Collin County, Texas.

IN TESTIMONY OF WHICH THE PARTIES HERETO AFFIXED THEIR SIGNATURES ON THIS THE _____ DAY OF _____, 20__.

Organization

BY: _____
Name:
Title:

CITY OF PLANO, TEXAS

BY: _____
Bruce D. Glasscock
CITY MANAGER

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS)
)
COUNTY OF _____)

This instrument was acknowledged before me on the ____ day of _____,
20__ by _____, _____ of _____, a
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 _____,
20__ by **BRUCE D. GLASSCOCK**, City Manager of the **CITY OF PLANO, TEXAS**, a
home-rule municipal corporation, on behalf of said corporation.

Notary Public in and for the
State of Texas

EXHIBIT A

CONTRACTOR'S APPLICATION

This exhibit represents only the Budget portion of the application.

The remainder of the application is attached hereto by reference and is on file in the Public Information Department and may be viewed by contacting that office during normal business hours.



EXHIBIT B

Cultural Arts Grant

REVISED LINE ITEM BUDGET of APPROVED EXPENDITURES for 2011-12 Grant

Please complete the following by providing information based on your FY 2011-12 request and attach a new copy of your complete budget for the year of your request.

Organization Name: _____

Address: _____

Contact Person: _____

Phone: _____ Email: _____

Total Approved City of Plano Funding for FY 2011-2012: _____

Budget Category: _____ **Amount:** _____

Personnel (Artistic, Cultural, Technical & Administrative Staff	
Contracted Services	
Travel	
Rental Expense	
Advertising and Promotion	
Insurance	
Other Expenses	

TOTAL PROJECTED AUTHORIZED EXPENDITURE OF CITY OF PLANO ARTS GRANT:	
--	--

CERTIFICATE OF COMPLIANCE

CERTIFICATION: _____ and _____,
members of the Board of Directors of _____
agency

By signatures below, we attest to the accuracy of the information contained in this document.

Attest: _____ signature _____ name printed _____ date	_____ signature _____ name printed _____ date
--	--

*Typically provided as in-kind services only. These will be calculated in accordance with Fair Labor Standards Act.

EXHIBIT C

GENERAL CONDITIONS OF AGREEMENT

The Contractor agrees to the following general conditions:

- (1) The Contractor must provide reports of its activities as described in Section V, *Disbursement of Funds*, Paragraph 5.08, *Reporting Requirement*, of the Funding Agreement and as otherwise required by the Special Conditions of the Agreement on a format acceptable to the City. Disbursements may cease if reports are not submitted.
- (2) All of Contractor's procedures, records, and reports of programs and accounts shall be available for inspection by a duly authorized representative of the City. The materials shall be made available during regular business hours and not later than three (3) business days after request to do so. An independent audit of Contractor's financial records, paid for by Contractor, shall be furnished to the City upon request.
- (3) The Contractor agrees to on-site inspection of its facilities and/or programs by the City.
- (4) Improper use of funds provided by City may result in the termination of the Agreement, forfeiture of any outstanding monies to be provided by City, recovery of previous payments, recovery of bond payments, requirement for Contractor to provide an Employee Dishonesty Bond for future participation and/or disqualification of Contractor from future participation in grant programs offered or sponsored by or through City.
- (5) Programs, activities, employment opportunities, and other participatory events funded totally or partially by the City of Plano must be made available to all people regardless of race, color, religion, sex, age, national origin, disability, familial status, or political affiliation.
- (6) The Contractor and any person or organization it contracts with shall comply with all applicable laws, regulations, ordinances, and codes of the United States of America, the State of Texas, and the City of Plano.
- (7) The Contractor shall comply with all Federal, State and Local conflict of interest laws, statutes, and regulations; these laws shall apply to all parties and beneficiaries under this Agreement as well as to all officers, employees, and agents of City.
- (8) None of the funds, materials, property, or services provided directly under this Agreement shall be used for any partisan political activity, to further the election or defeat of any candidate for public office, or for publicity, lobbying and/or propaganda purposes designed to support or defeat legislation pending before the Congress of the United States of America, the Legislature of the State of Texas, the City Council of the City of Plano, or any other political body.
- (9) The City shall have the right to review any and all of Contractor's agreements and contracts prior to execution by the Contractor. City further has the right to require the modification, addition, or deletion of such terms and conditions in Contractor's agreements or contracts as it deems necessary to protect the City's interests.
- (10) For a non-profit corporation in existence for more than one (1) year at the time of the execution of this Agreement, Contractor agrees to provide a sworn statement attesting to the fact that the status of the Contractor is currently valid as a non-profit corporation. All corporations must be in good standing with the Texas Secretary of State.

EXHIBIT D

AFFIDAVIT OF NO PROHIBITED INTEREST

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

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

Name of Contractor

By: _____
Signature

Print Name

Title

Date

STATE OF _____ §

COUNTY OF _____ §

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20__.

Notary Public, State of _____

EXHIBIT E

Contractor shall procure and maintain for the duration of the grant agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the services performed or to be performed hereunder by the Contractor, its agents, representatives, employees, volunteers, officers, directors or sub-contractors.

The Contractor shall maintain insurance with limits not less than \$1,000,000 per occurrence, \$2,000,000 aggregate and will be as broad as ISO Form Number GL 0002 (Ed 1/72) covering Comprehensive General Liability and ISO Form Number GL 0404 covering Broad Form Comprehensive General Liability, or ISO Commercial General Liability coverage ("occurrence" form CG 0001). Coverage will include: A) Premises - Operations, B) Broad Form Contractual Liability, C) Broad Form Property Damage and D) Personal Injury.

The policy will be endorsed to contain the following provisions: The City, its officials, employees, volunteers, Boards and Commissions are to be added as "Additional Insureds" in respect to liability arising out of any activities performed by or on behalf of the Contractor. The policy shall contain no special limitations to the scope of coverage afforded to the City. The Contractor's insurance coverage shall be primary and any insurance or self-insurance shall be in excess of the Contractor's insurance and shall not contribute with it. Certificate must include a waiver of subrogation as regards the workers compensation policy.

Insurance shall be placed with insurers with an A.M. Best rating of no less than A:VI or a Standard & Poors rating of A or better.

The Contractor shall furnish the City with a certificate of insurance which shows the coverage provided. The insurance policy will be endorsed to state that coverage shall not be suspended, voided, canceled, non-renewed, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.



**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:		October 10, 2011			
Department:		Public Information			
Department Head		Dana Conklin - 7321			
Agenda Coordinator (include phone #):		Kimberly Simmons - 7307			
CAPTION					
A Resolution of the City of Plano, Texas approving the terms and conditions of funding agreements between the City of Plano, Texas and various special event organizers; authorizing their execution by the City Manager or his designee; and providing an effective date.					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	2011-2012	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	240,460	0	0	240,460
Encumbered/Expended Amount	0	0	0	0	0
This Item	0	-240,460	0	0	-240,460
BALANCE	0	0	0	0	0
FUND(s): GENERAL FUND; CONVENTION & TOURISM FUND					
COMMENTS: Funding for this item is included in the FY 2011-12 Adopted Budget. The total amount of \$240,460 includes \$155,641 from the Convention & Tourism Fund for the Plano Balloon Festival and \$84,819 from the General Fund for various special events held throughout the City.					
STRATEGIC PLAN GOALS: Funding for various community Special Events relates to the City's Goals of Financially Strong City with Service Excellence and Partnering for Community Benefit.					
SUMMARY OF ITEM					



CITY OF PLANO COUNCIL AGENDA ITEM

This resolution establishes funding agreements for ten special events totaling \$240,460 which was approved in the FY 2011-12 budget. Funds will be distributed to each event separately and no earlier than 120 days prior to the event. The special events are:

AsiaFest	\$ 11,682
Children's Christmas Parade	\$ 11,058
July 4th Parade	\$ 11,058
Komen Race for the Cure	\$ 6,721
Lights of Legacy	\$ 18,225
MLK Celebration	\$ 7,704
Plano Balloon Festival	\$ 155,641
Plano International Festival	\$ 11,466
Sunset at Memorial Park	\$ 1,800
Taste of Plano	\$ 5,105
TOTAL:	\$ 240,460

List of Supporting Documents:

Sample Funding Agreement s:

Special Event

In-Kind

Other Departments, Boards, Commissions or Agencies

A Resolution of the City of Plano, Texas approving the terms and conditions of funding agreements between the City of Plano, Texas and various special event organizers; authorizing their execution by the City Manager or his designee; and providing an effective date.

WHEREAS, the City Council established the Cultural Affairs Commission for the purpose of considering funding requests from outside organizations; and

WHEREAS, this Commission considered funding requests, conducted extensive review, and made recommendation for funding to the City Council based on established criteria; and

WHEREAS, the City Council received such recommendations during budget deliberations, conducted a public hearing on the proposed budget and approved and adopted the 2011-12 budget; and

WHEREAS, pursuant to Ordinance No. 2011-9-8, the City Council has appropriated \$240,460 for such purposes and finds that the services provided by the ten organizations are beneficial to the public and serve as a valid public purpose; and

WHEREAS, the City Council desires to enter into Funding Agreements with ten special events, a sample copy is attached hereto by reference as Exhibit "A", which establishes the terms and conditions for funding.

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

Section I. The City Council, after reviewing the terms and conditions of the Funding Agreements and the maximum recommended funding amounts for the below named organizations, hereby approves the Agreement and funding amounts, which are proper and in the best interests of the City of Plano.

Special Event Grants:

AsiaFest	\$ 11,682
Children's Christmas Parade	\$ 11,058
July 4 th Parade	\$ 11,058
Komen Race for the Cure	\$ 6,721
Lights of Legacy	\$ 18,225
MLK Celebration	\$ 7,704
Plano Balloon Festival	\$ 155,641
Plano International Festival	\$ 11,466
Sunset at Memorial Park	\$ 1,800
Taste of Plano	\$ 5,105
TOTAL:	\$ 240,460

Section II. The City Manager, or his authorized designee, is hereby authorized to execute such Agreements on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Agreements, and to act in behalf of the City with regard to its terms and conditions.

Section III. This resolution shall become effective from and after its passage.

DULY PASSED AND APPROVED this the 10th day of October, 2011.

Phil Dyer, **MAYOR**

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

**AGREEMENT BETWEEN CITY OF PLANO
AND
_____ (EVENT) _____**

The **CITY OF PLANO**, a Texas home rule municipal corporation (hereinafter referred to as “City”), and __ (organization) _____, a Texas non-profit corporation, acting herein through its duly authorized representative (hereinafter referred to as “Contractor”), enter into this agreement for performance of the _____ (event) _____.

WHEREAS, the City Council finds that the expenditure of public funds to Contractor for the production of _____ (event name) _____, is in the best interest of the residents and the City of Plano; and

WHEREAS, the City Council finds that providing City Services for the purpose stated above is a valid public purpose; and

WHEREAS, the City Council determined that the City should award grant funding in a sum not to exceed \$ _____ for the purposes outlined in the attachment entitled “2011-2012 (Special Event Sponsorship/Urban-Town Center) Grant Application (hereinafter referred to as “Application”); and

WHEREAS, Contractor has established itself as having the ability to perform such activities.

NOW, THEREFORE, for and in consideration of the covenants, obligations, and undertakings of each of the respective parties to the Agreement, the parties hereby agree as follows:

**SECTION I
PURPOSES/CONSIDERATION; PRIORITY OF DOCUMENTS**

1.01 Purpose/Consideration.

This Agreement provides the terms and conditions under which City will make available grant funding in a sum not to exceed \$ _____ (cash) _____, to support the

_____ **(event)** _____. The City's source of funds is (Hotel/Motel Tax/General) revenues derived from collection of property, sales and other taxes, as well as other sources. Contractor agrees to accept responsibility for guaranteeing City grant funds are used for the items in Exhibit A.

City further agrees to make available City Services as provided in Exhibit D in an amount not to exceed \$ _____ **(in-kind)** _____ to assist with the event _____ **(dates)** _____. The City will notify Contractor if Contractor's request for City Services exceeds the amount indicated in Exhibit D. Any City Services requested by Contractor that exceed the Exhibit D amount will be billed back to Contractor by City. Payments for those additional City Services are to be paid in full within 30 days of the invoice date.

In consideration of the City of Plano providing the funding specified for the 2011-12 fiscal year, Contractor shall abide by the terms and conditions of this Agreement.

1.02 Priority of Documents.

This Agreement consists of: Agreement between City of Plano and Contractor; Application; Revised Line Item Budget of Approved Expenditures; Special Conditions; General Conditions; Affidavit of No Prohibited Interest; Insurance, and Employee Dishonesty Bond when required. The documents are complementary, and what is called for by one shall be binding as if called for by all. In the event of inconsistency in any provisions of the documents, the inconsistency shall be resolved by giving precedence to the documents in the order in which they are listed above.

SECTION II PERMITTED USES OF FUNDS; CONDITIONS OF USE

2.01 Contractor shall perform all activities under this Agreement for the purposes outlined in the Application, which is made a part hereof by reference and incorporated as Exhibit A. In the event that the amount of funds requested and outlined for expenditure in the Application differs from the amount of funds actually awarded by the City, then Contractor shall submit a revised line item budget on a form provided by the City which shall be substituted for the original budget submitted with the Application. The revised line item budget must be submitted within 10 days of the execution of the Agreement and no funds shall be disbursed by the City to Contractor unless and until the revised line item budget is submitted. The **Revised Line Item Budget of Approved Expenditures** shall be signed by two members of Contractor's executive board or, in the alternative, one member of Contractor's executive board and the executive director. The revised line item budget shall be attached hereto and incorporated herein as part of Exhibit B.

Request to encumber city funds for projects, as approved in Exhibit A, completed after September 30, 2012, shall be submitted to the City Contract Administrator for review and approval by September 1, 2012. If approved by the City, the encumbered city funds for specific projects must be completed by December 31, 2012. An additional expense report, in accordance with the reporting requirements set forth in 5.01, describing the expenditure of encumbered funds, must be submitted to the City no later than January 31, 2013. City funds may only be encumbered for projects that have commenced prior to September 1, 2012.

1. Subsequent to the initial contract submittal, should the Contractor wish to provide activities for a purpose other than those stated in Exhibit A, the Contractor must submit an additional amended Revised Line Item Budget of Approved Expenditures and request approval from the Contractor's Board, Cultural Affairs Commission, and City Manager. No change may occur unless:

- a. Approved by Contractor's Board, as evidenced by the official minutes of the Board authorizing the change;
- b. Approved by the Cultural Affairs Commission, as evidenced by the official minutes of the Commission authorizing the change presented by the Contractor's Board;
- c. Approved by the City Manager, or his designee, after submission of the requested change by the Cultural Affairs Commission.

Contractor cannot expend any funds nor receive City Services for a purpose not listed in the funding application until receipt of written approval from the City Manager or his designee.

2.02 All expenditure of City funds or use of City Services must comply with the Agreement and attachments hereto and Contractor must meet all other conditions of this Agreement.

2.03 Contractor agrees to the general conditions of the grant as set forth in the attachment entitled "General Conditions of Agreement" (hereinafter referred to as the "General Conditions"), which is attached hereto and incorporated herein for all purposes as Exhibit C.

SECTION III NON-ASSIGNMENT

3.01 Contractor may not assign any interest in this Agreement, whether in whole or part, without prior approval of the City Council, as reflected by a duly authorized resolution.

SECTION IV INDEPENDENT CONTRACTOR

4.01 The City enters into this Agreement with Contractor for the purposes enumerated in Section I. Contractor asserts and agrees that Contractor is an independent contractor and not

an officer, agent, servant or employee of the City. Contractor has exclusive control over the details of the activity, and is responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants. The doctrine of respondent superior does not apply as between City and Contractor, its officers, agents, employees, contractors, subcontractors and consultants. Further, this agreement does not create a partnership or joint enterprise between City and Contractor.

SECTION V DISBURSEMENT OF FUNDS

5.01 The City will disburse funds provided under this Agreement no sooner than sixty (60) days prior to the event and once the City of Plano Special Event Permit Application has been submitted.

5.02 Expenses incurred after the termination date will not be reimbursed under this Agreement and the City shall assume no liability for same.

5.03 Failure to comply with the reporting requirements as outlined in Section 5.08 of this agreement below, including submittal of an executed certificate of compliance, shall result in any future funds being withheld from disbursement to the Contractor until a properly prepared report is submitted to the City as required.

5.04 Failure to submit a Revised Line Item Budget of Approved Expenditures as required in Section II of this agreement when applicable shall result in funds being withheld from disbursement to the Contractor until it is submitted to the City.

5.05 Contractor recognizes that this Contract shall commence upon the effective date herein and continue in full force and effect until termination in accordance with its provisions. Contractor and City herein recognize that the continuation of any contract after the close of any given fiscal year of the City of Plano, which fiscal year ends on September 30th of each year,

shall be subject to Plano City Council approval. In the event that the Plano City Council does not approve the appropriation of funds for this contract, the Contract shall terminate at the end of the fiscal year for which funds were appropriated and the parties shall have no further obligations hereunder.

5.06 Contractor recognizes that grant funding is derived from revenue collected by the City. In the event that the revenue generated for fiscal year 2011-12 is lower than initially anticipated, Contractor agrees that the total sum of grant funding awarded by the City to the Contractor may be adjusted accordingly at the City's sole discretion.

5.07 Reporting Requirements.

Within sixty (60) days following the event, Contractor agrees to provide a final written report of its activities and expenditures along with associated financial statements to the Contract Administrator sufficiently describing the expenditure of funds provided by the City to be compared against the Application attached in Exhibit A and any Revised Line Item Budget of Approved Expenditures documents, as well as a description of program goals achieved and/or progress toward those goals. These reports shall contain a Certificate of Compliance with notarized signatures of two members of Contractor's executive board or, in the alternative, one member of Contractor's executive board and the executive director. Reports submitted without required notarized signatures will be rejected and considered incomplete.

5.08 If the Contractor is found to be in breach of any of the terms or conditions of a prior year's City funding agreement, or has any outstanding items from previous years funding agreement, funds from the current fiscal year shall be withheld from disbursement to the Contractor until those items have been resolved.

**SECTION VI
AFFIDAVIT OF NO PROHIBITED INTEREST**

6.01 Contractor acknowledges and represents it is aware of all applicable laws, the City Charter, and the City Code of Conduct regarding prohibited interests, and that the existence

of a prohibited interest at any time will render the Contract voidable. At the time of signing this Agreement, a representative of Contractor shall execute the Affidavit of No Prohibited Interest, attached and incorporated herein as Exhibit E.

SECTION VII INSURANCE REQUIREMENTS/INDEMNIFICATION

7.01 Insurance.

At its own expense, Contractor agrees to maintain during the term of this Agreement, or any extension thereof, insurance in the type and amounts as shown in Exhibit F. Additionally, this insurance must specifically cover any and all activities occurring on City property, including those activities of Contractor's employees, volunteers, vendors, contractors, or subcontractors. Contractor must provide proof of this insurance to the Contract Administrator no less than 120 days prior to the event. A properly executed Certificate of Insurance issued by Contractor's insurance agency is sufficient proof of insurance. Contractor must maintain a current copy of the certificate(s) and provide proof of its current insurance to City throughout the entire term of this Contract.

7.02 Indemnification.

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

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

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

**SECTION VIII
TERM**

8.01 The term of this Agreement is November 1, 2011 through **_(last day of month of event)_____**. At the expiration of this Agreement, the Contractor shall have the continuing obligation to complete any unfulfilled terms and conditions of this Agreement, including the submission of a final written report to the City and any other requested written documentation verifying Contractor's compliance with the terms of this Agreement.

**SECTION IX
TERMINATION**

9.01 Each party shall have the right to an early termination of this Agreement by giving the other party written notice thirty (30) days before the desired early termination date. After a notice of early termination, Contractor may use City funds only for costs incurred before the notice of termination date.

9.02 In the event Contractor breaches any of the terms or conditions of this Agreement, whether in whole or part, the City may immediately terminate this Agreement by providing written notice to the Contractor, notwithstanding any other provision.

**SECTION X
MISCELLANEOUS**

10.01 Entire Agreement.

This Agreement and its attachments constitute the entire agreement between the parties. The parties may only modify, amend, or supplement this Agreement through a written instrument executed by both parties.

10.02 Authority

The undersigned represents and warrants that he or she is the duly authorized representative of the Contractor, and that the Board of Trustees (or equivalent) of the Contractor has approved and accepted this Agreement by Board resolution. Contractor at all times shall maintain a copy of the Board resolution for submission to City upon request.

This Agreement does not become or binding on the City of Plano until both the Contractor and the City Manager or his designee have executed it.

10.03 Successors and Assigns

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

10.04 Notice.

Any Notice, Reports or Documents required to be provided by this Agreement shall be in writing and delivered to the parties as follows:

City Contract Administrator
Karen Williams
Event Supervisor
City of Plano
P O Box 860358
Plano, TX 75086-0358
972-941-7250

Contractor

10.05 Paragraph Headings.

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

10.06 Interpretation of Contract.

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

10.07 Venue.

The parties agree that the laws of the State of Texas govern this Agreement, and which is performable in Collin County, Texas. In the event of breach of this Agreement, venue for all causes of action shall exclusively lie in Collin County, Texas.

IN TESTIMONY OF WHICH THE PARTIES HERETO AFFIXED THEIR SIGNATURES ON THIS THE _____ DAY OF _____, 20____.

BY: _____

Name: _____

Title: _____

CITY OF PLANO, TEXAS

BY: _____

Bruce D. Glasscock
CITY MANAGER

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS)
)
COUNTY OF _____)

This instrument was acknowledged before me on the ____ day of _____,
20____ by _____, _____ of
_____, a 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 _____,
20____ by **BRUCE D. GLASSCOCK**, City Manager of the **CITY OF PLANO, TEXAS**, a
home-rule municipal corporation, on behalf of said corporation.

Notary Public in and for the
State of Texas

EXHIBIT A

CONTRACTOR'S APPLICATION

This exhibit represents only the Budget portion of the application.

The remainder of the application is attached hereto by reference and is on file in the Parks and Recreation Department and may be viewed by contacting that office during normal business hours.

EXHIBIT B



Special Event Grant

REVISED LINE ITEM BUDGET of APPROVED EXPENDITURES for 2011-12 Grant

Please complete the following by providing information based on your FY 2011-12 requested amount and awarded amount. Please attach a new copy of your complete budget for the year of your request after revisions.

ORGANIZATION: _____

DATE: _____

Expenses:

	REVISED Total Event Budget	Original Request City Cash	City Cash Awarded	Original Request City In-Kind	City In- Kind Awarded
Advertising & Promotion					
Contracted Services					
Insurance					
Rental Expenses					
Other					
City In-Kind Sponsorship (City Services*)					
Other In-Kind Sponsorships					
Grand Total					

* These will be calculated in accordance with Fair Labor Standards Act.

CERTIFICATE OF COMPLIANCE

CERTIFICATION: _____ and _____,

members of the Board of Directors of _____
agency

By signatures below, we attest to the accuracy of the information contained in this document.

Attest: _____
signature

signature

name printed

name printed

date

date

EXHIBIT C

GENERAL CONDITIONS OF AGREEMENT

The Contractor agrees to the following general conditions:

- (1) The Contractor must provide reports of its activities as described in Section V, *Disbursement of Funds*, Paragraph 5.07, *Reporting Requirement*, of the Funding Agreement and as otherwise required by the Special Conditions of the Agreement on a format acceptable to the City. Disbursements may cease if reports are not submitted.
- (2) All of Contractor's procedures, records, and reports of programs and accounts shall be available for inspection by a duly authorized representative of the City. The materials shall be made available during regular business hours and not later than three (3) business days after request to do so. An independent audit of Contractor's financial records, paid for by Contractor, shall be furnished to the City upon request.
- (3) The Contractor agrees to on-site inspection of its facilities and/or programs by the City.
- (4) Improper use of funds provided by City may result in the termination of the Agreement, forfeiture of any outstanding monies to be provided by City, recovery of previous payments, recovery of bond payments, requirement for Contractor to provide an Employee Dishonesty Bond for future participation and/or disqualification of Contractor from future participation in grant programs offered or sponsored by or through City.
- (5) Programs, activities, employment opportunities, and other participatory events funded totally or partially by the City of Plano must be made available to all people regardless of race, color, religion, sex, age, national origin, disability, familial status, or political affiliation.
- (6) The Contractor and any person or organization it contracts with shall comply with all applicable laws, regulations, ordinances, and codes of the United States of America, the State of Texas, and the City of Plano.
- (7) The Contractor shall comply with all Federal, State and Local conflict of interest laws, statutes, and regulations; these laws shall apply to all parties and beneficiaries under this Agreement as well as to all officers, employees, and agents of City.
- (8) None of the funds, materials, property, or services provided directly under this Agreement shall be used for any partisan political activity, to further the election or defeat of any candidate for public office, or for publicity, lobbying and/or propaganda purposes designed to support or defeat legislation pending before the Congress of the United States of America, the Legislature of the State of Texas, the City Council of the City of Plano, or any other political body.
- (9) The City shall have the right to review any and all of Contractor's agreements and contracts prior to execution by the Contractor. City further has the right to require the modification, addition, or deletion of such terms and conditions in Contractor's agreements or contracts as it deems necessary to protect the City's interests.

EXHIBIT D

SPECIAL CONDITIONS

The Contractor agrees to the following special conditions:

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

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

Department	
	\$
	\$
TOTAL	\$

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

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

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

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

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

Public Service booth space will be provided by the event to the City of Plano and its departments at no charge subject to space availability.

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

The event shall provide adequate handicapped parking or transportation.

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

EXHIBIT E

AFFIDAVIT OF NO PROHIBITED INTEREST

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

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

Name of Contractor

By: _____
Signature

Print Name

Title

Date

STATE OF _____ §

COUNTY OF _____ §

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20____.

Notary Public, State of _____

EXHIBIT F

INSURANCE

Contractor shall procure and maintain for the duration of the grant agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the services performed or to be performed hereunder by the Contractor, its agents, representatives, employees, volunteers, officers, directors or sub-contractors.

The Contractor shall maintain insurance with limits not less than \$1,000,000 per occurrence, \$2,000,000 aggregate and will be as broad as ISO Form Number GL 0002 (Ed 1/72) covering Comprehensive General Liability and ISO Form Number GL 0404 covering Broad Form Comprehensive General Liability, or ISO Commercial General Liability coverage ("occurrence" form CG 0001). Coverage will include: A) Premises - Operations, B) Broad Form Contractual Liability, C) Broad Form Property Damage and D) Personal Injury.

The policy will be endorsed to contain the following provisions: They City, its officials, employees, volunteers, Boards and Commissions are to be added as "Additional Insureds" in respect to liability arising out of any activities performed by or on behalf of the Contractor. The policy shall contain no special limitations to the scope of coverage afforded to the City. The Contractor's insurance coverage shall be primary and any insurance or self-insurance shall be in excess of the Contractor's insurance and shall not contribute with it. Certificate must include a waiver of subrogation as regards the workers compensation policy.

Insurance shall be placed with insurers with an A.M. Best rating of no less than A:VI or a Standard & Poor's rating of A or better.

The Contractor shall furnish the City with a certificate of insurance which shows the coverage provided. The insurance policy will be endorsed to state that coverage shall not be suspended, voided, canceled, non-renewed, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

**AGREEMENT BETWEEN CITY OF PLANO
AND
(EVENT)**

TO PROVIDE IN-KIND CITY SERVICES

The **CITY OF PLANO**, a Texas home rule municipal corporation (hereinafter referred to as “City”), and ____ (organization) _____, a Texas non-profit corporation, acting herein through its duly authorized representative (hereinafter referred to as “Contractor”), enter into this agreement for performance of the _____ (event) _____.

WHEREAS, the City Council finds that the provision of in-kind services, “City Services,” to Contractor for the production of _____ (event) _____, is in the best interest of the residents and the City of Plano; and

WHEREAS, the City Council finds that providing City Services for the purpose stated above is a valid public purpose; and

WHEREAS, the City Council determined that the City should provide City Services in the nature of public safety, parks and recreation, solid waste collection or others in a sum not to exceed \$ _____ for the purposes outlined in the attachment entitled “2011-2012 (Special Event Sponsorship/Urban-Town Center) Grant Application” (hereinafter referred to as “Application”); and

WHEREAS, Contractor has established itself as having the ability to perform such activities.

NOW, THEREFORE, for and in consideration of the covenants, obligations, and undertakings of each of the respective parties to the Agreement, the parties hereby agree as follows:

SECTION I
PURPOSES/CONSIDERATION; PRIORITY OF DOCUMENTS

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In consideration of the City of Plano providing the funding specified for the 2011-12 fiscal year, Contractor shall abide by the terms and conditions of this Agreement.

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This Agreement consists of: Agreement between City of Plano and Contractor; Contractor's Application; Revised Line Item Budget of Approved Expenditures; Special Conditions; General Conditions; Affidavit of No Prohibited Interest; Insurance, and Employee Dishonesty Bond when required. The documents are complementary, and what is called for by one shall be binding as if called for by all. In the event of inconsistency in any provisions of the documents, the inconsistency shall be resolved by giving precedence to the documents in the order in which they are listed above.

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- a. Approved by Contractor's Board, as evidenced by the official minutes of the Board authorizing the change;

- b. Approved by the Cultural Affairs Commission, as evidenced by the official minutes of the Commission authorizing the change presented by the Contractor's Board:
- c. Approved by the City Manager, or his designee, after submission of the requested change by the Cultural Affairs Commission.

Contractor cannot receive City Services for a purpose not listed in the funding application until receipt of written approval from the City Manager or his designee.

2.02 All City Services must comply with the Agreement and attachments hereto and Contractor must meet all other conditions of this Agreement.

2.03 Contractor agrees to the general conditions of the grant as set forth in the attachment entitled "General Conditions of Agreement" (hereinafter referred to as the "General Conditions"), which is attached hereto and incorporated herein for all purposes as Exhibit C.

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does not apply as between City and Contractor, its officers, agents, employees, contractors, subcontractors and consultants. Further, this agreement does not create a partnership or joint enterprise between City and Contractor.

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5.01 Within sixty (60) days following the event, Contractor agrees to provide a final written report of its activities and expenditures along with associated financial statements to the Contract Administrator sufficiently describing the expenditure of funds provided by the City to be compared against the Application attached in Exhibit A and any Revised Line Item Budget of Approved Expenditures documents, as well as a description of program goals achieved and/or progress toward those goals. These reports shall contain a Certificate of Compliance with notarized signatures of two members of Contractor's executive board or, in the alternative, one member of Contractor's executive board and the executive director. Reports submitted without required notarized signatures will be rejected and considered incomplete.

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SECTION VII INSURANCE REQUIREMENTS/INDEMNIFICATION

7.01 Insurance.

At its own expense, Contractor agrees to maintain during the term of this Agreement, or any extension thereof, insurance in the type and amounts as shown in Exhibit F. Additionally, this insurance must specifically cover any and all activities occurring on City property, including those activities of Contractor's employees, volunteers, vendors, contractors, or subcontractors. Contractor must provide proof of this insurance to the Contract Administrator no less than 120 days prior to the event. A properly executed Certificate of Insurance issued by Contractor's insurance agency is sufficient proof of insurance. Contractor must maintain a current copy of the certificate(s) and provide proof of its current insurance to City throughout the entire term of this Contract.

7.02 Indemnification.

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

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

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

**SECTION VIII
TERM**

8.01 The term of this Agreement is November 1, 2011 through **_(last day of month of event)_____**. At the expiration of this Agreement, the Contractor shall have the continuing obligation to complete any unfulfilled terms and conditions of this Agreement, including the submission of a final written report to the City and any other requested written documentation verifying Contractor's compliance with the terms of this Agreement.

**SECTION IX
TERMINATION**

9.01 Each party shall have the right to an early termination of this Agreement by giving the other party written notice thirty (30) days before the desired early termination date. After a notice of early termination, Contractor may use City funds only for costs incurred before the notice of termination date.

9.02 In the event Contractor breaches any of the terms or conditions of this Agreement, whether in whole or part, the City may immediately terminate this Agreement by providing written notice to the Contractor, notwithstanding any other provision.

**SECTION X
MISCELLANEOUS**

10.01 Entire Agreement.

This Agreement and its attachments constitute the entire agreement between the parties. The parties may only modify, amend, or supplement this Agreement through a written instrument executed by both parties.

10.02 Authority

The undersigned represents and warrants that he or she is the duly authorized representative of the Contractor, and that the Board of Trustees (or equivalent) of the Contractor has approved and accepted this Agreement by Board resolution. Contractor at all times shall maintain a copy of the Board resolution for submission to City upon request.

This Agreement does not become or binding on the City of Plano until both the Contractor and the City Manager or his designee have executed it.

10.03 Successors and Assigns

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

10.04 Notice.

Any Notice, Reports or Documents required to be provided by this Agreement shall be in writing and delivered to the parties as follows:

<u>City Contract Administrator</u>	<u>Contractor</u>
Karen Williams	_____
Event Supervisor	_____
City of Plano	_____
P O Box 860358	_____
Plano, TX 75086-0358	_____
972-941-7250	

10.05 Paragraph Headings.

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

10.06 Interpretation of Contract.

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

10.07 Venue.

The parties agree that the laws of the State of Texas govern this Agreement, and which is performable in Collin County, Texas. In the event of breach of this Agreement, venue for all causes of action shall exclusively lie in Collin County, Texas.

IN TESTIMONY OF WHICH THE PARTIES HERETO AFFIXED THEIR SIGNATURES ON THIS THE _____ DAY OF _____, 20_____.

BY: _____

Name: _____

Title: _____

CITY OF PLANO, TEXAS

BY: _____

Bruce D. Glasscock
CITY MANAGER

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS)
)
COUNTY OF _____)

This instrument was acknowledged before me on the ___ day of _____,
20____ by _____, _____ of
_____, a 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 _____,
20____ by **BRUCE D. GLASSCOCK**, City Manager of the **CITY OF PLANO, TEXAS**, a
home-rule municipal corporation, on behalf of said corporation.

Notary Public in and for the
State of Texas

EXHIBIT A

CONTRACTOR'S APPLICATION

This exhibit represents only the Budget portion of the application.

The remainder of the application is attached hereto by reference and is on file in the Parks and Recreation Department and may be viewed by contacting that office during normal business hours.

EXHIBIT B



Special Event Grant

REVISED LINE ITEM BUDGET of APPROVED EXPENDITURES for 2011-12 Grant

Please complete the following by providing information based on your FY 2011-12 requested amount and awarded amount. Please attach a new copy of your complete budget for the year of your request after revisions.

ORGANIZATION: _____

DATE: _____

Expenses:

	REVISED Total Event Budget	Original Request City Cash	City Cash Awarded	Original Request City In-Kind	City In- Kind Awarded
Advertising & Promotion					
Contracted Services					
Insurance					
Rental Expenses					
Other					
City In-Kind Sponsorship (City Services*)					
Other In-Kind Sponsorships					
Grand Total					

* These will be calculated in accordance with Fair Labor Standards Act.

CERTIFICATE OF COMPLIANCE

CERTIFICATION: _____ and _____,

members of the Board of Directors of _____
agency

By signatures below, we attest to the accuracy of the information contained in this document.

Attest: _____
signature

_____ signature

_____ name printed

_____ name printed

_____ date

_____ date

EXHIBIT C

GENERAL CONDITIONS OF AGREEMENT

The Contractor agrees to the following general conditions:

- (1) The Contractor must provide reports of its activities as described in Section V, *Disbursement of Funds*, Paragraph 5.01, *Reporting Requirement*, of the Funding Agreement and as otherwise required by the Special Conditions of the Agreement on a format acceptable to the City. Disbursements may cease if reports are not submitted.
- (2) All of Contractor's procedures, records, and reports of programs and accounts shall be available for inspection by a duly authorized representative of the City. The materials shall be made available during regular business hours and not later than three (3) business days after request to do so. An independent audit of Contractor's financial records, paid for by Contractor, shall be furnished to the City upon request.
- (3) The Contractor agrees to on-site inspection of its facilities and/or programs by the City.
- (4) Improper use of funds provided by City may result in the termination of the Agreement, forfeiture of any outstanding monies to be provided by City, recovery of previous payments, recovery of bond payments, requirement for Contractor to provide an Employee Dishonesty Bond for future participation and/or disqualification of Contractor from future participation in grant programs offered or sponsored by or through City.
- (5) Programs, activities, employment opportunities, and other participatory events funded totally or partially by the City of Plano must be made available to all people regardless of race, color, religion, sex, age, national origin, disability, familial status, or political affiliation.
- (6) The Contractor and any person or organization it contracts with shall comply with all applicable laws, regulations, ordinances, and codes of the United States of America, the State of Texas, and the City of Plano.
- (7) The Contractor shall comply with all Federal, State and Local conflict of interest laws, statutes, and regulations; these laws shall apply to all parties and beneficiaries under this Agreement as well as to all officers, employees, and agents of City.
- (8) None of the funds, materials, property, or services provided directly under this Agreement shall be used for any partisan political activity, to further the election or defeat of any candidate for public office, or for publicity, lobbying and/or propaganda purposes designed to support or defeat legislation pending before the Congress of the United States of America, the Legislature of the State of Texas, the City Council of the City of Plano, or any other political body.
- (9) The City shall have the right to review any and all of Contractor's agreements and contracts prior to execution by the Contractor. City further has the right to require the modification, addition, or deletion of such terms and conditions in Contractor's agreements or contracts as it deems necessary to protect the City's interests.

EXHIBIT D

SPECIAL CONDITIONS

The Contractor agrees to the following special conditions:

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

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

Department	
	\$
	\$
TOTAL	\$

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

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

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

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

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

Public Service booth space will be provided by the event to the City of Plano and its departments at no charge subject to space availability.

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

The event shall provide adequate handicapped parking or transportation.

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

EXHIBIT F

INSURANCE

Contractor shall procure and maintain for the duration of the grant agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the services performed or to be performed hereunder by the Contractor, its agents, representatives, employees, volunteers, officers, directors or sub-contractors.

The Contractor shall maintain insurance with limits not less than \$1,000,000 per occurrence, \$2,000,000 aggregate and will be as broad as ISO Form Number GL 0002 (Ed 1/72) covering Comprehensive General Liability and ISO Form Number GL 0404 covering Broad Form Comprehensive General Liability, or ISO Commercial General Liability coverage ("occurrence" form CG 0001). Coverage will include: A) Premises - Operations, B) Broad Form Contractual Liability, C) Broad Form Property Damage and D) Personal Injury.

The policy will be endorsed to contain the following provisions: They City, its officials, employees, volunteers, Boards and Commissions are to be added as "Additional Insureds" in respect to liability arising out of any activities performed by or on behalf of the Contractor. The policy shall contain no special limitations to the scope of coverage afforded to the City. The Contractor's insurance coverage shall be primary and any insurance or self-insurance shall be in excess of the Contractor's insurance and shall not contribute with it. Certificate must include a waiver of subrogation as regards the workers compensation policy.

Insurance shall be placed with insurers with an A.M. Best rating of no less than A:VI or a Standard & Poor's rating of A or better.

The Contractor shall furnish the City with a certificate of insurance which shows the coverage provided. The insurance policy will be endorsed to state that coverage shall not be suspended, voided, canceled, non-renewed, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.



**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:		10/10/11		
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 a First Amendment to the Economic Development Incentive Agreement by and between the City of Plano, Texas and Aimbridge Hospitality, L.P., a Texas Limited Partnership and 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: 2010-11	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S): ECONOMIC DEVELOPMENT FUND				
COMMENTS: Strategic Plan Goal: Providing economic development incentives relates to the City's goal of strong local economy				
SUMMARY OF ITEM				
This First Amendment to the Economic Development Incentive Agreement corrects the type of entity for Aimbridge Hospitality, L.P. to reflect it as a Texas Limited Partnership. The term is also modified to begin on the effective date and continue until November 30, 2018. The Company must also meet all obligations on or before December 1, 2011.				
List of Supporting Documents: First Amendment to 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 a First Amendment to the Economic Development Incentive Agreement by and between the City of Plano, Texas and Aimbridge Hospitality, L.P., a Texas Limited Partnership and 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 First Amendment of Economic Development Incentive Agreement by and between the City of Plano, Texas, Plano and Aimbridge Hospitality, L.P., a Texas Limited Partnership, to change the date of the term of the agreement to account for contractor delay in preparing the space for occupancy, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "First Amendment"); and

WHEREAS, upon full review and consideration of the First Amendment 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:

Section I. The terms and conditions of the First Amendment having been reviewed by the City Council of the City of Plano, Texas, 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 First Amendment 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 First Amendment.

Section III. This Resolution shall become effective from and after its passage.

DULY PASSED AND APPROVED this the 10th day of October, 2011.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

THE STATE OF TEXAS § First Amendment of Economic
 § Development Incentive Agreement
 § between City of Plano and Aimbridge
COUNTY OF COLLIN § Hospitality, L.P.

THIS First Amendment to Economic Development Incentive Agreement (hereinafter "First Amendment") is made and entered into on this the ____ day of _____, 20____, by and between **AIMBRIDGE HOSPITALITY, L.P.**, a Texas Limited Partnership (hereinafter "Company") 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 Company entered into a Economic Development Incentive Agreement on July 11, 2011 (hereinafter "Agreement") to enhance the economic and employment base of City; and

WHEREAS, City and Company desire to amend said Agreement in certain respects as set forth in this First Amendment.

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

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

I.

Beginning on the effective date of execution of this amendment and continuing through the remaining term of the Agreement, the type of entity for Aimbridge Hospitality, L.P. is corrected to reflect it as a Texas Limited Partnership and the first paragraph of the Agreement is hereby modified to read in its entirety as follows:

This Economic Development Incentive Agreement ("Agreement") is made by and between the City of Plano, Texas (the "City"), and Aimbridge Hospitality, L.P., a Texas Limited Partnership, ("Company"), acting by and through their respective authorized officers and representatives.

II.

Beginning on the effective date of execution of this amendment and continuing through the remaining term of the Agreement, **Article II** entitled **Term** is hereby modified to read in its entirety as follows:

The term of this Agreement shall begin on the Effective Date and continue until November 30, 2018 unless sooner terminated as provided herein.

III.

Beginning on the effective date of execution of this amendment and continuing through the remaining term of the Agreement, paragraphs (a) and (b) listed under paragraph **Article III** entitled **Obligations of Company** are hereby modified to read in their entirety as follows:

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

- (a) On or before December 1, 2011 occupy at least 25,000 square feet of commercial space on the Real Property and maintain such occupancy throughout the term of the Agreement;
- (b) Retain, create or transfer at least 60 Job Equivalents to the Real Property by December 1, 2011, and maintain those Job Equivalents on the Real Property throughout the term of the Agreement;

IV.

Beginning on the effective date of execution of this amendment and continuing through the remaining term of the Agreement, paragraph 4.02 (a) listed under paragraph **Article IV** entitled **Economic Development Grant** is hereby modified to read in its entirety as follows:

(a) By December 1, 2011, Company shall occupy not less than 25,000 square feet of commercial space and have at least 60 Job Equivalents at the Real Property to be eligible to receive the grant payment of \$75,000.00. The payment will not be pro-rated. **Company must submit the Initial Certification form attached hereto as Exhibit "A" verifying compliance with the obligations set forth in this provision not later than January 31, 2012. A failure to provide this form by that date is an event of default and, if not cured, results in an immediate and complete forfeiture of the entire grant under 4.01.**

EXECUTED on this _____ day of _____, 20 _____.

ATTEST

**CITY OF PLANO, TEXAS, a home-rule
municipal corporation**

Diane Zucco, CITY SECRETARY

BY: _____
Bruce D. Glasscock, CITY MANAGER

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

**AIMBRIDGE HOSPITALITY, L.P., a Texas
Limited Partnership**

ATTEST:

**BY: AIMBRIDGE HOTEL GROUP, LLC, a
Colorado Limited Liability Company, its
General Partner**

Name: _____

By : _____

Title: _____

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:		10/10/11		
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 Sears Holdings Management Corporation 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: 2010-11	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	14,402,910	0	14,402,910
Encumbered/Expended Amount	0	-3,383,793	-6,332,768	-9,716,561
This Item	0	-61,600		-61,600
BALANCE	0	10,957,517	-6,332,768	4,624,749
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 Sears Holdings Management Corporation 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. Sears Holdings Management Corporation agrees to occupy not less than 20,000 sq. ft of commercial space and agrees to retain, create or transfer at least 77 jobs by 12/31/11.				
List of Supporting Documents: Economic Development Incentive Agreement			Other Departments, Boards, Commissions or Agencies	

A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an Economic Development Incentive Agreement by and between Sears Holdings Management Corporation 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 Economic Development Incentive Agreement by and between Sears Holdings Management Corporation, a Delaware corporation, 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 10th day of October, 2011.

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 Sears Holdings Management Corporation, a Delaware corporation, (“Company”), acting by and through their respective authorized officers and representatives.

WITNESSETH:

WHEREAS, Company plans to add \$750,000 of business personal property at the real property commonly known as Plano Corporate Center II, Suite 201, 2301 West Plano Parkway, Plano, Texas 75075 (the “Real Property”); and

WHEREAS, Company agrees to occupy at least 20,000 square feet of space at the Real Property and maintain or create up to 77 Job Equivalents to be located on the Real Property for the term of this Agreement; and

WHEREAS, the Company has advised the City that a contributing factor that would induce the Company to relocate and expand its business and commercial activities in 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 Council finds that the occupancy of at least 20,000 square feet of space at the Real Property, and the retention, creation or transfer of up to 77 Job Equivalents 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 its citizens 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 I Definitions

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

“Company” shall mean Sears Holdings Management Corporation, a Delaware corporation.

“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, floods, strikes, slowdowns or work stoppages any of which event(s) directly and significantly impact the Company’s operations in the City. An economic down turn shall not constitute an event of force majeure.

“Job Equivalent” shall mean one or more Company employees, whether individual or combined with other employees, who are located at the Property and each Job Equivalent is paid a total 2080 hours annually and issued an Internal Revenue Service W-2 form by the Company.

“Real Property” shall mean Plano Corporate Center, Suite 201, 2301 West Plano Parkway, Plano, Texas 75075.

Article II Term

The term of this Agreement shall begin on the Effective Date and continue until December 31, 2016 unless sooner terminated as provided herein.

Article III Obligations of Company

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

- (a) On or before December 31, 2011, occupy at least 20,000 square feet of commercial space on the Real Property throughout the term of the Agreement; and,

- (b) Retain, create or transfer at least 77 Job Equivalents to the Real Property by December 31, 2011 and maintain those Job Equivalents on the Real Property throughout the term of the Agreement; and
- (c) Use reasonable efforts to place all Company-managed hotel room nights, related to the Company's business activities, at facilities located in the City of Plano.

Article IV Economic Development Grant

4.01 **Grant.** The City agrees to provide the Company a cash grant of Sixty One Thousand Six Hundred Dollars (\$61,600.00) (the "**Economic Development Program Grant**") as long as Company meets each of the obligations set out in Article III above and complies with the certification schedule and requirements set out in 4.02 below.

4.02 **Grant Payment Requirements and Schedule** Except as otherwise indicated, the Company shall be entitled to the grant award in accordance with the following requirements and schedule:

(a) By December 31, 2011, occupy not less than 20,000 square feet of commercial space and retain, transfer, or create at least 77 Job Equivalents at the Real Property to be eligible to receive a lump sum payment of Sixty One Thousand Six Hundred Dollars (\$61,600.00). The payment will not be pro-rated. **Company must submit the Initial Certification form attached hereto as Exhibit "A" verifying compliance with the obligations set forth in this provision not later than March 31, 2012. A failure to provide this form by that date is an event of default and, if not cured as provided in Section 5.01(b) below, results in an immediate and complete forfeiture of the entire grant.**

City will make the payment within thirty (30) days of receipt of the Initial Certification unless the City reasonably objects to the Initial Certification due to the Company not being in compliance with the obligations set out in Section 4.02(a) above.

(b) Beginning January 2013, Company must submit an annual certification on the form attached hereto as Exhibit "B" not later than January 31 of each year for the duration of this Agreement verifying compliance with Article III above. The certification must be based upon the number of Job Equivalents for which the Company has received a grant. A failure to file the annual certification by the January 31 deadline during the remaining years of the Agreement shall result in a default and a right to a full refund of all grant amounts previously paid as set out in 4.03.

(c) All certifications must be verified by the Company's chief executive or financial officer.

4.03 **Refund/Default.**

(a) If following the receipt of a grant payment, the Company fails to meet the required number of Job Equivalents for which it has received payment for more than 180 consecutive

days at any time during the term of this Agreement and the loss is not the result of an Event of Force Majeure, the Company shall refund to the City an amount equal to Eight Hundred (\$800.00) for each lost Job Equivalent. For the purposes of determining whether the City is due a refund under this section, the Company shall certify to the City as set out in Section 4.02 above the actual number of Job Equivalents at the Real Property for the compliance period using the form attached as Exhibits "B". All refunds under this Agreement shall be due within thirty (30) days of written demand for payment. A failure to make the refund payment within thirty (30) days shall constitute an event of default. If a refund is due for one or more Job Equivalent(s), Company is not entitled to any future payment for that lost Job Equivalent(s) notwithstanding that it subsequently complies with the Job Equivalent requirements of this Agreement.

(b) If the Company defaults , beyond the cure period set forth in Section 5.01(b) below, on the payment of any refund or fails to timely provide any certification as required by Section 4.02, the full amount of the Grant paid shall be refunded by Company to the City. City may use any reasonable efforts to collect such sums owed and Company agrees to pay any and all interest, and expenses, including attorney fees and costs incurred by City. This obligation shall survive termination of this Agreement.

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

Article V Termination

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

(a) By expiration of the term and where no defaults have occurred;

(b) If a 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 by the non-defaulting party unless a longer period is provided. Any default under this provision and right to recover any claims, refunds, damages and/or expenses shall survive the termination of the Agreement.

The City Manager is authorized on behalf of the City to send notice of default and to terminate this Agreement for any default that is not cured within the applicable cure period.

5.02 **Effect of Termination/Survival of Obligations.** 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 or default(s) that existed prior to such termination or as otherwise provided herein and those liabilities and obligations shall

survive the termination of this Agreement, including the refund provision, maintenance of records, and access thereto.

Article VI Retention and Accessibility of Records

6.01 Company shall maintain the fiscal records and supporting documentation for expenditures of funds associated with this Agreement. Company shall retain such records, and any supporting documentation for the greater of: (1) December 31, 2021, or five years from the termination of this Agreement per Section 5.01(b) (the “**Record Retention Date**”); or (2) the period required in Section 6.02 below.

6.02 Company gives City, its designee, or any of their duly authorized representatives, access to and the right to examine relevant books, accounts, records, audit reports, reports, files, documents, written or photographic material, videotape and other papers, things, or personal and real property belonging to or in use by Company pertaining to the Economic Development Program Grant (the “**Records**”) upon receipt of twenty (20) business days written notice from the City. The City’s access to Company’s books and records will be limited to information needed to verify that Company is and has been complying with the terms of this Agreement. Any information that is not required by law to be made public shall be kept confidential by City. In no event shall City’s access to Company’s Records include any access to any personal and/or medical data of any employees of Company except to confirm payroll information compliance for Job Equivalents. Company shall not be required to disclose to the City any information that by law Company is required to keep confidential. Should any good faith dispute or question arise as to the validity of the data provided, the City reserves the right to require Company to obtain an independent firm to verify the information. This certified statement by an independent firm shall be provided at the sole cost of Company; provided, however, the cost to Company shall not exceed \$6,000.00. The rights to access the Records shall terminate five (5) years after the termination or expiration of this Agreement. Failure to provide reasonable access to the Records to authorized City representatives shall give the City the right to suspend or terminate this Agreement as provided for in Section 5 above, or any portion thereof, for reason of default. All Records shall be retained by Company for a period of five (5) years after all performance requirements are achieved for audit purposes until such audits or other administrative, civil or criminal matters including, but not limited to, investigations, lawsuits, administrative inquires and open record requests are completed; provided, however, if the timeframe to retain the records shall extend beyond the Record Retention Date, City shall notify Company in writing that the Records must be retained beyond the Record Retention Date. Company agrees to maintain the Records in an accessible location either at the Real Property or at the Company’s headquarters.

Article VII Assignment

7.01 **Assignment.** 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 wholly owned affiliates, or (b) to any person or

entity that directly or indirectly acquires, through merger, sale of stock, purchase or otherwise, all or more than ninety (90) percent of the assets of the Company as long as the Company gives sixty (60) days prior written notice to the City and the assignee executes an agreement with the City to be bound to all the terms and conditions of this Agreement and be responsible for any default(s) that occurred prior to or after the assignment.

For any assignment not covered by (a) or (b) above, the Company must obtain the prior approval of the City through its City Manager and the assignee must agree to be bound to all the terms and conditions of this Agreement and to accept all liability for any default that occurred prior to and/or after the assignment.

Any assignment agreement must be furnished in a form acceptable to the City and be provided at least thirty days prior to the effective assignment date. City agrees to notify the potential assignee of any known default, but such notification shall not excuse defaults that are not yet known to the City.

Article VIII Miscellaneous

8.01 **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.

8.01.1 **Notice of Bankruptcy.** In the event Company files for bankruptcy, whether involuntarily or voluntary, Company shall provide written notice to the City within ten (10) business days of such event.

8.02 **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.

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

If intended for the City:
City of Plano, Texas
Attention:
City Manager
P.O. Box 860358
Plano, TX 75086-0358

Address for overnight or personal delivery:

City of Plano, Texas
Attention:
Finance Director
1520 Avenue K
Suite 370
Plano, Texas 75074

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

Address for overnight or personal delivery:
City of Plano, Texas
Attention:
City Attorney
1520 Avenue K
Suite 340
Plano, Texas 75074

If intended for the Company:
Sears Holdings Management Corporation
3333 Beverly Road
Dept. 824RE
Hoffman Estates, Illinois 60179
Attn: Vice President, Real Estate

With a copy to:
Sears Holdings Management Corporation
3333 Beverly Road
Dept. 824RE
Hoffman Estates, Illinois 60179
Attn: Vice President, Real Estate Law and Asset Management

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

8.05 **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of Texas, without giving effect to any conflicts of law rule or principle

that might result in the application of the laws of another jurisdiction. Venue for any action concerning this Agreement, the transactions contemplated hereby or the liabilities or obligations imposed hereunder shall be in the State District Court of Collin County, Texas.

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

8.07 **Severability.** 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.

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

8.09. **Authorized to Bind.** The persons who execute their signatures to this Agreement represent and agree that they are authorized to sign and bind their respective parties to all of the terms and conditions contained herein.

8.10 **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.

EXECUTED on this _____ day of _____, 20__.

ATTEST:

CITY OF PLANO, TEXAS, a home rule
municipal corporation

Diane Zucco, CITY SECRETARY

By: _____
Bruce D. Glasscock, CITY MANAGER

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

Signature Page to Economic Development
Incentive Agreement

ATTEST:

Sears Holdings Management Corporation, a
Delaware Corporation

Name: _____
Title: _____

By: _____
Name: _____
Title: _____
(must be signed by CEO or CFO)

EXHIBIT "A"

INITIAL CERTIFICATE OF COMPLIANCE

Real Property: Plano Corporate Center, Suite 201
2301 West Plano Parkway
Plano, Texas 75075

Please select one of the options below before signing and returning the certification:

_____ a. I hereby certify that Sears Holdings Management Corporation has occupied 20,000 square feet of commercial space and retained, transferred or added at least 77 Job Equivalent positions at the Real Property by December 31, 2011 and is in compliance with the Agreement and is entitled to receive payment in accordance with Section 4.02 (a) of that Agreement. The actual number of job equivalents is _____.

_____ b. I hereby certify that Sears Holdings Management Corporation has failed to occupy 20,000 square feet of commercial space and failed to retain, transfer or add at least 77 Job Equivalent positions at the Property by December 31, 2011 and is not in compliance with the Agreement and is not entitled to receive payment in accordance with Section 4.02 (a) of that Agreement. The actual number of job equivalents is _____.

ATTEST:

**Sears Holdings Management
Corporation, a Delaware Corporation**

By: _____
Name: _____
Title: _____
(must be signed by CEO or CFO)

_____ Date

This Certification is due by March 31, 2012.

This Certificate of Compliance should be mailed to the following address for overnight or personal delivery:

City of Plano
Attn: Finance Director
1520 Avenue K, Suite 370
Plano, Texas 75074

EXHIBIT "B"

ANNUAL CERTIFICATE OF COMPLIANCE

Real Property: Plano Corporate Center, Suite 201
2301 West Plano Parkway
Plano, Texas 75075

Please select one of the options below before signing and returning the certification:

_____ a. I hereby certify that Sears Holdings Management Corporation is in compliance with each applicable term as set forth in the Agreement and the transferred or retained number of Job Equivalents has not fallen below the number for which Sears Holdings Management Corporation has received a grant payment in accordance with the terms and conditions set out in Article IV. I further certify that as of December 31 of the prior year, the number of Job Equivalents was _____.

_____ b. I hereby certify that Sears Holdings Management Corporation is not in compliance with each applicable term as set forth in the Agreement and the transferred or retained number of Job Equivalents has fallen below the number for which Sears Holdings Management Corporation has received a grant payment in accordance with the terms and conditions set out in Article IV. I further certify that as of December 31 of the prior year, the number of Job Equivalents was _____. I further certify that the City of Plano has been refunded the appropriate amount as required by Article IV, Section 4.03 of the Agreement.

ATTEST:

Sears Holdings Management Corporation, a Delaware Corporation

By: _____

Name: _____

Title: _____

(must be signed by CEO or CFO)

NOTE:

This form is due by January 31 of each year beginning on January 31, 2013 and as long as this Agreement is in effect.

This Certificate of Compliance should be mailed to the following address for overnight or personal delivery:

City of Plano
Attn: Finance Director
1520 Avenue K, Suite 370
Plano, Texas 75074



**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:		10/10/11		
Department:		City Secretary		
Department Head		Di Zucco		
Agenda Coordinator (include phone #): Di Zucco- x7120				
CAPTION				
A Resolution of the City Council of the City of Plano, Texas affirming the appointment of a Shared Member and reaffirming the appointment of a Member to serve on the Dallas Area Rapid Transit (DART) Board of Directors; 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: 2011-12	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: Affirming appointments to the DART Board of Directors relates to the City's goal of Partnering for Community Benefit.				
SUMMARY OF ITEM				
On August 23, 2011, the DART Board of Directors approved a reapportionment plan, revising the City of Plano's pairing of a shared member to reflect the City of Farmers Branch.				
List of Supporting Documents: Resolution			Other Departments, Boards, Commissions or Agencies	



**RESOLUTION
Of the
DALLAS AREA RAPID TRANSIT BOARD**

110089

(Executive Committee)

RESOLUTION

Dallas Area Rapid Transit Reapportionment of the DART Board of Directors

WHEREAS, Section 452.577 of the Texas Transportation Code requires that the DART Board be restructured when needed because of population changes as of September 1 after the date that the census data becomes available; and

WHEREAS, data from the 2010 Census indicates a need for a such a reapportionment at this time; and

WHEREAS, the Board has deliberated this matter and in three briefing sessions and has received and considered comments from the municipalities in the DART service area which contained information about the commonality of community interests; and

WHEREAS, as required by Section 452.578, the Board has a plan for filling vacancies following the reapportionment to ensure that each municipality maintains the representation to which it is entitled.

NOW, THEREFORE, BE IT RESOLVED by the Dallas Area Rapid Transit Board of Directors that:

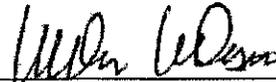
Section 1: The Board selects the following option as the apportionment of its members and that the listed Board members shall represent the municipality or municipalities indicated effective September 1, 2011:

Board Member	Term Ends	Cities
Ray Noah	2012	Addison, Highland Park, Richardson & University Park
William Velasco	2013	Dallas & Cockrell Hill
Faye Wilkins	2012	Plano & Farmers Branch
Mark C. Enoch	2012	Garland, Rowlett & Glenn Heights
Randall Chrisman	2013	Carrollton & Irving
Scott Carlson	2013	Dallas
Richard Carrizales	2012	Dallas
Jerry L. Christian	2013	Dallas
Pamela Dunlop Gates	2013	Dallas
Robert Strauss	2012	Dallas
William Tsao	2013	Dallas
Claude R. Williams Jr.	2013	Dallas
Michael T. Cheney	2012	Garland
John Danish	2013	Irving
Loretta L. Ellerbe	2012	Plano

Section 2: In addition to the possible need for reapportionment as required by Chapter 452 of the Texas Transportation Code, as amended, no later than September 1, 2016, the Board shall undertake a reapportionment analysis based on the official NCTCOG 2015 population estimates if that estimate indicates that the combined seat ratio for the municipalities Carrollton and Irving has increased from the 2010 Census data.

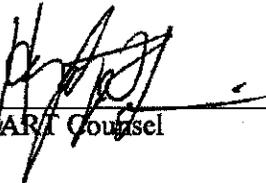


Scott Carlson
Secretary



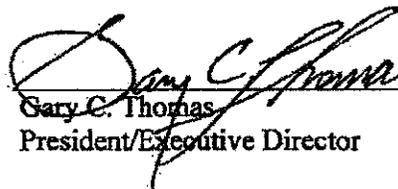
William Velasco
Chair

APPROVED AS TO FORM:



DART Counsel

ATTEST:



Gary C. Thomas
President/Executive Director

August 23, 2011

Date

A Resolution of the City Council of the City of Plano, Texas affirming the appointment of a Shared Member and reaffirming the appointment of a Member to serve on the Dallas Area Rapid Transit (DART) Board of Directors; and providing an effective date.

WHEREAS, on August 23, 2011 the DART Board of Directors approved a reapportionment plan in Resolution No. 110089 pairing the City of Plano with the City of Farmers Branch for one position on the DART Board and identifying one position that is to be appointed solely by the City of Plano; and

WHEREAS, Section 452.573 of the Texas Transportation Code requires municipalities that are entitled to make a fractional appointment to agree on the method of making the combined appointment; and

WHEREAS, such appointment must be made on or before October 31, 2011.

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

Section I. The City of Plano concurs and agrees with the City of Farmers Branch and hereby affirms the appointment of Faye Moses Wilkins to serve on the Dallas Area Rapid Transit Board of Directors for a term ending on June 30, 2012.

Section II. The City of Plano hereby reaffirms the appointment of Loretta L. Ellerbe to serve on the Dallas Area Rapid Transit Board of Directors for a term ending on June 30, 2012.

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

DULY PASSED AND APPROVED this 10th day of October, 2011.

Phil Dyer, **MAYOR**

ATTEST:

Diane Zucco, City Secretary

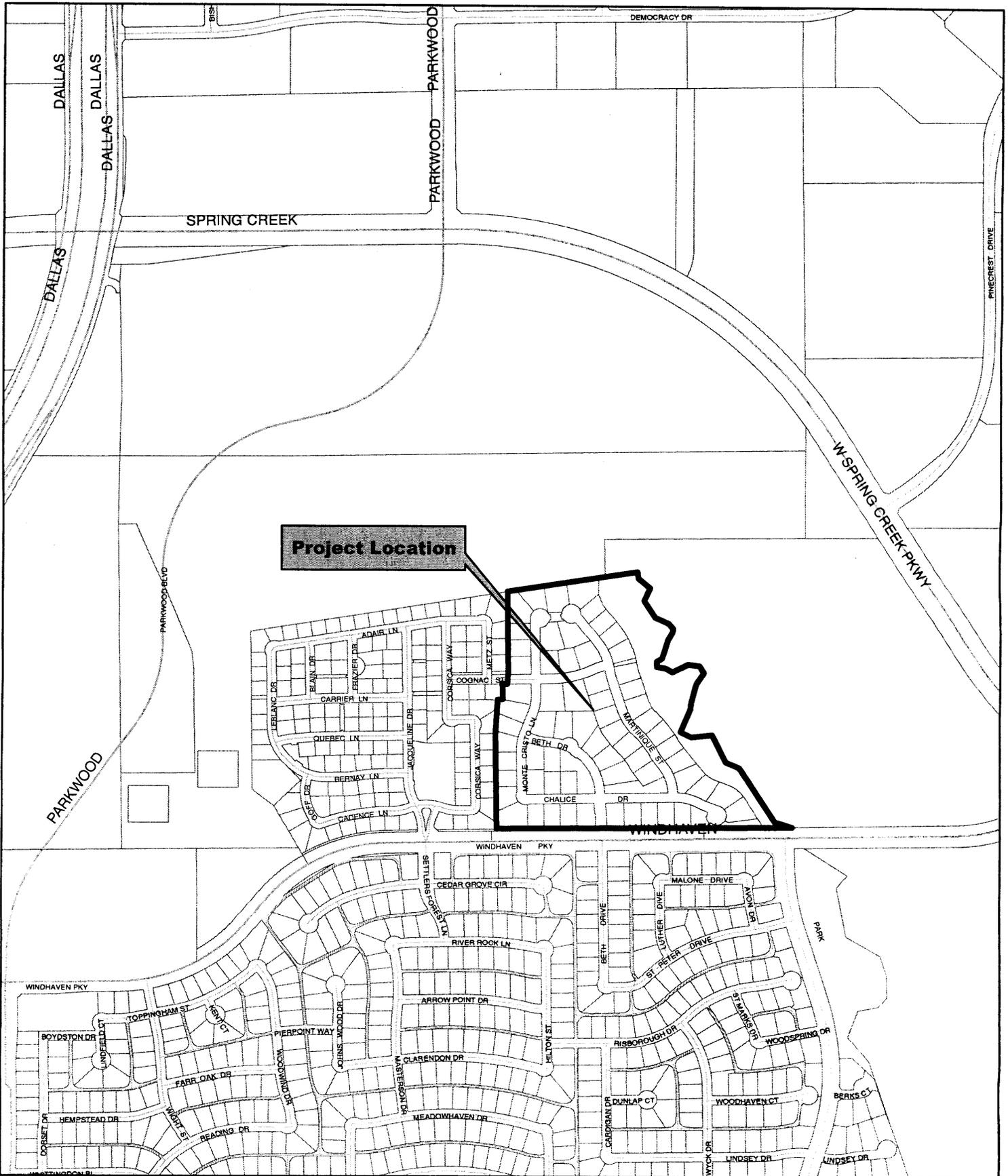
Diane C. Wetherbee, City Attorney



**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:		10/10/11			
Department:	Public Works				
Department Head	Gerald Cosgrove				
Agenda Coordinator (include phone #): Irene Pegues (X-7152) Proj. #5597-5					
CAPTION					
<p>An Ordinance of the City of Plano, Texas, abandoning all right, title and interest of the City, in and to that certain drainage easement recorded in Volume 5949, Page 46, of the Land Records of Collin County, and to that certain drainage easement recorded in Instrument No. 20081113001330600, Official Public Records of Collin County, Texas, and to that certain temporary drainage easement recorded in Collin County Clerk's File No. 2005-0085575 of the Land Records of Collin County, Texas being situated in the M. C. Vela Survey, Abstract No. 935, located north of Windhaven Parkway and west of Spring Creek Parkway, which are located within the City limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such easements to the abutting property owner, Toll Dallas TX LLC., 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 checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	2010-11	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	0	0	0
Encumbered/Expended Amount		0	0	0	0
This Item		0	0	0	0
BALANCE		0	0	0	0
FUND(S): N/A					
COMMENTS: No financial impact..					
STRATEGIC PLAN GOAL: Abandoning the drainage easements relates to the City's Goal of Financially Strong City with Service Excellence.					
SUMMARY OF ITEM					
<p>The drainage easements were dedicated to convey drainage through portions of the undeveloped property. Since the property is now being developed, storm drainage improvements will be constructed in dedicated right-of-way. Therefore, the drainage easements are not needed.</p>					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
Location Map			N/A		

Easement Abandonment



Location Map

An Ordinance of the City of Plano, Texas, abandoning all right, title and interest of the City, in and to that certain drainage easement recorded in Volume 5949, Page 46, of the Land Records of Collin County, and to that certain drainage easement recorded in Instrument No. 20081113001330600, Official Public Records of Collin County, Texas, and to that certain temporary drainage easement recorded in Collin County Clerk's File No. 2005-0085575 of the Land Records of Collin County, Texas being situated in the M. C. Vela Survey, Abstract No. 935, located north of Windhaven Parkway and west of Spring Creek Parkway, which are located within the City limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such easements to the abutting property owner, Toll Dallas TX LLC., 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 that certain drainage easement recorded in Volume 5949, Page 46, of the Land Records of Collin County, and to that certain drainage easement recorded in Instrument No. 20081113001330600, Official Public Records of Collin County, Texas, and to that certain temporary drainage easement recorded in Collin County Clerk's File No. 2005-0085575 of the Land Records of Collin County, Texas being situated in the M. C. Vela Survey, Abstract No. 935, located north of Windhaven Parkway and west of Spring Creek Parkway, (hereinafter called "Easements"), which are located within the City Limits of Plano, Collin County, Texas, and which are more particularly described in Exhibits "A-1", "A-2", and "A-3" 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" (without attached Exhibits) 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 Easements are abandoned and quitclaimed to the abutting Property Owner; and has advised that the Easements 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 Easements is hereby abandoned, and all right, title and interest of the City in and to the Easements 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 Easements. 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 Easements.

Section III. The City Council hereby finds and determines that the abandonment of the Easements 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 10th day of October, 2011.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

Exhibit A-1

LEGAL DESCRIPTION

BEING a tract of land out of the M.C. Vela Survey, Abstract Number 935, in the City of Plano, Collin County, Texas, and being a part of a called 108.9 acre tract of land described in deed to Acres of Sunshine, Ltd., recorded in Volume 4227, Page 0835 of the Deed Records of Collin County, Texas, said tract being all of a tract of land described in Drainage Easement to the City of Plano recorded in Instrument No. 20081113001330600, Official Public Records of Collin County, Texas, said tract also being part of the same tract of land described in Special Warranty Deed to Toll Dallas TX LLC, recorded in Instrument No. 20110225000208080, Land Records of Collin County, Texas and being more particularly described as follows;

COMMENCING at a point for corner at the southeast corner of said Sunshine tract and the southwest corner of a tract of land described in deed to Haggard Enterprises Limited., Ltd., recorded in Volume 2523, Page 172 of the Land Records of Collin County, Texas the same being in the north line of Windhaven Parkway (a 55' wide public right-of-way);

THENCE North 00°00'21" West, leaving the north line of said Windhaven Parkway, along the common line of said Sunshine Tract and Haggard Tract, a distance of 669.54 feet to a point for corner in the southerly line of an existing Drainage Easement as recorded in Volume 5949, Page 0046 of the Land Records of Collin County, Texas and the POINT OF BEGINNING;

THENCE leaving said common line across said 108.9 acre tract, the following courses and distances to wit:

- North 83°54'05" West, along said Drainage Easement, a distance of 111.81 feet to a point for corner;
- South 66°01'38" West, leaving said Drainage Easement, a distance of 129.71 feet to a point for corner;
- South 31°36'43" West, a distance of 228.09 feet to a point for corner at the beginning of a curve to the right;
- Southwesterly, with the curve to the right, through a central angle of 76°47'49", having a radius of 180.00 feet, and a chord bearing and distance of South 70°00'38" West, 223.61 feet, an arc distance of 241.27 feet to a point for corner and the end of the curve;
- North 00°12'46" West, a distance of 61.88 feet to a point for corner at the beginning of a curve to the right;
- Southeasterly, with the curve to the right, through a central angle of 10°45'35", having a radius of 95.00 feet, and a chord bearing and distance of South 76°00'58" East, 17.81 feet, an arc distance of 17.84 feet to a point for corner and the beginning of a reverse curve to the left;
- Northeasterly, with the curve to the left, through a central angle of 77°45'06", having a radius of 120.00 feet, and a chord bearing and distance of North 70°29'16" East, 150.63 feet, an arc distance of 162.84 feet to a point for corner and end of curve;
- North 31°36'43" East, a distance of 232.31 feet to a point for corner at the beginning of a curve to the right;
- Northeasterly, with the curve to the right, through a central angle of 17°43'53", having a radius of 180.00 feet, and a chord bearing and distance of North 40°28'40" East, 55.48 feet, an arc distance of 55.70 feet to a point for corner at the beginning of a curve to the right;
- Northwesterly, with the curve to the right, through a central angle of 23°10'19", having a radius of 235.00 feet, and a chord bearing and distance of North 55°30'06" West, 94.39 feet, an arc distance of 95.04 feet to a point for corner at the beginning of a curve to the left;
- Northwesterly, with the curve to the left, through a central angle of 46°08'13", having a radius of 165.00 feet, and a chord bearing and distance of North 66°59'03" West, 129.30 feet, an arc distance of 132.86 feet to a point for corner;
- South 89°56'51" West, a distance of 40.03 feet to a point for corner;
- North 00°03'09" West, a distance of 20.00 feet to a point for corner;
- South 89°56'51" West, a distance of 9.96 feet to a point for corner;
- North 00°04'36" West, a distance of 30.00 feet to a point for corner;
- North 89°56'51" East, a distance of 9.98 feet to a point for corner;
- North 00°03'09" West, a distance of 20.00 feet to a point for corner;
- North 89°56'51" East, a distance of 40.03 feet to a point for corner an the beginning of a curve to the right;
- Southeasterly, with the curve to the right, through a central angle of 46°08'13", having a radius of 235.00 feet, and a chord bearing and distance of South 66°59'03" East, 184.16 feet, an arc distance of 189.23 feet to a point for corner at the beginning of a reverse curve to the left;
- Southeasterly, with the curve to the left, through a central angle of 37°23'45", having a radius of 165.00 feet, and a chord bearing and distance of South 62°36'49" East, 105.79 feet, an arc distance of 107.69 feet to a point for corner;
- South 83°43'07" East, a distance of 177.06 feet to a point for corner in the aforementioned common line;

THENCE South 00°00'21" East, along said common line, a distance of 70.40 feet to the POINT OF BEGINNING and containing 1.584 acres (69,016 square feet) of land, more or less.

Basis of bearing is the east line of Avignon Windhaven, Phase I, as recorded in Cabinet R, Slide 204, Map Records of Collin County, Texas, said bearing being South 00°04'36" East.

Dana Brown
Registered Professional
Land Surveyor No. 5336
Kimley-Horn and Associates, Inc.
12700 Park Central Drive, Suite 1800
Dallas, Texas 75251-1516



**VARIABLE WIDTH
DRAINAGE EASEMENT
ABANDONMENT**
M.C. VELA SURVEY, ABSTRACT NO. 935
CITY OF PLANO, COLLIN COUNTY, TEXAS

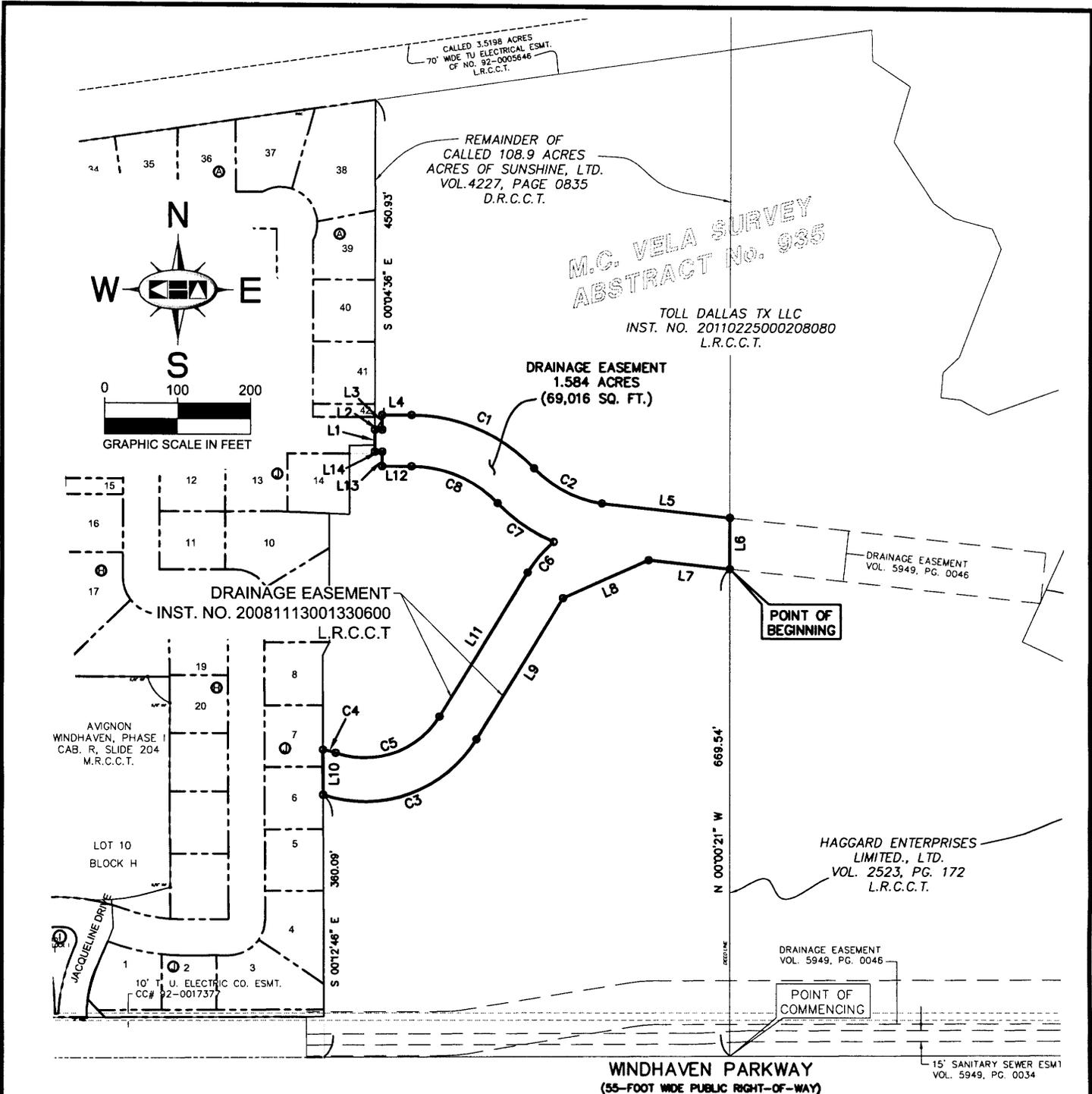


**Kimley-Horn
and Associates, Inc.**

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	Project No.	Sheet No.
1" = ###'	SRD	DAB	Feb. 2011	064041001	1 OF 3



Basis of bearing is the east line of Avignon Windhaven, Phase I, as recorded in Cabinet R, Slide 204, Map Records of Collin County, Texas, said bearing being South 00°04'36" East.

**VARIABLE WIDTH
DRAINAGE EASEMENT
ABANDONMENT**
M.C. VELA SURVEY, ABSTRACT NO. 935
CITY OF PLANO, COLLIN COUNTY, TEXAS

		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 1" = 200'	Drawn by SRD	Checked by DAB	Date Feb. 2011	Project No. 064041001	Sheet No. 2 OF 3

LINE TABLE		
LINE	LENGTH	BEARING
L1	30.00	N00°04'36"W
L2	9.98	N89°56'51"E
L3	20.00	N00°03'09"W
L4	40.03	N89°56'51"E
L5	177.06	S83°43'07"E
L6	70.40	S00°00'21"E
L7	111.81	N83°54'05"W
L8	129.71	S66°01'38"W
L9	228.09	S31°36'43"W
L10	61.88	N00°12'46"W
L11	232.31	N31°36'43"E
L12	40.03	S89°56'51"W
L13	20.00	N00°03'09"W
L14	9.96	S89°56'51"W

CURVE TABLE					
CURVE	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD
C1	46°08'13"	235.00	189.23	S66°59'03"E	184.16
C2	37°23'45"	165.00	107.69	S62°36'49"E	105.79
C3	76°47'49"	180.00	241.27	S70°00'38"W	223.61
C4	10°45'35"	95.00	17.84	S76°00'58"E	17.81
C5	77°45'06"	120.00	162.84	N70°29'16"E	150.63
C6	17°43'53"	180.00	55.70	N40°28'40"E	55.48
C7	23°10'19"	235.00	95.04	N55°30'06"W	94.39
C8	46°08'13"	165.00	132.86	N66°59'03"W	129.30

VARIABLE WIDTH DRAINAGE EASEMENT ABANDONMENT

M.C. VELA SURVEY, ABSTRACT NO. 935
CITY OF PLANO, COLLIN COUNTY, TEXAS



**Kimley-Horn
and Associates, Inc.**

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Dallas, Texas 75251

Tel. No. (972) 770-1300
Fax No. (972) 239-3820

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = ###'	SRD	DAB	Feb. 2011	064041001	3 OF 3

LEGAL DESCRIPTION

BEING a tract of land out of the M.C. Vela Survey, Abstract Number 935, in the City of Plano, Collin County, Texas, and being a part of a tract of land described in Special Warranty Deed to Haggard Enterprises Limited., Ltd., recorded in Volume 2523, Page 172 of the Land Records of Collin County, Texas, said tract also being all of a tract of land described in Temporary Drainage Easement to the City of Plano recorded in Volume 5949, Page 46, Land Records of Collin County, Texas, said tract also being part of the same tract of land described in Special Warranty Deed to Toll Dallas TX LLC, recorded in Instrument No. 20110225000208080, Land Records of Collin County, Texas and being more particularly described as follows;

COMMENCING at a point for corner at the southeast corner of said Haggard Enterprises Limited., Ltd., tract and the southwest corner of a tract of land described in deed to Acres of Sunshine, Ltd., recorded in Volume 4227, Page 0835 of the Deed Records of Collin County, Texas, the same being in the north line of Windhaven Parkway (a 55' wide public right-of-way);

THENCE North 00°00'21" West, leaving the north line of said Windhaven Parkway, along the common line of said Sunshine Tract and Haggard Tract, a distance of 669.54 feet to a point for corner in the southerly line of an existing Drainage Easement as recorded in Volume 5949, Page 0046 of the Land Records of Collin County, Texas and the **POINT OF BEGINNING**;

THENCE with said common line, North 00°00'21" West, a distance of 70.40 feet to a point for corner;

THENCE departing said common line, South 83°54'05" East, a distance of 437.79 feet to a point for corner;

THENCE South 06°05'55" West, a distance of 70.00 feet to a point for corner;

THENCE North 83°54'05" West, a distance of 430.30 feet to the **POINT OF BEGINNING** and containing 0.698 acres (30,383 square feet) of land, more or less.

Basis of bearing is the east line of Avignon Windhaven, Phase I, as recorded in Cabinet R, Slide 204, Map Records of Collin County, Texas, said bearing being South 00°04'36" East.

Dana Brown
Registered Professional
Land Surveyor No. 5336
Kimley-Horn and Associates, Inc.
12700 Park Central Drive, Suite 1800
Dallas, Texas 75251-1516



**VARIABLE WIDTH
DRAINAGE EASEMENT
ABANDONMENT**
M.C. VELA SURVEY, ABSTRACT NO. 935
CITY OF PLANO, COLLIN COUNTY, TEXAS

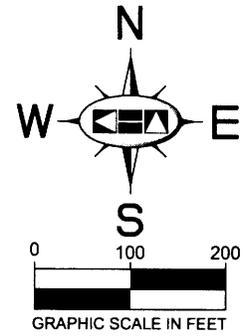
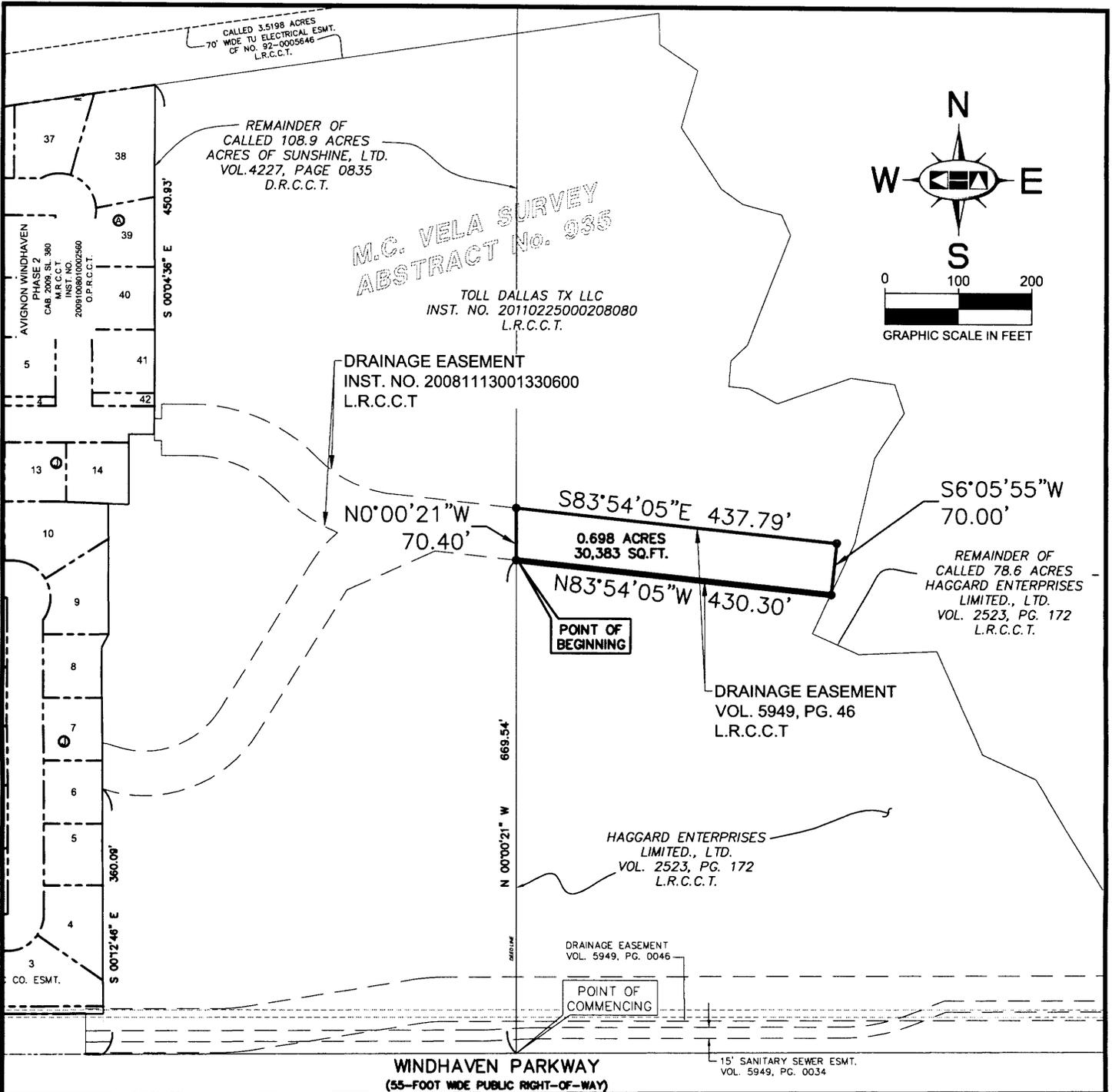


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Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = ###'	SRD	DAB	Feb. 2011	064041001	1 OF 2



Basis of bearing is the east line of Avignon Windhaven, Phase I, as recorded in Cabinet R, Slide 204, Map Records of Collin County, Texas, said bearing being South 00°04'36" East.

**VARIABLE WIDTH
DRAINAGE EASEMENT
ABANDONMENT**
M.C. VELA SURVEY, ABSTRACT NO. 935
CITY OF PLANO, COLLIN COUNTY, TEXAS

		Kimley-Horn and Associates, Inc.			
		12700 Park Central Drive, Suite 1800 Dallas, Texas 75251			
12700 Park Central Drive, Suite 1800 Dallas, Texas 75251		Tel. No. (972) 770-1300 Fax No. (972) 239-3820			
Scale 1" = 200'	Drawn by SRD	Checked by DAB	Date Feb. 2011	Project No. 064041001	Sheet No. 2 OF 2

LEGAL DESCRIPTION

BEING a tract of land situated in the M. C. Vela Survey, Abstract No. 935, in the City of Plano, Collin County, Texas, being all of a 60-foot wide Temporary Drainage Easement recorded in Collin County Clerk's File No. 2005-0085575 of the Land Records of Collin County, and being a part of a tract of land described in deed to Haggard Enterprises, Limited, Ltd., recorded in Volume 2523, Page 172 of the Land Records of Collin County, Texas and part of a tract of land described in deed to Acres of Sunshine, Ltd. recorded in Volume 4227, Page 835, Land Records of Collin County, Texas, said tract also being part of the same tract of land described in Special Warranty Deed to Toll Dallas TX LLC, recorded in Instrument No. 20110225000208080, Land Records of Collin County, Texas and being more particularly described as follows:

COMMENCING at a monument found in the northerly right-of-way line of Windhaven Parkway (a 55-foot wide right-of-way), dedicated to the City of Plano, according to the plat thereof recorded in Cabinet N, Page 582, of the Plat Records of Collin County, Texas for the northerly common corner of CASTLEMERE PHASE VI, an addition to the City of Plano, Collin County, Texas, according to the plat thereof recorded in Cabinet K, Page 436 of the Plat Records of Collin County, Texas, and WINDHAVEN SECTION FIVE, an addition to the City of Plano, Collin County, Texas, according to the plat thereof recorded in Cabinet K, Page 36 of the Plat Records of Collin County, Texas; Thence leaving the common corner, North 36°11'12" East, a distance of 51.33 feet to the **POINT OF BEGINNING**;

THENCE with the south line of said Temporary Drainage Easement the following courses and distances:

South 80°44'21" West, a distance of 233.57 feet to a point for the beginning of a curve to the right; Southwesterly, with said curve to the right, through a central angle of 09°02'55", having a radius of 230.00, a chord bearing and distance of South 85°15'48" West, 36.29 feet, an arc distance of 36.32 feet to a point for corner in the south line of said Acres of Sunshine Ltd., tract;

THENCE with said south line, South 89°47'16" West, a distance of 186.73 feet to a point for corner;

THENCE departing said south line, North 00°12'44" West, a distance of 60.00 feet to a point for corner;

THENCE with the north line of said Temporary Drainage Easement, the following courses and distances:

North 89°47'16" East, a distance of 186.73 feet to a point for the beginning of a curve to the left; Northeasterly, with said curve to the left, through a central angle of 09°02'55", having a radius of 170.00, a chord bearing and distance of North 85°15'48" East, 26.82 feet, an arc distance of 26.85 feet to a point for corner; North 80°44'21" East, a distance of 233.57 feet to a point for the beginning of a curve to the right; Northeasterly, with said curve to the right, through a central angle of 09°02'55", having a radius of 230.00, a chord bearing and distance of North 85°15'48" East, 36.29 feet, an arc distance of 36.32 feet to a point for corner;; North 89°47'16" East, a distance of 959.66 feet to a point for corner;

THENCE with the east line of said Temporary Drainage Easement, South 00°12'44" East, a distance of 60.00 feet to a point for corner;

THENCE with the south line of said Temporary Drainage Easement, the following courses and distances:

South 89°47'16" West, a distance of 959.66 feet to a point the beginning of a curve to the left; Southwesterly, with said curve to the left, through a central angle of 09°02'55", having a radius of 170.00, a chord bearing and distance of South 85°15'48" West, a distance of 26.82, an arc distance of 26.85 feet to the **POINT OF BEGINNING** and containing 1.988 acres (86,588 sq. ft.) of land, more or less.

**ABANDONMENT OF 60-FOOT
TEMPORARY DRAINAGE EASEMENT
M.C. VELA SURVEY, ABSTRACT NO. 935
CITY OF PLANO, COLLIN COUNTY, TEXAS**

Dana Brown
Registered Professional
Land Surveyor No. 5336
Kimley-Horn and Associates, Inc.
12700 Park Central Drive, Suite 1800
Dallas, Texas 75251-1516



**Kimley-Horn
and Associates, Inc.**
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Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
N/A	SRD	DAB	Feb. 2011	064041001	1 OF 3

REMAINDER OF
CALLED 78.6 ACRES
HAGGARD ENTERPRISES
LIMITED., LTD.
VOL. 2523, PG. 172
L.R.C.C.T.

TOLL DALLAS TX LLC
INST. NO. 20110225000208080
L.R.C.C.T.

HAGGARD ENTERPRISES
LIMITED, LTD.
VOL. 2523, PG. 172
L.R.C.C.T.

60' TEMPORARY
DRAINAGE EASEMENT
C.C.C.F. NO. 2005-0085575

SANITARY SEWER EASEMENT
C.C.C.F. NO. 2001-0041155

DRAINAGE EASEMENT
C.C.C.F. NO. 2001-0041152

N89°47'16"E 959.66'

10' TU ELECTRIC ESMT.
C.C.C.F. NO. 92-0017377
L.R.C.C.T.

S00°12'44"E
60.00'

S89°47'16"W 959.66'

WINDHAVEN PARKWAY
(55' WIDE PUBLIC RIGHT-OF-WAY)

M.C. VELA SURVEY
ABSTRACT NO. 935
R. BENFIELD SURVEY
ABSTRACT NO. 99

WINDHAVEN PARKWAY
(55' WIDE PUBLIC RIGHT-OF-WAY)

CASTLEMERE PHASE VI
CAB. K, PG. 436
P.R.C.C.T.

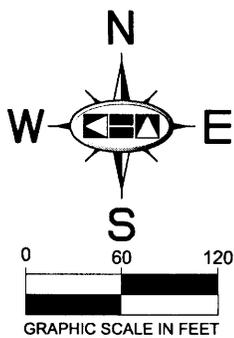
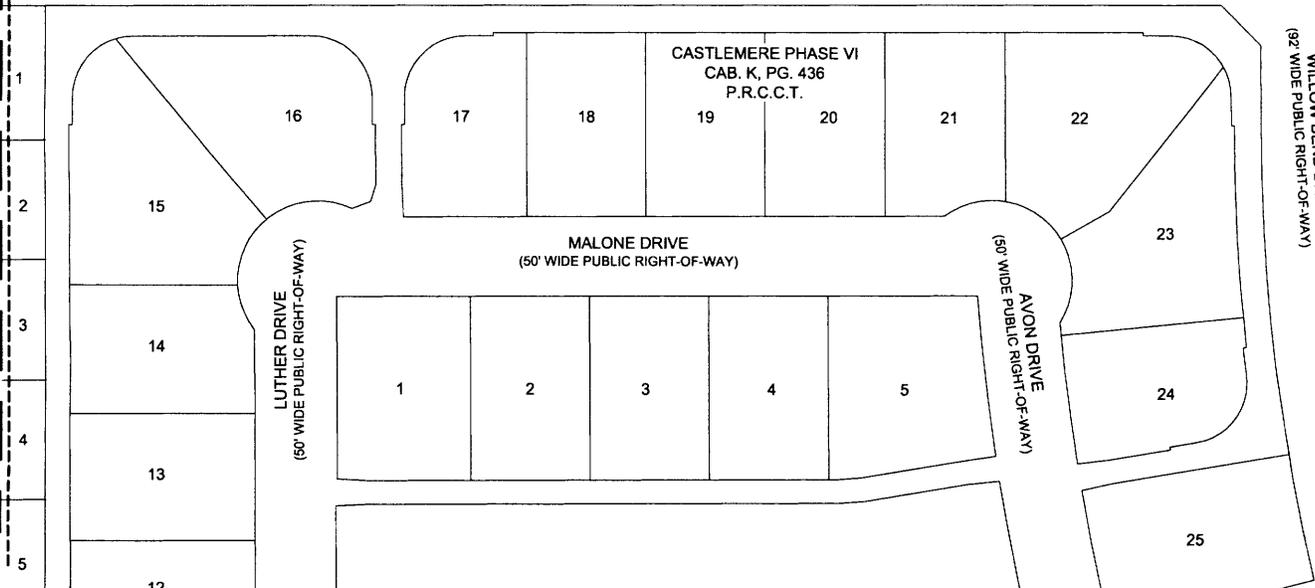
WILLOW BEND DRIVE
(92' WIDE PUBLIC RIGHT-OF-WAY)

MALONE DRIVE
(50' WIDE PUBLIC RIGHT-OF-WAY)

LUTHER DRIVE
(50' WIDE PUBLIC RIGHT-OF-WAY)

AVON DRIVE
(50' WIDE PUBLIC RIGHT-OF-WAY)

MATCHLINE
(SHEET 2)



**ABANDONMENT OF 60-FOOT
TEMPORARY DRAINAGE EASEMENT
M.C. VELA SURVEY, ABSTRACT NO. 935
CITY OF PLANO, COLLIN COUNTY, TEXAS**



**Kimley-Horn
and Associates, Inc.**

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Dallas, Texas 75251

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Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 120'	SRD	DAB	Feb. 2011	064041001	3 OF 3

EXHIBIT "B"

PETITION FOR ABANDONMENT

[For Easement Abandonment]

We, the undersigned, (hereinafter "Owners"), being all of the owners of real property abutting Toll Dallas TX, LLC (hereinafter called "Easement"), more particularly described by metes and bounds in the field note description attached hereto and incorporated herein as **Exhibit "A-1", Exhibit "A-2" and Exhibit "A-3"** 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:
There is no longer a need for temporary drainage since we are installing permanent structures to accommodate design flows, and aligning these structures within dedicated right of way.
2. The following public interest will be served as a result of the abandonment:
By creating permanent structures, the public will receive a more manageable storm system.
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:

OWNED ENTIRELY BY TOLL DALLAS TX LLC.

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". **(NA)**
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". **(NA)**

[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.

Robert G. Paul
Typed Name of Owner

2557 SW Grapevine Pkwy #100
Address

Grapevine, TX 76051
City, State and Zip

Dated: 9-16-11


Signature of Owner

Contact Person for Property Owners:

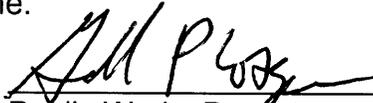
Name: Robert G. Paul

Phone No: 817-329-8770

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 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:		10/10/11		
Department:		Fire		
Department Head		Hugo R. Esparza, Fire Chief		
Agenda Coordinator (include phone #): Cynthia Morgan, x7164				
CAPTION				
An Ordinance of the City of Plano, Texas, amending Section 8-3 of Article I of Chapter 8, Fire Prevention and Protection, of the Code of Ordinances of the City of Plano, Texas, to delete provisions involving the City's policy to respond to emergency ambulance calls and the boundaries for transporting patients for medical care, and providing a repealer clause, a savings 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: 11/12	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: Amending the City's Code of Ordinances relates to the City's Goal of Partnering for Community Benefit and Financially Strong City with Service Excellence.				
SUMMARY OF ITEM				
The Fire Department recommends the deletion of Subsection 8-3(a) concerning the Department's policy of responding to emergency ambulance calls only as it is superfluous and unnecessary to include in the Ordinance, and Subsection 8-3(b) as the boundaries as stated are outdated.				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Memo to LaShon Ross; Ordinance				



MEMORANDUM

From the Office of the Fire Chief

Date: September 29, 2011
To: LaShon Ross, Deputy City Manager
From: Hugo Esparza, Fire Chief 
Subject: Recommended Change to City of Plano Ordinance Sections 8-3 (a) & (b)

A recent review by the Plano Fire Department (PFD) and the City's Legal Department of City of Plano Ordinance Section 8-3(b) entitled City Ambulance Service revealed that this provision is outdated. There have been many changes in the PFD transport protocols due to more hospitals being established in the surrounding areas. The current ordinance states: "... it shall be the policy of the city fire department to allow transport only to a hospital of choice within the geographic boundaries of Highway 121 to US 75 to Highway 380 (North), Highway 78 and Garland Road (East), Northwest Highway (South), and Interstate 35 to Old Denton Road (East)."

Under Rule 197.3, Texas Administrative Code, the EMS Medical Director is responsible for and has discretion in determining and establishing the protocols for the transport of patients within a municipality. It is within the medical director's scope of authority to develop, implement, and revise the transport protocols as necessary. Under the direction of Dr. Mark Gamber, EMS Medical Director, the Plano Fire Department has established protocols that determine where to transport patients in a wide range of emergency and medical situations.

Therefore, the Plano Fire Department recommends deleting Subsection (b) of City Ordinance Section 8-3, which would remove geographic boundaries as a consideration for determining ambulance transport destination. This would give the PFD and EMS Medical Director the latitude and flexibility to periodically revise the Department's patient transport guidelines to reflect the addition or reduction of medical/surgical services available at medical facilities in the Plano area

Secondly, the Fire Department recommends that current Subsection (a) under Section 8-3 also be removed. It has been determined that the policy for the Fire Department to respond to emergency ambulance calls only is more appropriately placed within an internal Fire Department policy and not a City Ordinance.

Please feel free to contact me if you have any questions or need further information.

An Ordinance of the City of Plano, Texas, amending Section 8-3 of Article I of Chapter 8, Fire Prevention and Protection, of the Code of Ordinances of the City of Plano, Texas, to delete provisions involving the City's policy to respond to emergency ambulance calls and the boundaries for transporting patients for medical care, and providing a repealer clause, a savings clause, a severability clause, and an effective date.

WHEREAS, on September 22, 2008, the City Council of the City of Plano duly passed Ordinance No. 2008-9-33 establishing that the Fire Department must respond to emergency ambulance calls and must transport patients to hospitals within certain geographic areas for emergency care and such Ordinance was codified as Section 8-3 of Chapter 8, Fire Prevention and Protection, of the Code of Ordinances of the City of Plano; and

WHEREAS, staff recommends deleting Section 8-3(a) of Chapter 8 involving the Department's policy to respond to emergency ambulance calls because it is superfluous and unnecessary to include in an Ordinance; and

WHEREAS, staff also recommends deleting Section 8-3(b) of Chapter 8 which provides the geographic areas for transporting patients as it is no longer valid because new facilities have developed outside the specified geographic areas, and, depending on the specialty of care that is required, patients may be transported to the new facilities; and

WHEREAS, the City Council of the City of Plano, after consideration of the recommendations of staff and all matters attendant and related thereto, is of the opinion that the recommended deletions are necessary and should be approved and adopted.

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

Section I. Section 8-3 of Article I, Chapter 8, Fire Prevention and Protection, of the City of Plano Code of Ordinances is hereby amended to read as follows:

"Sec. 8-3. - City Ambulance Service.

- (a) The following user fees are hereby approved, adopted, and levied and shall be paid by those individuals and/or organizations making use of the City's Fire Department ambulance service:

The basic fee for medical care rendered is six hundred dollars (\$600), plus a fifty dollar (\$50) medication administration fee per City resident per incident and seven hundred dollars (\$700), plus a fifty dollar (\$50) medication administration fee per non-resident per incident, plus, in both cases, a transportation fee of ten dollars (\$10) per mile from the incident location to the medical facility.

- (b) The following user fees are hereby approved, adopted, and levied and shall be paid by those individuals and/or organizations making use of the City's Fire Department ambulance service for EMS standby at special events:

The fee schedule for EMS special events will be as follows:

1. EMS Cart + two (2) Paramedics @ \$90 per hour
2. EMS Cart + Bike Medics + four (4) Paramedics @ \$171 per hour

3. MICU* + two (2) Paramedics @ \$275 per hour
4. MICU* + EMS Cart + four (4) Paramedics @ \$365 per hour
5. MICU* + EMS Cart + Bike Medics + six (6) Paramedics @ \$446 per hour

*The City's Fire Department Mobile Intensive Care Units (MICU) are subject to vehicle availability. Patients transported to the hospital will be billed at the established rate.

The user fees established above shall be collected by the Accounting Department, and upon receipt thereof, shall be credited to the general fund as an offset to the cost of providing the Fire Department service for which the fee is being charged.”

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. 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 provision of any Ordinances at the time of passage of this Ordinance.

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 unconstitutionality of any other portion of this Ordinance.

Section V. This Ordinance shall become effective immediately upon its passage and publication as provided by law.

DULY PASSED AND APPROVED this the 10th day of October, 2011.

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:		10/10/11		
Department:		Finance		
Department Head		Denise Tacke		
Agenda Coordinator (include phone #): Katherine Crumbley - x7479				
CAPTION				
<p>An Ordinance providing for the issuance of City of Plano, Texas, General Obligation Refunding and Improvement Bonds, Series 2011 in an amount not to exceed \$53,000,000; levying a tax in payment thereof; approving the Official Statement; approving execution of a purchase contract and escrow agreement; and enacting other provisions relating thereto; and providing an effective date.</p>				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input checked="" type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	11-12	Prior Year (CIP Only)	Current Year	Future Years
		TOTALS		
Budget	0	53,000,000*	0	53,000,000*
Encumbered/Expended Amount		0	0	0
This Item	0	0	0	0
BALANCE	0	53,000,000*	0	53,000,000*
FUND(S): CAPITAL IMPROVEMENT PROJECTS				
COMMENTS: STRATEGIC PLAN GOAL: Issuance of Bonds relates to the City's Goal of Financially Strong City with Service Excellence.				
SUMMARY OF ITEM				
<p>Proceeds from the sale of the Bonds will be used for (i) refunding certain outstanding obligations of the City to achieve a debt service savings; (ii) various permanent public improvements and public purposes, including a recreation center, equipment, and street improvements, and (iii) payment of professional services of attorneys, financial advisors and other professionals in connection with the projects and the issuance of the Bonds.</p>				
* Preliminary, subject to change				
List of Supporting Documents: Bond Ordinance			Other Departments, Boards, Commissions or Agencies	

BOND ORDINANCE

CITY OF PLANO, TEXAS
GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS
SERIES 2011

Adopted: October 10, 2011

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An Ordinance providing for the issuance of City of Plano, Texas, General Obligation Refunding and Improvement Bonds, Series 2011 in an amount not to exceed \$53,000,000; levying a tax in payment thereof; approving the Official Statement; approving execution of a purchase contract and escrow agreement; and enacting other provisions relating thereto; and providing an effective date.

WHEREAS, a portion of the bonds hereinafter authorized were duly and favorably voted, as required by the Constitution and laws of the State of Texas, at elections held in the City of Plano, Texas (the “City”), on May 7, 2005 and May 9, 2009;

WHEREAS, at said elections and an election held on May 2, 1998, the following are among the purposes and amounts of the bonds which were authorized, reflecting any amount previously issued pursuant to each voted authorization, the amount therefrom being authorized pursuant to this Ordinance, and the balance that remains unissued after the issuance of the bonds herein authorized, to-wit:

<u>Purpose</u>	<u>Amount Voted</u>	<u>Amount Previously Issued</u>	<u>Amount Being Issued</u>	<u>Unissued Balance</u>
<u>1998 Election</u>				
Creative and Performing Arts Facilities	\$ 19,402,000	\$ 5,210,000	\$ -0-	\$ 14,192,000
1998 Subtotal	\$ 19,402,000	\$ 5,210,000	\$ -0-	\$ 14,192,000
<u>2005 Election</u>				
Parks & Recreation Facilities	\$ 57,775,000	\$ 55,795,000	\$ 1,980,000	\$ -0-
2005 Subtotal	\$ 57,775,000	\$ 55,795,000	\$ 1,980,000	\$ -0-
<u>2009 Election</u>				
Technology	\$ 8,000,000	\$ 1,000,000	\$ 7,000,000	\$ -0-
Street Improvements	\$ 34,754,500	\$ 2,500,000	\$ 8,000,000	\$ 24,254,500
Library Improvements	\$ 1,750,000	\$ -0-	\$ 400,000	\$ 1,350,000
Parks & Recreation Facilities	\$ 48,650,000	\$ -0-	\$ 5,845,000	\$ 42,805,000
Recreation Centers	\$ 24,100,000	\$ 1,990,000	\$ 870,000	\$ 21,240,000
Public Safety	\$ 11,368,000	\$ 525,000	\$ 2,900,000	\$ 7,943,000
2009 Subtotal	\$128,622,500	\$ 6,015,000	\$ 25,015,000	\$ 97,592,500
Total	\$205,799,500	\$ 67,020,000 ¹	\$ 26,995,000 ²	\$111,784,500

WHEREAS, there are presently outstanding certain obligations of the City, described on Schedule I attached hereto (collectively, the “Refunded Obligation Candidates”);

WHEREAS, the City now desires to refund all or a portion of such Refunded Obligation Candidates (such refunded obligations to be hereinafter referred to as the “Refunded Obligations”);

¹ Includes premium received with respect to general obligation bonds previously issued by the City allocated on a pro rata basis among all projects for which such bonds were issued.

² Amount may be reduced or reallocated among the projects as determined by the Authorized Officer and set forth in the Pricing Certificate and may include premium received in connection with the sale of the Bonds that is required to be allocated against voted authorization.

WHEREAS, Chapter 1207, Texas Government Code, as amended (“Chapter 1207”) authorizes the City to issue refunding bonds and to deposit the proceeds from the sale thereof, and any other available funds or resources, directly with the paying agent for any of the Refunded Obligations, and such deposit, if made before such payment dates, shall constitute the making of firm banking and financial arrangements for the discharge and final payment of the Refunded Obligations;

WHEREAS, Chapter 1207 further authorizes the City to enter into an escrow agreement with the paying agent for any of the Refunded Obligations with respect to the safekeeping, investment, reinvestment, administration and disposition of any such deposit;

WHEREAS, The Bank of New York Mellon Trust Company, National Association, is the paying agent for the Refunded Obligations and the Escrow Agreement hereinafter authorized constitutes an escrow agreement of the kind authorized and permitted by said Chapter 1207;

WHEREAS, the City Council hereby finds and determines that the refunding contemplated in this Ordinance will benefit the City by providing a present value savings of debt service payable by the City in an amount to be certified in the Pricing Certificate, and that such benefit is sufficient consideration for the refunding of the Refunded Obligations;

WHEREAS, the City Council has found and determined that it is necessary and in the best interest of the City and its citizens that it authorize by this Ordinance the issuance and delivery of an amount of bonds in or more series at this time, the proceeds of which will be sufficient to (i) pay costs of issuance of such bonds, (ii) fund the amounts listed in the table above under “Amount Being Issued” for the related projects and (iii) refund the Refunded Obligations;

WHEREAS, the City Council desires to delegate, pursuant to Chapters 1207 and 1371, Texas Government Code, as amended, and the parameters of this Ordinance, to the Authorized Officer, the authority to approve the amount, the interest rate, the number of series, the price and terms of the Bonds authorized hereby and to otherwise take such actions as are necessary and appropriate to effect the sale of the Bonds and to select the specific maturities or series of Refunded Obligation Candidates to be refunded;

WHEREAS, the meeting at which this Ordinance is considered is open to the public as required by law, and public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code, as amended; therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO:

ARTICLE I

DEFINITIONS AND OTHER PRELIMINARY MATTERS

Section 1.01. Definitions.

Unless otherwise expressly provided or unless the context clearly requires otherwise in this Ordinance, the following terms shall have the meanings specified below:

“Authorized Officer” means each of the City Manager and the Director of Finance.

“Bond” means any of the Bonds.

“Bond Date” means the date designated as the initial date of the Bonds by Section 3.02(a) of this Ordinance.

“Bond Purchase Contract” means the bond purchase contract described in Section 7.01(b) of this Ordinance.

“Bonds” means the City’s bonds authorized to be issued by Section 3.01 of this Ordinance and designated as “City of Plano, Texas, General Obligation Refunding and Improvement Bonds, Series 2011.”

“City” means the City of Plano, Texas.

“Closing Date” means the date of the initial delivery of and payment for the Bonds.

“Designated Payment/Transfer Office” means (i) with respect to the initial Paying Agent/Registrar named in this Ordinance, the Designated Payment/Transfer Office as designated in the Paying Agent/Registrar Agreement, or at such other location designated by the Paying Agent/Registrar and (ii) with respect to any successor Paying Agent/Registrar, the office of such successor designated and located as may be agreed upon by the City and such successor.

“DTC” means The Depository Trust Company of New York, New York, or any successor securities depository.

“DTC Participant” means brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

“EMMA” means the Electronic Municipal Market Access System.

“Escrow Agent” means The Bank of New York Mellon Trust Company, National Association, as escrow agent under the terms of the Escrow Agreement.

“Escrow Agreement” means that certain Escrow Agreement between the City and the Escrow Agent pertaining to the defeasance of the Refunded Obligations.

“Escrow Fund” means the fund by that name established in the Escrow Agreement.

“Event of Default” means any event of default as defined in Section 10.01 of this Ordinance.

“Initial Bond” means the initial bond or bonds authorized by Section 3.04 of this Ordinance.

“Interest and Sinking Fund” means the interest and sinking fund or funds established by Section 2.02 of this Ordinance.

“Interest Payment Date” means the date or dates on which interest on the Bonds is scheduled to be paid until their respective dates of maturity or prior redemption, such dates being March 1 and September 1 of each year, commencing on the date set forth in the Pricing Certificate.

“MSRB” means the Municipal Securities Rulemaking Board.

“Owner” means the person who is the registered owner of a Bond or Bonds, as shown in the Register.

“Paying Agent/Registrar” means initially The Bank of New York Mellon Trust Company, National Association, or any successor thereto as provided in this Ordinance.

“Pricing Certificate” means a certificate or certificates to be signed by the Authorized Officer.

“Record Date” means the fifteenth day of the month next preceding an Interest Payment Date.

“Refunded Obligation Candidates” means the obligations of the City described in Schedule I attached hereto which are authorized to be designated as Refunded Obligations in the Pricing Certificate.

“Refunded Obligations” means those obligations of the City to be designated in the Pricing Certificate from the Refunded Obligation Candidates described in Schedule I attached hereto.

“Register” means the Register specified in Section 3.06(a) of this Ordinance.

“Representation Letter” means the Blanket Letter of Representations between the City and DTC.

“Representative” means the representative for the Underwriters named in the Bond Purchase Contract.

“Rule” means SEC Rule 15c2-12, as amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

“Special Record Date” means the Special Record Date prescribed by Section 3.03(b).

“Term Bonds” has the meaning set forth in Section 4.03 hereof.

“Unclaimed Payments” means money deposited with the Paying Agent/Registrar for the payment of principal of or interest on the Bonds as the same come due and payable and remaining unclaimed by the Owners of such Bonds after the applicable payment or redemption date.

“Underwriters” means the Underwriters named in the Bond Purchase Contract.

Section 1.02. Findings.

The declarations, determinations and findings declared, made and found in the preamble to this Ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

Section 1.03. Table of Contents, Titles and Headings.

The table of contents, titles and headings of the Articles and Sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Ordinance or any provision hereof or in ascertaining intent, if any question of intent should arise.

Section 1.04. Interpretation.

(a) Unless the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa.

(b) This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein.

ARTICLE II

SECURITY FOR THE BONDS; INTEREST AND SINKING FUND

Section 2.01. Tax Levy.

(a) Pursuant to the authority granted by the Texas Constitution and the laws of the State of Texas, there shall be levied and there is hereby levied for the current year and for each succeeding year hereafter while any of the Bonds or any interest thereon is outstanding and unpaid, an ad valorem tax on each one hundred dollars valuation of taxable property within the City, at a rate sufficient, within the limit prescribed by law, to pay the debt service requirements of the Bonds, being (i) the interest on the Bonds, and (ii) a sinking fund for their redemption at maturity or a sinking fund of two percent (2%) per annum (whichever amount is greater), when due and payable, full allowance being made for delinquencies and costs of collection.

(b) The ad valorem tax thus levied shall be assessed and collected each year against all property appearing on the tax rolls of the City most recently approved in accordance with law and the money thus collected shall be deposited as collected to the Interest and Sinking Fund.

(c) Said ad valorem tax, the collections therefrom, and all amounts on deposit in or required hereby to be deposited to the Interest and Sinking Fund are hereby pledged and committed irrevocably to the payment of the principal of and interest on the Bonds when and as due and payable in accordance with their terms and this Ordinance.

(d) If the lien and provisions of this Ordinance shall be released in a manner permitted by Article XI hereof, then the collection of such ad valorem tax may be suspended or appropriately reduced, as the facts may permit, and further deposits to the Interest and Sinking Fund may be suspended or appropriately reduced, as the facts may permit. In determining the aggregate principal amount of outstanding Bonds, there shall be subtracted the amount of any Bonds that have been duly called for redemption and for which money has been deposited with the Paying Agent/Registrar for such redemption.

Section 2.02. Interest and Sinking Fund.

(a) The City hereby establishes a special fund or account to be designated the “City of Plano, Texas, General Obligation Refunding and Improvement Bonds, Series 2011, Interest and Sinking Fund,” or such other designation as is set forth in the Pricing Certificate, for each series of Bonds, said fund or funds to be maintained at an official depository bank of the City separate and apart from all other funds and accounts of the City.

(b) Money on deposit in or required by this Ordinance to be deposited to the Interest and Sinking Fund shall be used solely for the purpose of paying the interest on and principal of the Bonds when and as due and payable in accordance with their terms and this Ordinance.

ARTICLE III

AUTHORIZATION; GENERAL TERMS AND PROVISIONS
REGARDING THE BONDS

Section 3.01. Authorization.

The City’s bonds, to be designated “City of Plano, Texas, General Obligation Refunding and Improvement Bonds, Series 2011,” or such other designation or designations as set forth in the Pricing Certificate, are hereby authorized to be issued and delivered in accordance with the Constitution and laws of the State of Texas, including specifically Chapters 1207, 1331 and 1371, Texas Government Code, as amended, and Section 9.22 of the Charter of the City. The Bonds shall be issued in the number of series and aggregate principal amount designated in the Pricing Certificate, such amount not to exceed \$53,000,000, for the purpose of providing funds for refunding the Refunded Obligations, paying the costs of issuing the Bonds and for the following permanent public improvements: from the 2005 authorization (i) \$1,980,000 for renovating, constructing, developing, improving, expanding, equipping and acquiring land and needed rights-of-way for parks and recreation facilities; and from the 2009 authorization (ii) \$2,900,000 for public safety improvements including constructing, purchasing and installing video surveillance improvements and constructing, improving, expanding, renovating, reconfiguring and equipping fire stations, including purchasing fire fighting vehicles and equipment; (iii) \$7,000,000 for improving, renovating, expanding, furnishing and equipping municipal facilities for technology services purposes; (iv) \$8,000,000 for developing, engineering, constructing, reconstructing, improving, repairing, extending, expanding and enhancing streets, thoroughfares, alleys, sidewalks, bridges, intersections, and other public ways, including participation in joint projects with federal, state and local public entities and agencies, computerized signalization and monitoring equipment and other traffic controls, grade

separations, street lighting, noise abatements, necessary and related storm drainage facilities and improvements, and the acquisition of any needed rights-of-way therefor; (v) \$400,000 for improving, renovating, expanding, furnishing and equipping library facilities; (vi) \$5,845,000 for renovating, constructing, developing, improving, expanding, furnishing, equipping and acquiring land and needed rights-of-way for park improvements and recreation facilities and (vii) \$870,000 for improving, renovating, expanding, furnishing and equipping recreation centers.

Section 3.02. Date, Denomination, Maturities and Interest.

(a) The Bonds shall be dated the date set forth in the Pricing Certificate. The Bonds shall be in fully registered form, without coupons, in the denomination of \$5,000 or any integral multiple thereof, and shall be numbered separately from one upward, except the Initial Bond, which shall be numbered T-1.

(b) The Bonds shall mature on September 1 in the years and in the principal amounts set forth in the Pricing Certificate provided that the maximum maturity for the Bonds shall not exceed twenty-one years.

(c) Interest shall accrue and be paid on each Bond respectively until its maturity or prior redemption, from the later of the date set forth in the Pricing Certificate or the most recent Interest Payment Date to which interest has been paid or provided for at the rates per annum for each respective maturity specified in the Pricing Certificate. Such interest shall be payable on each Interest Payment Date until maturity or prior redemption. Interest on the Bonds shall be calculated on the basis of a three hundred sixty (360) day year composed of twelve (12) months of thirty (30) days each.

Section 3.03. Medium, Method and Place of Payment.

(a) The principal of and interest on the Bonds shall be paid in lawful money of the United States of America.

(b) Interest on the Bonds shall be payable to each Owner as shown in the Register at the close of business on the Record Date; provided, however, in the event of nonpayment of interest on a scheduled Interest Payment Date and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") shall be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date," which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by first-class United States mail, postage prepaid, to the address of each Owner of a Bond appearing on the Register at the close of business on the last business day next preceding the date of mailing of such notice.

(c) Interest shall be paid by check, dated as of the Interest Payment Date, and sent by the Paying Agent/Registrar to each Owner by United States mail, first-class postage prepaid, to the address of each Owner as it appears in the Register, or by such other customary banking arrangement acceptable to the Paying Agent/Registrar and the Owner; provided, however, the Owner shall bear all risk and expense of such other banking arrangement. At the option of an

Owner of at least \$1,000,000 principal amount of the Bonds, interest may be paid by wire transfer to the bank account of such Owner on file with the Paying Agent/Registrar.

(d) The principal of each Bond shall be paid to the Owner thereof on the due date (whether at the maturity date or the date of prior redemption thereof) upon presentation and surrender of such Bond at the Designated Payment/Transfer Office of the Paying Agent/Registrar.

(e) If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are required or authorized by law or executive order to close, then the date for such payment shall be the next succeeding day that is not a Saturday, Sunday, legal holiday, or day on which banking institutions are required or authorized to close, and payment on such date shall have the same force and effect as if made on the original date payment was due and no additional interest shall be due by reason of nonpayment on the date on which such payment is otherwise stated to be due and payable.

(f) Unclaimed Payments shall be segregated in a special escrow account and held in trust, uninvested by the Paying Agent/Registrar, for the accounts of the Owners of the Bonds to which the Unclaimed Payments pertain. Subject to Title 6 of the Texas Property Code, Unclaimed Payments remaining unclaimed by the Owners entitled thereto for three years after the applicable payment or redemption date shall be applied to the next payment or payments on the Bonds thereafter coming due and, to the extent any such money remains after the retirement of all outstanding Bonds, shall be paid to the City to be used for any lawful purpose. Thereafter, neither the City, the Paying Agent/Registrar nor any other person shall be liable or responsible to any holders of such Bonds for any further payment of such unclaimed monies or on account of any such Bonds, subject to Title 6 of the Texas Property Code.

Section 3.04. Execution and Registration of Bonds.

(a) The Bonds shall be executed on behalf of the City by the Mayor and the City Secretary, by their manual or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Bonds shall have the same effect as if each of the Bonds had been signed manually and in person by each of said officers, and such facsimile seal on the Bonds shall have the same effect as if the official seal of the City had been manually impressed upon each of the Bonds.

(b) In the event that any officer of the City whose manual or facsimile signature appears on the Bonds ceases to be such officer before the authentication of such Bonds or before the delivery thereof, such manual or facsimile signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in such office.

(c) Except as provided below, no Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Ordinance unless and until there appears thereon the Certificate of Paying Agent/Registrar substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Paying

Agent/Registrar. It shall not be required that the same officer or authorized signatory of the Paying Agent/Registrar sign the Certificate of Paying Agent/Registrar on all of the Bonds. In lieu of the executed Certificate of Paying Agent/Registrar described above, the Initial Bond delivered at the Closing Date shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller of Public Accounts of the State of Texas, or by his duly authorized agent, which Certificate shall be evidence that the Bond has been duly approved by the Attorney General of the State of Texas, that it is a valid and binding obligation of the City and that it has been registered by the Comptroller of Public Accounts of the State of Texas.

(d) On the Closing Date, one Initial Bond of each series representing the entire principal amount of all Bonds of such series and the terms set forth in the Pricing Certificate, payable in stated installments to the Representative, or its designee, executed by the Mayor and City Secretary of the City by their manual or facsimile signatures, approved by the Attorney General, and registered and manually signed by the Comptroller of Public Accounts, will be delivered to the Representative or its designee. Upon payment for the Initial Bond, the Paying Agent/Registrar shall cancel the Initial Bond and deliver a single registered, definitive Bond for each maturity, in the aggregate principal amount thereof, to DTC on behalf of the Underwriters.

Section 3.05. Ownership.

(a) The City, the Paying Agent/Registrar and any other person may treat the person in whose name any Bond is registered as the absolute owner of such Bond for the purpose of making and receiving payment as provided herein (except interest shall be paid to the person in whose name such Bond is registered on the Record Date or Special Record Date, as applicable), and for all other purposes, whether or not such Bond is overdue, and neither the City nor the Paying Agent/Registrar shall be bound by any notice or knowledge to the contrary.

(b) All payments made to the Owner of a Bond shall be valid and effectual and shall discharge the liability of the City and the Paying Agent/Registrar upon such Bond to the extent of the sums paid.

Section 3.06. Registration, Transfer and Exchange.

(a) So long as any Bonds remain outstanding, the City shall cause the Paying Agent/Registrar to keep at the Designated Payment/Transfer Office a register (the "Register") in which, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of Bonds in accordance with this Ordinance.

(b) The ownership of a Bond may be transferred only upon the presentation and surrender of the Bond at the Designated Payment/Transfer Office of the Paying Agent/Registrar with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar. No transfer of any Bond shall be effective until entered in the Register.

(c) The Bonds shall be exchangeable upon the presentation and surrender thereof at the Designated Payment/Transfer Office of the Paying Agent/Registrar for a Bond or Bonds of the same maturity and interest rate and in any denomination or denominations of any integral multiple of \$5,000 and in an aggregate principal amount equal to the unpaid principal amount of

the Bonds presented for exchange. The Paying Agent/Registrar is hereby authorized to authenticate and deliver Bonds exchanged for other Bonds in accordance with this Section.

(d) Each exchange Bond delivered by the Paying Agent/Registrar in accordance with this Section shall constitute an original contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such exchange Bond is delivered.

(e) No service charge shall be made to the Owner for the initial registration, subsequent transfer, or exchange for any different denomination of any of the Bonds. The Paying Agent/Registrar, however, may require the Owner to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection with the registration, transfer or exchange of a Bond.

(f) Neither the City nor the Paying Agent/Registrar shall be required to issue, transfer, or exchange any Bond called for redemption, in whole or in part, where such redemption is scheduled to occur within forty-five (45) calendar days after the transfer or exchange date; provided, however, such limitation shall not be applicable to an exchange by the Owner of the uncalled principal balance of a Bond.

Section 3.07. Cancellation.

All Bonds paid or redeemed before scheduled maturity in accordance with this Ordinance, and all Bonds in lieu of which exchange Bonds or replacement Bonds are authenticated and delivered in accordance with this Ordinance, shall be cancelled and proper records shall be made regarding such payment, redemption, exchange or replacement. The Paying Agent/Registrar shall then return such cancelled Bonds to the City or may in accordance with law destroy such cancelled Bonds and periodically furnish the City with certificates of destruction of such Bonds.

Section 3.08. Temporary Bonds.

(a) Following the delivery and registration of the Initial Bond and pending the preparation of definitive Bonds, the proper officers of the City may execute and, upon the City's request, the Paying Agent/Registrar shall authenticate and deliver, one or more temporary Bonds that are printed, lithographed, typewritten, mimeographed or otherwise produced, in any denomination, substantially of the tenor of the definitive Bonds in lieu of which they are delivered, without coupons, and with such appropriate insertions, omissions, substitutions and other variations as the officers of the City executing such temporary Bonds may determine, as evidenced by their signing of such temporary Bonds.

(b) Until exchanged for Bonds in definitive form, such Bonds in temporary form shall be entitled to the benefit and security of this Ordinance.

(c) The City, without unreasonable delay, shall prepare, execute and deliver to the Paying Agent/Registrar the Bonds in definitive form; thereupon, upon the presentation and surrender of the Bonds in temporary form to the Paying Agent/Registrar, the Paying Agent/Registrar shall cancel the Bonds in temporary form and shall authenticate and deliver in

exchange therefor Bonds of the same maturity and series, in definitive form, in the authorized denomination, and in the same aggregate principal amount, as the Bonds in temporary form surrendered. Such exchange shall be made without the making of any charge therefor to any Owner.

Section 3.09. Replacement Bonds.

(a) Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Bond, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a replacement Bond of like tenor and principal amount, bearing a number not contemporaneously outstanding. The City or the Paying Agent/Registrar may require the Owner of such Bond to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection therewith and any other expenses connected therewith.

(b) In the event that any Bond is lost, apparently destroyed or wrongfully taken, the Paying Agent/Registrar, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Bond has been acquired by a bona fide purchaser, shall authenticate and deliver a replacement Bond of like tenor and principal amount, bearing a number not contemporaneously outstanding, provided that the Owner first:

(i) furnishes to the Paying Agent/Registrar satisfactory evidence of his or her ownership of and the circumstances of the loss, destruction or theft of such Bond;

(ii) furnishes such security or indemnity as may be required by the Paying Agent/Registrar to save it and the City harmless;

(iii) pays all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Paying Agent/Registrar and any tax or other governmental charge that is authorized to be imposed; and

(iv) satisfies any other reasonable requirements imposed by the City and the Paying Agent/Registrar.

(c) If, after the delivery of such replacement Bond, a bona fide purchaser of the original Bond in lieu of which such replacement Bond was issued presents for payment such original Bond, the City and the Paying Agent/Registrar shall be entitled to recover such replacement Bond from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the City or the Paying Agent/Registrar in connection therewith.

(d) In the event that any such mutilated, lost, apparently destroyed or wrongfully taken Bond has become or is about to become due and payable, the Paying Agent/Registrar, in its discretion, instead of issuing a replacement Bond, may pay such Bond if it has become due and payable or may pay such Bond when it becomes due and payable.

(e) Each replacement Bond delivered in accordance with this Section shall constitute an original additional contractual obligation of the City and shall be entitled to the benefits and

security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such replacement Bond is delivered.

Section 3.10. Book-Entry Only System.

Notwithstanding any other provision hereof, upon initial issuance of the Bonds, the ownership of the Bonds shall be registered in the name of Cede & Co., as nominee of DTC. The definitive Bonds shall be initially issued in the form of a single separate fully registered certificate for each of the maturities thereof.

With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than an Owner, as shown on the Register, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than an Owner, as shown in the Register of any amount with respect to principal of or interest on the Bonds. Notwithstanding any other provision of this Ordinance to the contrary, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Register as the absolute owner of such Bond for the purpose of payment of principal of and interest on such Bonds, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfer with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Bonds only to or upon the order of the respective owners, as shown in the Register as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal of and interest on the Bonds to the extent of the sum or sums so paid. No person other than an Owner, as shown in the Register, shall receive a certificate evidencing the obligation of the City to make payments of amounts due pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

The Representation Letter previously executed and delivered by the City, and applicable to the City's obligations delivered in book-entry-only form to DTC as securities depository is hereby ratified and approved for the Bonds.

Section 3.11. Successor Securities Depository; Transfer Outside Book-Entry Only System.

In the event that the City or the Paying Agent/Registrar determines that DTC is incapable of discharging its responsibilities described herein and in the Representations Letter of the City to DTC, or in the event DTC discontinues the services described herein, the City or the Paying Agent/Registrar shall (i) appoint a successor securities depository, qualified to act as such under

Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.

Section 3.12. Payments to Cede & Co.

Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of and interest on such Bonds, and all notices with respect to such Bonds, shall be made and given, respectively, in the manner provided in the Representation Letter.

ARTICLE IV

REDEMPTION OF BONDS BEFORE MATURITY

Section 4.01. Limitation on Redemption.

The Bonds shall be subject to redemption before scheduled maturity only as provided in this Article IV.

Section 4.02. Optional Redemption.

(a) The City reserves the option to redeem Bonds in the manner provided in the Form of Bond set forth in Section 6.02 of this Ordinance with such changes as are required by the Pricing Certificate.

(b) If less than all of the Bonds are to be redeemed pursuant to an optional redemption, the City shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot, or by any other customary method that results in a random selection, the Bonds, or portions thereof, within such maturity or maturities and in such principal amounts for redemption.

(c) The City, at least 45 days before the redemption date, unless a shorter period shall be satisfactory to the Paying Agent/Registrar, shall notify the Paying Agent/Registrar of such redemption date and of the principal amount of Bonds to be redeemed.

Section 4.03. Mandatory Sinking Fund Redemption.

(a) Bonds designated as “Term Bonds,” if any, in the Pricing Certificate are subject to scheduled mandatory redemption and will be redeemed by the City, in part at a price equal to the principal amount thereof, without premium, plus accrued interest to the redemption date, out

of moneys available for such purpose in the Interest and Sinking Fund, on the dates and in the respective principal amounts as set forth in the Pricing Certificate.

(b) At least forty-five (45) days prior to each scheduled mandatory redemption date, the Paying Agent/Registrar shall select for redemption by lot, or by any other customary method that results in a random selection, a principal amount of Term Bonds equal to the aggregate principal amount of such Term Bonds to be redeemed, shall call such Term Bonds for redemption on such scheduled mandatory redemption date, and shall give notice of such redemption, as provided in Section 4.05.

The principal amount of the Term Bonds required to be redeemed on any redemption date pursuant to subparagraph (a) of this Section 4.03 shall be reduced, at the option of the City, by the principal amount of any Term Bonds which, at least 45 days prior to the mandatory sinking fund redemption date (i) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, or (ii) shall have been redeemed pursuant to the optional redemption provisions hereof and not previously credited to a mandatory sinking fund redemption.

Section 4.04. Partial Redemption.

(a) A portion of a single Bond of a denomination greater than \$5,000 may be redeemed, but only in a principal amount equal to \$5,000 or any integral multiple thereof. If such a Bond is to be partially redeemed, the Paying Agent/Registrar shall treat each \$5,000 portion of the Bond as though it were a single Bond for purposes of selection for redemption.

(b) Upon surrender of any Bond for redemption in part, the Paying Agent/Registrar, in accordance with Section 3.06 of this Ordinance, shall authenticate and deliver an exchange Bond or Bonds in an aggregate principal amount equal to the unredeemed portion of the Bond so surrendered, such exchange being without charge.

(c) The Paying Agent/Registrar shall promptly notify the City in writing of the principal amount to be redeemed of any Bond as to which only a portion thereof is to be redeemed.

Section 4.05. Notice of Redemption to Owners.

(a) The Paying Agent/Registrar shall give notice of any redemption of Bonds by sending notice by United States mail, first-class postage prepaid, not less than thirty (30) days before the date fixed for redemption, to the Owner of each Bond (or part thereof) to be redeemed, at the address shown on the Register at the close of business on the business day next preceding the date of mailing such notice.

(b) The notice shall state the redemption date, the redemption price, the place at which the Bonds are to be surrendered for payment, and, if less than all the Bonds outstanding are to be redeemed, an identification of the Bonds or portions thereof to be redeemed.

(c) The City reserves the right to give notice of its election or direction to redeem Bonds under Section 4.02 conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date or (ii) that the City retains the right to rescind such notice at any time prior to the scheduled redemption date if the City delivers a certificate of the City to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice, and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected Owners. Any Bonds subject to conditional redemption where redemption has been rescinded shall remain Outstanding, and the rescission shall not constitute an event of default. Further, in the case of a conditional redemption, the failure of the City to make moneys and/or authorized securities available in part or in whole on or before the redemption date shall not constitute an event of default.

(d) Any notice given as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice.

Section 4.06. Payment Upon Redemption.

(a) Before or on each redemption date, the City shall deposit with the Paying Agent/Registrar money sufficient to pay all amounts due on the redemption date and the Paying Agent/Registrar shall make provision for the payment of the Bonds to be redeemed on such date by setting aside and holding in trust such amounts as are received by the Paying Agent/Registrar from the City and shall use such funds solely for the purpose of paying the principal of and accrued interest on the Bonds being redeemed.

(b) Upon presentation and surrender of any Bond called for redemption at the Designated Payment/Transfer Office on or after the date fixed for redemption, the Paying Agent/Registrar shall pay the principal of and accrued interest on such Bond to the date of redemption from the money set aside for such purpose.

Section 4.07. Effect of Redemption.

(a) Notice of redemption having been given as provided in Section 4.05 of this Ordinance and subject to any conditions or rights reserved by the City under Section 4.05(c), the Bonds or portions thereof called for redemption shall become due and payable on the date fixed for redemption and, unless the City defaults in its obligation to make provision for the payment of the principal thereof, or accrued interest thereon, such Bonds or portions thereof shall cease to bear interest from and after the date fixed for redemption, whether or not such Bonds are presented and surrendered for payment on such date.

(b) If the City shall fail to make provision for payment of all sums due on a redemption date, then any Bond or portion thereof called for redemption shall continue to bear interest at the rate stated on the Bond until due provision is made for the payment of same by the City.

Section 4.08. Lapse of Payment.

Money set aside for the redemption of Bonds and remaining unclaimed by the Owners of such Bonds shall be subject to the provisions of Section 3.03(f) hereof.

ARTICLE V

PAYING AGENT/REGISTRAR

Section 5.01. Appointment of Initial Paying Agent/Registrar.

The Bank of New York Mellon Trust Company, National Association, is hereby appointed as the initial Paying Agent/Registrar for the Bonds.

Section 5.02. Qualifications.

Each Paying Agent/Registrar shall be a commercial bank, a trust company organized under the laws of the State of Texas, or any other entity duly qualified and legally authorized to serve as and perform the duties and services of paying agent and registrar for the Bonds.

Section 5.03. Maintaining Paying Agent/Registrar.

(a) At all times while any Bonds are outstanding, the City will maintain a Paying Agent/Registrar that is qualified under Section 5.02 of this Ordinance. The Mayor is hereby authorized and directed to execute an agreement with the Paying Agent/Registrar specifying the duties and responsibilities of the City and the Paying Agent/Registrar. The signature of the Mayor shall be attested by the City Secretary of the City. The form of the Paying Agent/Registrar Agreement presented at this meeting is hereby approved with such changes as may be approved by bond counsel to the City.

(b) If the Paying Agent/Registrar resigns or otherwise ceases to serve as such, the City will promptly appoint a replacement.

Section 5.04. Termination.

The City, upon not less than sixty (60) days notice, reserves the right to terminate the appointment of any Paying Agent/Registrar by delivering to the entity whose appointment is to be terminated written notice of such termination.

Section 5.05. Notice of Change to Owners.

Promptly upon each change in the entity serving as Paying Agent/Registrar, the City will cause notice of the change to be sent to each Owner by United States mail, first-class postage prepaid, at the address in the Register thereof, stating the effective date of the change and the name and mailing address of the replacement Paying Agent/Registrar.

Section 5.06. Agreement to Perform Duties and Functions.

By accepting the appointment as Paying Agent/Registrar and executing the Paying Agent/Registrar Agreement, the Paying Agent/Registrar is deemed to have agreed to the provisions of this Ordinance and that it will perform the duties and functions of Paying Agent/Registrar prescribed thereby.

Section 5.07. Delivery of Records to Successor.

If a Paying Agent/Registrar is replaced, such Paying Agent/Registrar, promptly upon the appointment of the successor, will deliver the Register (or a copy thereof) and all other pertinent books and records relating to the Bonds to the successor Paying Agent/Registrar.

ARTICLE VI

FORM OF THE BONDS

Section 6.01. Form Generally.

(a) The Bonds, including the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Certificate of the Paying Agent/Registrar, and the Assignment form to appear on each of the Bonds, (i) shall be generally in the form set forth in this Article, with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and the Pricing Certificate, and (ii) may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association (“CUSIP Numbers”)) and such legends and endorsements (including any reproduction of an opinion of counsel) thereon as, consistently herewith, may be determined by the City or by the officers executing such Bonds, as evidenced by their execution thereof.

(b) Any portion of the text of any Bonds may be set forth on the reverse side thereof, with an appropriate reference thereto on the face of the Bonds.

(c) The definitive Bonds shall be typewritten, photocopied, printed, lithographed, or engraved, and may be produced by any combination of these methods or produced in any other similar manner, all as determined by the officers executing such Bonds, as evidenced by their execution thereof.

(d) The Initial Bond submitted to the Attorney General of the State of Texas may be typewritten and photocopied or otherwise reproduced.

Section 6.02. Form of the Bonds.

The form of the Bond, including the form of the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the form of Certificate of the Paying Agent/Registrar and the form of Assignment appearing on the Bonds, shall be generally as follows, provided, however, that the substantially final form of the Bonds shall be set forth in or

attached to the Pricing Certificate and shall incorporate and reflect the final terms of the Bonds set forth in the Pricing Certificate:

(a) Form of Bond.

REGISTERED
No. _____

REGISTERED
\$ _____

United States of America
State of Texas
CITY OF PLANO, TEXAS
GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BOND
SERIES 2011

INTEREST RATE: MATURITY DATE: [BOND/CLOSING] DATE: CUSIP NUMBER:
_____% _____, _____, _____³ _____

The City of Plano (the "City"), in the Counties of Collin and Denton, State of Texas, for value received, hereby promises to pay to

_____ or registered assigns, on the Maturity Date specified above, the sum of

_____ DOLLARS

unless this Bond shall have been sooner called for redemption and the payment of the principal hereof shall have been paid or provided for, and to pay interest on such principal amount from the later of the [Bond/Closing] Date specified above or the most recent interest payment date to which interest has been paid or provided for until payment of such principal amount has been paid or provided for, at the per annum rate of interest specified above, computed on the basis of a three hundred sixty (360) day year of twelve (12) thirty (30) day months, such interest to be paid semiannually on March 1 and September 1 of each year, commencing _____⁴. All capitalized terms used herein but not defined shall have the meaning assigned to them in the Ordinance (defined below).

The principal of this Bond shall be payable without exchange or collection charges in lawful money of the United States of America upon presentation and surrender of this Bond at the corporate trust office in Dallas, Texas (the "Designated Payment/Transfer Office") of The Bank of New York Mellon Trust Company, National Association, as Paying Agent/Registrar or, with respect to a successor paying agent/registrar, at the Designated Payment/Transfer Office thereof. Interest on this Bond is payable by check dated as of the interest payment date, and will be mailed by the Paying Agent/Registrar to the registered owner at the address shown on the registration books kept by the Paying Agent/Registrar or by such other customary banking arrangement acceptable to the Paying Agent/Registrar and the registered owner; provided, however, such registered owner shall bear all risk and expense of such other banking arrangement. At the option of an Owner of at least \$1,000,000 principal amount of the Bonds,

³ Information to be inserted from Pricing Certificate.

⁴ Information to be inserted from Pricing Certificate.

interest may be paid by wire transfer to the bank account of such Owner on file with the Paying Agent/Registrar. For the purpose of the payment of interest on this Bond, the registered owner shall be the person in whose name this Bond is registered at the close of business on the "Record Date," which shall be the fifteenth day of the month next preceding such interest payment date; provided, however, that in the event of nonpayment of interest on a scheduled payment date and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date," which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by first-class United States mail, postage prepaid, to the address of each owner of a Bond appearing in the registration books of the Paying Agent/Registrar at the close of business on the last business day next preceding the date of mailing of such notice.

If the date for the payment of the principal of or interest on this Bond shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are required or authorized by law or executive order to close, the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday, or day on which banking institutions are required or authorized to close, and payment on such date shall have the same force and effect as if made on the original date payment was due and no additional interest shall be due by reason of nonpayment on the date on which such payment is otherwise stated to be due and payable.

This Bond is one of a series of fully registered bonds specified in the title hereof issued in the aggregate principal amount of \$_____⁵ (herein referred to as the "Bonds"), issued pursuant to a certain ordinance of the City (the "Ordinance") for the purpose of providing funds with which to make various permanent public improvements for the City, to refund certain outstanding obligations of the City, and to pay the costs of issuing the Bonds.

[The City has reserved the option to redeem the Bonds maturing on or after September 1, _____ before their respective scheduled maturities in whole or in part in integral multiples of \$5,000 on September 1, ____, or on any date thereafter, at a redemption price of par, plus accrued interest to the date fixed for redemption. If less than all of the Bonds are to be redeemed, the City shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot or other customary method that results in a random selection of the Bonds, or portions thereof, within such maturity or maturities and in such principal amounts, for redemption.]⁶

[Bonds maturing on September 1 in each of the years ____ through ____, inclusive (the "Term Bonds"), are subject to mandatory sinking fund redemption prior to their scheduled maturity, and will be redeemed by the City, in part at a redemption price equal to the principal amount thereof, without premium, plus interest accrued to the redemption date, on the dates and in the principal amounts shown in the following schedule:

⁵ Information to be inserted from Pricing Certificate.

⁶ Insert optional redemption provisions, if any, and revise as necessary to conform to the Pricing Certificate.

Redemption Date

Principal Amount

The Paying Agent/Registrar will select by lot or by any other customary method that results in a random selection the specific Term Bonds (or with respect to Term Bonds having a denomination in excess of \$5,000, each \$5,000 portion thereof) to be redeemed by mandatory redemption. The principal amount of Term Bonds required to be redeemed on any redemption date pursuant to the foregoing mandatory sinking fund redemption provisions hereof shall be reduced, at the option of the City, by the principal amount of any Bonds which, at least 45 days prior to the mandatory sinking fund redemption date (i) shall have been acquired by the City at a price not exceeding the principal amount of such Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, or (ii) shall have been redeemed pursuant to the optional redemption provisions hereof and not previously credited to a mandatory sinking fund redemption.

Notice of such redemption or redemptions shall be given by first-class mail, postage prepaid, not less than thirty (30) days before the date fixed for redemption, to the registered owner of each of the Bonds to be redeemed in whole or in part. In the Ordinance, the City reserves the right in the case of an optional redemption to give notice of its election or direction to redeem Bonds conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date or (ii) that the City retains the right to rescind such notice at any time prior to the scheduled redemption date if the City delivers a certificate of the City to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice, and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected owners. Any Bonds subject to conditional redemption where redemption has been rescinded shall remain Outstanding, and the rescission shall not constitute an event of default. Further, in the case of a conditional redemption, the failure of the City to make moneys and/or authorized securities available in part or in whole on or before the redemption date shall not constitute an event of default.]⁷

As provided in the Ordinance, and subject to certain limitations therein set forth, this Bond is transferable upon surrender of this Bond for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar; thereupon, one or more new fully registered Bonds of the same stated maturity, of authorized denominations, bearing the same rate of interest, and for the same aggregate principal amount will be issued to the designated transferee or transferees.

Neither the City nor the Paying Agent/Registrar shall be required to issue, transfer or exchange any Bond called for redemption where such redemption is scheduled to occur within forty five (45) calendar days of the transfer or exchange date; provided, however, such limitation

⁷ Insert mandatory sinking fund redemption provisions, if any, and conform as necessary to the Pricing Certificate.

shall not be applicable to an exchange by the registered owner of the uncalled principal balance of a Bond.

The City, the Paying Agent/Registrar, and any other person may treat the person in whose name this Bond is registered as the owner hereof for the purpose of receiving payment as herein provided (except interest shall be paid to the person in whose name this Bond is registered on the Record Date or Special Record Date, as applicable) and for all other purposes, whether or not this Bond is overdue, and neither the City nor the Paying Agent/Registrar shall be affected by notice to the contrary.

IT IS HEREBY CERTIFIED AND RECITED that the issuance of this Bond and the series of which it is a part is duly authorized by law; that all acts, conditions and things required to be done precedent to and in the issuance of the Bonds have been properly done and performed and have happened in regular and due time, form and manner, as required by law; and that ad valorem taxes upon all taxable property in the City have been levied for and pledged to the payment of the debt service requirements of the Bonds, within the limit prescribed by law; and that the total indebtedness of the City, including the Bonds, does not exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF, the City has caused this Bond to be executed by the manual or facsimile signature of the Mayor of the City and countersigned by the manual or facsimile signature of the City Secretary, and the official seal of the City has been duly impressed or placed in facsimile on this Bond.

Mayor, City of Plano, Texas

City Secretary, City of Plano, Texas
[SEAL]

(b) Form of Comptroller's Registration Certificate.

The following Comptroller's Registration Certificate may be deleted from the definitive Bonds if such certificate on the Initial Bond is fully executed.

OFFICE OF THE COMPTROLLER §
OF PUBLIC ACCOUNTS § REGISTER NO. _____
OF THE STATE OF TEXAS §

I hereby certify that there is on file and of record in my office a certificate of the Attorney General of the State of Texas to the effect that this Bond has been examined by him as required by law, that he finds that it has been issued in conformity with the Constitution and laws of the State of Texas, and that it is a valid and binding obligation of the City of Plano, Texas, and that this Bond has this day been registered by me.

Witness my hand and seal of office at Austin, Texas, _____.

[SEAL]

Comptroller of Public Accounts
of the State of Texas

(c) Form of Certificate of Paying Agent/Registrar. The following Certificate of Paying Agent/Registrar may be deleted from the Initial Bond if the Comptroller's Registration Certificate appears thereon.

CERTIFICATE OF PAYING AGENT/REGISTRAR

The records of the Paying Agent/Registrar show that the Initial Bond of this series of Bonds was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas, and that this is one of the Bonds referred to in the within mentioned Ordinance.

The Bank of New York Mellon Trust Company,
National Association
as Paying Agent/Registrar

Dated: _____

By: _____
Authorized Signatory

(d) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto (print or typewrite name, address and Zip Code of transferee): _____

(Social Security or other identifying number: _____) the within Bond and all rights hereunder and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration hereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed By:

Authorized Signatory

NOTICE: The signature on this Assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular and must be guaranteed in a manner acceptable to the Paying Agent/Registrar.

(e) The Initial Bond shall be in the form set forth in paragraphs (a), (b) and (d) of this Section, except for the following alterations:

(i) immediately under the name of the Bond, the words "CUSIP NUMBER" shall be deleted and the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As shown below"; and

(ii) in the first paragraph of the Bond, the words "on the Maturity Date specified above" shall be deleted and the following will be inserted: "on September 1 in each of the years, in the principal installments and bearing interest at the per annum rates in accordance with the following schedule:

Years Principal Installments Interest Rate

(Information to be inserted from the Pricing Certificate pursuant to Section 3.02 of this Ordinance)

Section 6.03. CUSIP Registration.

The City may secure identification numbers through CUSIP Global Services, managed by Standard & Poor's Financial Services LLC on behalf of the American Bankers Association, and may authorize the printing of such numbers on the face of the Bonds. It is expressly provided, however, that the presence or absence of CUSIP Numbers on the Bonds shall be of no significance or effect as regards the legality thereof and neither the City nor the attorneys approving said Bonds as to legality are to be held responsible for CUSIP Numbers incorrectly printed on the Bonds.

Section 6.04. Legal Opinion.

The approving legal opinion of Vinson & Elkins L.L.P., Bond Counsel, may be attached to or printed on the reverse side of each Bond over the certification of the City Secretary of the City, which may be executed in facsimile.

Section 6.05. Statement of Insurance.

A statement relating to a municipal bond insurance policy, if any, to be issued for the Bonds may be printed on or attached to each Bond.

ARTICLE VII

SALE AND DELIVERY OF BONDS; DEPOSIT OF PROCEEDS

Section 7.01. Sale of Bonds; Official Statement.

(a) The Bonds shall be sold at negotiated sale to the Underwriters in accordance with the terms of this Ordinance, including this Section 7.01(a) and Exhibit B hereto, provided that all of the conditions set forth in Exhibit B can be satisfied. As authorized by Chapters 1207 and 1371, Texas Government Code, as amended, the Authorized Officer is authorized to act on behalf of the City upon determining that the conditions set forth in Exhibit B can be satisfied, in selling and delivering the Bonds and carrying out the other procedures specified in this Ordinance, including determining whether to acquire bond insurance for the Bonds, the aggregate principal amount of the Bonds and price at which each of the Bonds will be sold, the aggregate principal amount of the Refunded Obligations and their redemption dates, the number and designation of series of Bonds to be issued, the form in which the Bonds shall be issued, the years in which the Bonds will mature, the principal amount to mature in each of such years, the rate of interest to be borne by each such maturity, the first interest payment date, the initial date from which interest will accrue, the dates, prices and terms upon and at which the Bonds shall be subject to redemption prior to maturity at the option of the City and shall be subject to mandatory sinking fund redemption, and all other matters relating to the issuance, sale and delivery of the Bonds and the refunding of the Refunded Obligations, all of which shall be specified in the Pricing Certificate.

The authority granted to the Authorized Officer under this Section 7.01(a) shall expire at 5:00 p.m., January 27, 2012, unless otherwise extended by the City Council by separate action.

Any finding or determination made by the Authorized Officer relating to the issuance and sale of the Bonds and the execution of the Bond Purchase Contract in connection therewith shall have the same force and effect as a finding or determination made by the City Council.

(b) The Authorized Officer is hereby authorized and directed to execute and deliver, and the City Secretary is hereby authorized and directed to attest, a bond purchase contract (the "Bond Purchase Contract") which shall be in the form approved by the Authorized Officer. Upon completion of the terms of the Bond Purchase Contract in accordance with the terms of the Pricing Certificate and this Ordinance, the Authorized Officer is authorized and directed to execute such Bond Purchase Contract on behalf of the City and the Authorized Officer and all

other officers, agents and representatives of the City are hereby authorized to do any and all things necessary or desirable to satisfy the conditions set out therein and to provide for the issuance and delivery of the Bonds. The Bonds shall initially be registered in the name of the Representative.

(c) The form and substance of the Preliminary Official Statement and any addenda, supplement or amendment thereto, with such appropriate variations as shall be approved by the Authorized Officer, are hereby in all respects approved and adopted and is hereby deemed final as of its date within the meaning and for the purposes of paragraph (b)(1) of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended. The Authorized Officer and City Secretary are hereby authorized and directed to cause to be prepared a final Official Statement (the "Official Statement") incorporating applicable pricing information pertaining to the Bonds, and to execute the same by manual or facsimile signature and deliver appropriate numbers of executed copies thereof to the Underwriters. The Official Statement as thus approved, executed and delivered, with such appropriate variations as shall be approved by the Authorized Officer and the Underwriters, may be used by the Underwriters in the public offering and sale thereof. The City Secretary is hereby authorized and directed to include and maintain a copy of the Official Statement and any addenda, supplement or amendment thereto thus approved among the permanent records of this meeting. The use and distribution of the Preliminary Official Statement, and the preliminary public offering of the Bonds by the Underwriters, is hereby approved and confirmed.

(d) All officers of the City are authorized to execute such documents, certificates and receipts as they may deem appropriate in order to consummate the delivery of the Bonds in accordance with the terms of sale therefor including, without limitation, the Purchase Contract. Further, in connection with the submission of the record of proceedings for the Bonds to the Attorney General of the State of Texas for examination and approval of such Bonds, the appropriate officer of the City is hereby authorized and directed to issue a check of the City payable to the Attorney General of the State of Texas as a nonrefundable examination fee in the amount required by Chapter 1202, Texas Government Code (such amount per series to be the lesser of (i) 1/10th of 1% of the principal amount of such series of the Bonds or (ii) \$9,500.)

(e) The obligation of the Underwriters identified in subsection (a) of this Section to accept delivery of the Bonds is subject to the Underwriters being furnished with the final, approving opinion of Vinson & Elkins L.L.P., bond counsel for the City, which opinion shall be dated and delivered the Closing Date.

Section 7.02. Control and Delivery of Bonds.

(a) The Authorized Officer of the City is hereby authorized to have control of the Initial Bond and all necessary records and proceedings pertaining thereto pending investigation, examination, and approval of the Attorney General of the State of Texas, registration by the Comptroller of Public Accounts of the State of Texas and registration with, and initial exchange or transfer by, the Paying Agent/Registrar.

(b) After registration by the Comptroller of Public Accounts, delivery of the Bonds shall be made to the Underwriters thereof under and subject to the general supervision and

direction of the Authorized Officer, against receipt by the City of all amounts due to the City under the terms of sale.

(c) In the event the Mayor or City Secretary is absent or otherwise unable to execute any document or take any action authorized herein, the Mayor Pro Tem and the Assistant City Secretary, respectively, shall be authorized to execute such documents and take such actions, and the performance of such duties by the Mayor Pro Tem and the Assistant City Secretary shall for the purposes of this Ordinance have the same force and effect as if such duties were performed by the Mayor and City Secretary, respectively.

Section 7.03. Deposit of Proceeds.

(a) First: All amounts received on the Closing Date as accrued interest on the Bonds, if any, from the Bond Date to the Closing Date shall be deposited to the Interest and Sinking Fund.

(b) Second: a portion of the proceeds from the sale of the Bonds, funds transferred from the interest and sinking funds for the Refunded Obligations, and other funds of the City, if any, as set forth in the Pricing Certificate shall be applied to establish an Escrow Fund to refund the Refunded Obligations and, to the extent not otherwise provided for, to pay all expenses arising in connection with the establishment of such Escrow Fund and the refunding of the Refunded Obligations.

(c) Third: The remaining balance received on the Closing Date shall be deposited to special accounts of the City, as set forth in the Pricing Certificate, such moneys to be dedicated and used solely for the additional purposes for which the Bonds are being issued as herein provided.

ARTICLE VIII

INVESTMENTS

Section 8.01. Investments.

(a) Money in the Interest and Sinking Fund created by this Ordinance and accounts provided for in Section 7.03(c), at the City's option, may be invested in such securities or obligations as permitted under applicable law. The City's Director of Finance, and any other officer of the City authorized to make investments on behalf of the City, are hereby authorized and directed to execute and deliver, on behalf of the City, any and all investment agreements, guaranteed investment contracts or repurchase agreements in connection with the investment of moneys on deposit in the Interest and Sinking Fund and the accounts provided for in Section 7.03(c), but only to the extent such investment agreements, guaranteed investment contracts or repurchase agreements are authorized investments under applicable law.

(b) Any securities or obligations in which money in the Interest and Sinking Fund is so invested shall be kept and held in trust for the benefit of the Owners and shall be sold and the proceeds of sale shall be timely applied to the making of all payments required to be made from the fund from which the investment was made.

Section 8.02. Investment Income.

(a) Interest and income derived from investment of the Interest and Sinking Fund shall be credited to such fund.

(b) Interest and income derived from the investment of the funds deposited pursuant to Section 7.03(c) hereof shall be credited to the fund or account where deposited until the construction of the projects for which the Bonds are issued is completed or shall be transferred to the Interest and Sinking Fund as shall be determined by the City Council. Upon completion of the projects, to the extent such interest and income are present, such interest and income shall be deposited to the Interest and Sinking Fund.

(c) The investment and application of money in the Escrow Fund shall be in accordance with the provisions of the Escrow Agreement.

ARTICLE IX

PARTICULAR REPRESENTATIONS AND COVENANTS

Section 9.01. Payment of the Bonds.

On or before each Interest Payment Date and while any of the Bonds are outstanding and unpaid, there shall be made available to the Paying Agent/Registrar, out of the Interest and Sinking Fund, money sufficient to pay such interest on and principal of the Bonds as will accrue or mature on the applicable Interest Payment Date or date of prior redemption.

Section 9.02. Other Representations and Covenants.

(a) The City will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in this Ordinance; the City will promptly pay or cause to be paid the principal of and interest on each Bond on the dates and at the places and manner prescribed in such Bond; and the City will, at the times and in the manner prescribed by this Ordinance, deposit or cause to be deposited the amounts of money specified by this Ordinance.

(b) The City is duly authorized under the laws of the State of Texas to issue the Bonds; all action on its part for the creation and issuance of the Bonds has been duly and effectively taken; and the Bonds in the hands of the Owners thereof are and will be valid and enforceable obligations of the City in accordance with their terms.

Section 9.03. Federal Income Tax Exclusion. (a) The City intends that the interest on the Bonds will be excludable from gross income for federal income tax purposes pursuant to sections 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), and the applicable regulations promulgated thereunder (the "Regulations"). The City covenants and agrees not to take any action, or knowingly omit to take any action within its control, that if taken or omitted, respectively, would cause the interest on the Bonds to be includable in gross income, as defined in section 61 of the Code, for federal income tax purposes. In particular, the City covenants and agrees to comply with each requirement of this Section 9.03; provided, however, that the City will not be required to comply with any particular

requirement of this Section 9.03 if the City has received an opinion of nationally recognized bond counsel (“Counsel’s Opinion”) that (i) such noncompliance will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds (ii) or compliance with some other requirement set forth in this Section 9.03 will satisfy the applicable requirements of the Code, in which case compliance with such other requirement specified in such Counsel’s Opinion shall constitute compliance with the corresponding requirement specified in this Section 9.03.

(b) No Private Use or Payment and No Private Loan Financing. The City will certify, through an authorized officer, employee or agent, based upon all facts and estimates known or reasonably expected to be in existence on the date the Bonds are delivered, that the proceeds of the Refunded Obligations have not been used or will be and the proceeds of the Bonds will not be used in a manner that would cause the Bonds to be “private activity bonds” within the meaning of section 141 of the Code and the Regulations. The City covenants and agrees that it will make such use of the proceeds of the Bonds and the Refunded Obligations, including interest or other investment income derived from Bond proceeds, regulate the use of property financed, directly or indirectly, with such proceeds, and take such other and further action as may be required so that the Bonds will not be “private activity bonds” within the meaning of section 141 of the Code and the Regulations.

(c) No Federal Guaranty. The City covenants and agrees that it has not and will not take any action, or knowingly omit to take any action within its control, that, if taken or omitted, respectively, would cause the Bonds to be “federally guaranteed” within the meaning of section 149(b) of the Code and the Regulations, except as permitted by section 149(b)(3) of the Code and the Regulations.

(d) Bonds are not Hedge Bonds. The City covenants and agrees not to take any action, or knowingly omit to take any action, and has not knowingly omitted and will not knowingly omit to take any action, within its control, that, if taken or omitted, respectively, would cause the Bonds to be “hedge bonds” within the meaning of section 149(g) of the Code and the Regulations.

(e) No Arbitrage. The City will certify, through an authorized officer, employee or agent, based upon all facts and estimates known or reasonably expected to be in existence on the date the Bonds are delivered, that the City will reasonably expect that the proceeds of the Bonds will not be used in a manner that would cause the Bonds to be “arbitrage bonds” within the meaning of section 148(a) of the Code and the Regulations. Moreover, the City covenants and agrees that it will make such use of the proceeds of the Bonds, including interest or other investment income derived from Bond proceeds, regulate investments of proceeds of the Bonds, and take such other and further action as may be required so that the Bonds will not be “arbitrage bonds” within the meaning of section 148(a) of the Code and the Regulations.

(f) Arbitrage Rebate. If the City does not qualify for an exception to the requirements of Section 148(f) of the Code relating to the required rebate to the United States, the City will take all necessary steps to comply with the requirement that certain amounts earned by the City on the investment of the “gross proceeds” of the Bonds (within the meaning of section 148(f)(6)(B) of the Code), be rebated to the federal government. Specifically, the City

will (i) maintain records regarding the investment of the gross proceeds of the Bonds as may be required to calculate the amount earned on the investment of the gross proceeds of the Bonds separately from records of amounts on deposit in the funds and accounts of the City allocable to other bond issues of the City or moneys which do not represent gross proceeds of any bonds of the City, (ii) calculate at such times as are required by the Regulations, the amount earned from the investment of the gross proceeds of the Bonds which is required to be rebated to the federal government, and (iii) pay, not less often than every fifth anniversary date of the delivery of the Bonds or on such other dates as may be permitted under the Regulations, all amounts required to be rebated to the federal government. Further, the City will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the gross proceeds of the Bonds that might result in a reduction in the amount required to be paid to the federal government because such arrangement results in a smaller profit or a larger loss than would have resulted if the arrangement had been at arm's length and had the yield on the issue not been relevant to either party.

(g) Information Reporting. The City covenants and agrees to file or cause to be filed with the Secretary of the Treasury, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the Bonds are issued, an information statement concerning the Bonds, all under and in accordance with section 149(e) of the Code and the Regulations.

(h) Record Retention. The City will retain all pertinent and material records relating to the use and expenditure of the proceeds of the Bonds until six years after the last Bond is redeemed, or such shorter period as authorized by subsequent guidance issued by the Department of Treasury, if applicable. All records will be kept in a manner that ensures their complete access throughout the retention period. For this purpose, it is acceptable that such records are kept either as hardcopy books and records or in an electronic storage and retrieval system, provided that such electronic system includes reasonable controls and quality assurance programs that assure the ability of the City to retrieve and reproduce such books and records in the event of an examination of the Bonds by the Internal Revenue Service.

(i) Registration. The Bonds will be issued in registered form.

(j) Continuing Obligation. Notwithstanding any other provision of this Ordinance, the City's obligations under the covenants and provisions of this Section 9.03 shall survive the defeasance and discharge of the Bonds.

ARTICLE X

DEFAULT AND REMEDIES

Section 10.01. Events of Default.

Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

(i) the failure to make payment of the principal of or interest on any of the Bonds when the same becomes due and payable; or

(ii) default in the performance or observance of any other covenant, agreement or obligation of the City, which default materially and adversely affects the rights of the Owners, including but not limited to, their prospect or ability to be repaid in accordance with this Ordinance, and the continuation thereof for a period of sixty (60) days after notice of such default is given by any Owner to the City.

Section 10.02. Remedies for Default.

(a) Upon the happening of any Event of Default, then any Owner or an authorized representative thereof, including but not limited to, a trustee or trustees therefor, may proceed against the City for the purpose of protecting and enforcing the rights of the Owners under this Ordinance, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Owners hereunder or any combination of such remedies.

(b) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Owners of Bonds then outstanding.

Section 10.03. Remedies Not Exclusive.

(a) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Bonds or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Bonds shall not be available as a remedy under this Ordinance.

(b) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

ARTICLE XI

DISCHARGE

Section 11.01. Discharge.

The Bonds may be defeased, discharged or refunded in any manner permitted by applicable law.

ARTICLE XII

CONTINUING DISCLOSURE UNDERTAKING

Section 12.01. Annual Reports.

(a) The City shall provide annually to the MSRB, within six (6) months after the end of each fiscal year, financial information and operating data with respect to the City of the general type included in the final Official Statement, being the information described in Exhibit A hereto. Any financial statements so to be provided shall be (i) prepared in accordance with the accounting principles described in Exhibit A hereto, and (ii) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided and (iii) submitted through EMMA, in an electronic format with accompany identifying information, as prescribed by the MSRB. If the audit of such financial statements is not complete within such period, then the City shall provide notice that audited financial statements are not available and shall provide unaudited financial statements for the applicable fiscal year to the MSRB. The City shall provide audited financial statements for the applicable fiscal year to the MSRB, when and if audited financial statements become available.

(b) If the City changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

(c) The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific referenced to any document (including an official statement or other offering document, if it is available from the MSRB) that theretofore has been provided to the MSRB of filed with the SEC.

Section 12.02. Material Event Notices.

(a) The City shall notify the MSRB, in a timely manner not in excess of ten (10) business days after the occurrence of an event, of any of the following events with respect to the Bonds, if such event is material within the meaning of the federal securities laws:

- (i) principal and interest payment delinquencies;
- (ii) nonpayment related defaults;
- (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) substitution of credit or liquidity providers, or their failure to perform;
- (vi) adverse tax opinions or events affecting the tax exempt status of the Bonds;

- (vii) modifications to rights of Owners;
 - (viii) redemption calls;
 - (ix) defeasances;
 - (x) release, substitution, or sale of property securing repayment of the Bonds;
- and
- (xi) rating changes.
 - (xii) bankruptcy, insolvency, receivership or similar event of the City;
 - (xiii) The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
 - (xiv) Appointment of a successor Paying Agent/Registrar or change in the name of the Paying Agent/Registrar, if material.

The City will provide notice of such events to the MSRB in an electronic format and accompanied by identifying information, as prescribed by the MSRB.

(b) As used in clause (xii) above, the phrase “bankruptcy, insolvency, receivership or similar event” means the appointment of a receiver, fiscal agent or similar officer for the City in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court of governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if jurisdiction has been assumed by leaving the City Council and official or officers of the City in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

(c) The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with Section 12.01 of this Ordinance by the time required by such Section.

Section 12.03. Limitations, Disclaimers and Amendments.

(a) The City shall be obligated to observe and perform the covenants specified in this Article for so long as, but only for so long as, the City remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the City in any event will give notice of any Bond calls and any defeasances that cause the City to be no longer an “obligated person.”

(b) The provisions of this Article are for the sole benefit of the Owners and beneficial owners of the Bonds, and nothing in this Article, express or implied, shall give any benefit or any

legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Article and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Article or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS ARTICLE, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

(c) No default by the City in observing or performing its obligations under this Article shall constitute a breach of or default under the Ordinance for purposes of any other provisions of this Ordinance.

(d) Nothing in this Article is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

(e) The provisions of this Article may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (i) the provisions of this Article, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (ii) either (A) the Owners of a majority in aggregate principal amount (or any greater amount required by any other provisions of this Ordinance that authorizes such an amendment) of the outstanding Bonds consent to such amendment or (B) an entity or individual person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Owners and beneficial owners of the Bonds. If the City so amends the provisions of this Article, it shall include with any amended financial information or operating data next provided in accordance with Section 12.01 an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in type of financial information or operating data so provided.

ARTICLE XIII

AMENDMENTS; ATTORNEY GENERAL MODIFICATION

Section 13.01. Amendments.

This Ordinance shall constitute a contract with the Owners, be binding on the City, and shall not be amended or repealed by the City so long as any Bond remains outstanding except as permitted in this Section. The City may, without consent of or notice to any Owners, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Owners, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the City may, with the written consent of the Owners of the Bonds holding a majority in aggregate principal amount of the Bonds then outstanding and receipt of a Counsel's Opinion that such amendment, addition or rescission of any provisions of the Ordinance will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds, amend, add to, or rescind any of the provisions of this Ordinance; provided that, without the consent of all Owners of outstanding Bonds, no such amendment, addition, or rescission shall (i) extend the time or times of payment of the principal of, premium, if any, and interest on the Bonds, reduce the principal amount thereof, the redemption price, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of, or interest on the Bonds, (ii) give any preference to any Bond over any other Bond, or (iii) reduce the aggregate principal amount of Bonds required to be held by Owners for consent to any such amendment, addition, or rescission.

Section 13.02. Attorney General Modification.

In order to obtain the approval of the Bonds by the Attorney General of the State of Texas, any provision of this Ordinance may be modified, altered or amended after the date of its adoption if required by the Attorney General in connection with the Attorney General's examination as to the legality of the Bonds and approval thereof in accordance with the applicable law. Such changes, if any, shall be provided to the City Secretary and the City Secretary shall insert such changes into this Ordinance as if approved on the date hereof.

ARTICLE XIV

REDEMPTION OF REFUNDED OBLIGATIONS; APPROVAL OF ESCROW AGREEMENT; PURCHASE OF ESCROWED SECURITIES

Section 14.01. Redemption of Refunded Obligations.

(a) The City hereby calls the Refunded Obligations for redemption prior to maturity on the dates and at the prices set forth in the Pricing Certificate.

(b) The Director of Finance is hereby authorized and directed to cause a copy of this Ordinance to be delivered to each paying agent/registrar for the Refunded Obligations, the delivery of which shall constitute notice of redemption and notice of defeasance to such paying agent/registrar.

Section 14.02. Subscription of Escrow Securities.

The City Manager and the Director of Finance, either or both, are hereby authorized to make necessary arrangements for the purchase of the Escrow Securities referenced in the Escrow Agreement, as may be necessary for the Escrow Fund and the application for the acquisition of the Escrow Securities is hereby approved and ratified. Following the deposits to the Escrow Fund as specified herein and in the Pricing Certificate, the Refunded Obligations shall be payable solely from and secured by such deposits.

Section 14.03. Approval of Escrow Agreement.

The discharge and defeasance of the Refunded Obligations shall be effectuated pursuant to the terms and provisions of an Escrow Agreement (the "Escrow Agreement") to be entered into by and between the City and the Escrow Agent, which shall be substantially in the form presented at this meeting, the terms and provisions of which are hereby approved, subject to such insertions, additions and modifications as shall be necessary (a) to carry out the program designed for the City, (b) to minimize the City's costs of refunding, (c) to comply with all applicable laws and regulations relating to the refunding of the Refunded Obligations, (d) to carry out the other intents and purposes of this Ordinance and (e) to comply with the terms set forth in the Pricing Certificate. The Director of Finance is hereby authorized to execute and deliver such Escrow Agreement on behalf of the City in multiple counterparts and the City Secretary is hereby authorized to attest thereto and affix the City's seal.

Section 14.04. Notice of Redemption.

Each paying agent/registrar for the Refunded Obligations is hereby authorized and directed to give notice of redemption and deposit with respect to the Refunded Obligations as required under the ordinance pursuant to which the Refunded Obligations were issued.

FINALLY PASSED, APPROVED AND EFFECTIVE this October 10, 2011.

Mayor, City of Plano, Texas

ATTEST:

City Secretary, City of Plano, Texas

Signature Page for Ordinance

SCHEDULE I

REFUNDED OBLIGATION CANDIDATES

All of the City's callable obligations of the following series:

General Obligation Refunding and Improvement Bonds, Series 2002

General Obligation Refunding and Improvement Bonds, Series 2003

EXHIBIT A

DESCRIPTION OF ANNUAL DISCLOSURE OF FINANCIAL INFORMATION

The following information is referred to in Article XII of this Ordinance.

Annual Financial Statements and Operating Data

The financial information and operating data with respect to the City to be provided annually in accordance with such Article are as specified (and included in the Appendix or other headings of the Official Statement referred to) below:

1. The portions of the financial statements of the City appended to the Official Statement as Appendix A, but for the most recently concluded fiscal year.
2. Statistical and financial data set forth in Tables 1-6 and 8-14 of the Official Statement.

Accounting Principles

The accounting principles referred to in such Article are the accounting principles described in the notes to the financial statements referred to in Paragraph 1 above.

EXHIBIT B

SALE PARAMETERS

In accordance with Section 7.01(a) of the Ordinance, the following conditions with respect to the Bonds must be satisfied in order for the Authorized Officer to act on behalf of the City in selling and delivering the Bonds to the Underwriters:

(a) the Bonds shall not bear interest at a rate greater than the maximum rate allowed by Chapter 1204, Texas Government Code, as amended, and the true interest cost for the Bonds shall not exceed 4.25%;

(b) the aggregate principal amount of the Bonds shall not exceed the maximum amount authorized in Section 3.01;

(c) the refunding of the Refunded Obligations shall result in a net present value savings of at least 4.50%; and

(d) the maximum maturity for the Bonds shall not exceed twenty-one years; and

(e) the Bonds to be issued, prior to delivery, must have been rated by a nationally recognized rating agency for municipal securities in one of the four highest rating categories for long term obligations.

DATE: September 20, 2011
TO: Honorable Mayor & City Council
FROM: Chris Caso, Chairman, Planning & Zoning Commission
SUBJECT: Results of Planning & Zoning Commission Meeting of September 19, 2011

**AGENDA ITEM NO. 7 - PUBLIC HEARING
ZONING CASE 2011-24
APPLICANT: JETZAMANY VELAZQUEZ**

Request for Specific Use Permit for Day Care Center (In-home) on 0.1± acre located on the east side of Grenoble Court, 110± feet north of Renaissance Drive. Zoned Planned Development-74-Single-Family Residence-7, Two-Family Residence (Duplex), and Planned Residential Development-7.

APPROVED: 5-3 **DENIED:** _____ **TABLED:** _____

LETTERS RECEIVED WITHIN 200 FOOT NOTICE AREA: **SUPPORT:** 2 **OPPOSE:** 0

LETTERS RECEIVED OUTSIDE 200 FOOT NOTICE AREA: **SUPPORT:** 0 **OPPOSE:** 0

PETITION(s) RECEIVED: N/A **# OF SIGNATURES:** N/A

STIPULATIONS:

Recommended for approval as submitted. Commissioners voting in opposition felt that eight children was an appropriate maximum number of children for an in-home day care center.

FOR CITY COUNCIL MEETING OF: October 10, 2011 (To view the agenda for this meeting, see www.planotx.org)

PUBLIC HEARING - ORDINANCE

BM/dw

xc: Jetzamany Velazquez, Nido Montessori Program

CITY OF PLANO
PLANNING & ZONING COMMISSION

September 19, 2011

Agenda Item No. 7

Public Hearing: Zoning Case 2011-24

Applicant: Jetzamany Velazquez

DESCRIPTION:

Request for Specific Use Permit for Day Care Center (In-home) on 0.1± acre located on the east side of Grenoble Court, 110± feet north of Renaissance Drive. Zoned Planned Development-74-Single-Family Residence-7, Two-Family Residence (Duplex), and Planned Residential Development-7.

REMARKS:

The requested zoning is a Specific Use Permit (SUP) for Day Care Center (In-home). The Zoning Ordinance defines day care center (in-home) as an operation providing care in the caretaker's residence for less than 24 hours a day for up to 12 children under the age of 14, provided that the total number of children, including the caretaker's own children, is no more than 12 at any time. The purpose and intent of an SUP is to authorize and regulate a use not normally permitted in a district which could be of benefit in a particular case to the general welfare, provided adequate development standards and safeguards are established for such use during the review of an SUP application.

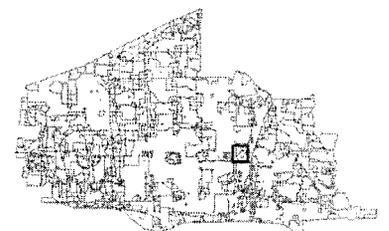
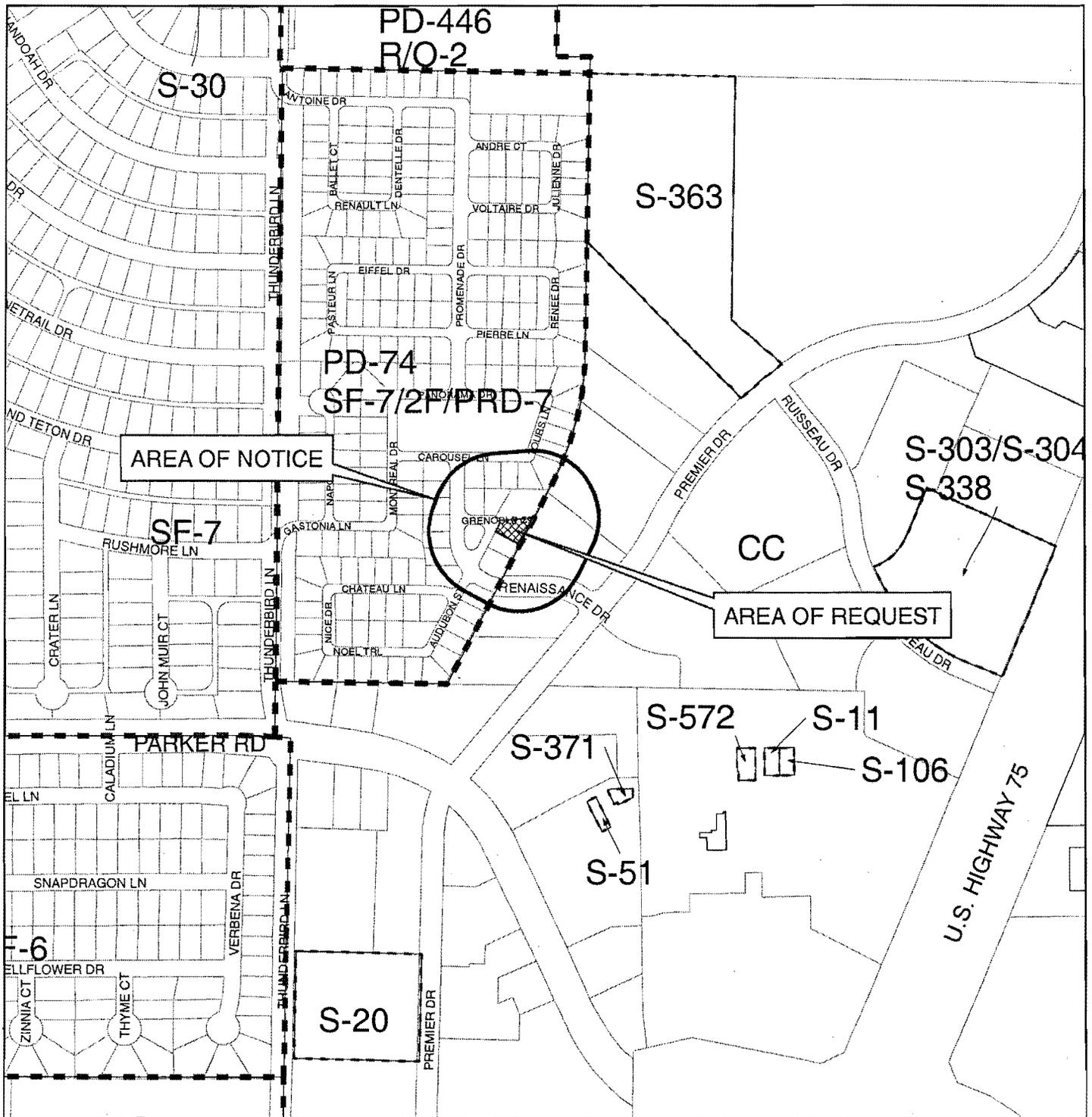
The State of Texas requires an annual fire safety inspection for in-home day care centers. In addition, the Building Inspections Department requires in-home day care centers to have a fire safety inspection in order to receive or renew a Certificate of Occupancy (CO). A CO requires an annual renewal.

This is an existing in-home day care center and the applicant is seeking an SUP in order to provide child care to more than eight children. This in-home day care center has been in operation since 2008 providing child care for five children until the end of 2010 when the number of children increased to 10 children. The Zoning Ordinance requires an SUP for in-home day care center that provides care to more than eight children. Due to the increased number of children since the end of 2010, the applicant could not renew their CO without an SUP for Day Care Center (In-home) to meet the Zoning Ordinance requirements, as well as to meet the state requirement as noted above. The applicant is also required to comply with Subsection 3.110 (Home

Occupations) of Section 3.100 (Supplementary Regulations for Principal Permitted Uses and Specific Uses) of Article 3 (Supplementary Regulations) of the Zoning Ordinance. Children at this in-home day care center are dropped off and picked up at different times, in order to minimize possible traffic problems within the neighborhood. In addition, Grenoble Court's round about design (the right-of-way that serves the subject residential property) provides good traffic circulation during drop off and pick up times.

RECOMMENDATION:

Recommended for approval as submitted.



Zoning Case #: 2011-24

Existing Zoning: PLANNED DEVELOPMENT-74-SINGLE-FAMILY RESIDENCE-7,
TWO-FAMILY RESIDENCE (DUPLEX), &
PLANNED RESIDENTIAL DISTRICT-7

○ 200' Notification Buffer



Zoning Case 2011- 24

An Ordinance of the City of Plano, Texas, amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 614 so as to allow the additional use of Day Care Center (In-home) on 0.1± acre of land out of the Daniel Rowlett Survey, Abstract No. 738, located on the east side of Grenoble Court, 110± feet north of Renaissance Drive, in the City of Plano, Collin County, Texas, presently zoned Planned Development-74-Single-Family Residence-7, Two-Family Residence (Duplex), and Planned Residential Development-7; 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 10th day of October, 2011, for the purpose of considering granting Specific Use Permit No. 614 for the additional use of Day Care Center (In-home) on 0.1± acre of land out of the Daniel Rowlett Survey, Abstract No. 738, located on the east side of Grenoble Court, 110± feet north of Renaissance Drive, in the City of Plano, Collin County, Texas, presently zoned Planned Development-74-Single-Family Residence-7, Two-Family Residence (Duplex), and Planned Residential Development-7; 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 10th day of October, 2011; and

WHEREAS, the City Council is of the opinion and finds that the granting of Specific Use Permit No. 614 for the additional use of Day Care Center (In-home) on 0.1± acre of land out of the Daniel Rowlett Survey, Abstract No. 738, located on the east side of Grenoble Court, 110± feet north of Renaissance Drive in the City of Plano, Collin County, Texas, would not be detrimental or injurious to the public health, safety and general welfare, or otherwise offensive to the neighborhood; and

WHEREAS, the City Council is of the opinion and finds that such change will promote the best and most orderly development of the properties affected thereby, and

to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

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

Section I. The Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended so as to grant Specific Use Permit No. 614 for the additional use of Day Care Center (In-Home) on 0.1± acre of land out of the Daniel Rowlett Survey, Abstract No. 738, located on the east side of Grenoble Court, 110± feet north of Renaissance Drive, in the City of Plano, Collin County, Texas, presently zoned Planned Development-74-Single-Family Residence-7, Two-Family Residence (Duplex), and Planned Residential Development-7, said property being more fully described on the legal description in Exhibit "A" attached hereto.

Section II. The change granted in Section I is granted subject to the Day Care Center (In-home) being operated as a home occupation use only.

Section III. It is directed that the official zoning map of the City of Plano (which is retained in electronic record format) be changed to reflect the zoning classification established by this Ordinance.

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

Section V. The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

Section VI. Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

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

Section VIII. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED THIS THE 10TH DAY OF OCTOBER, 2011.

Phil Dyer, MAYOR

ATTEST:

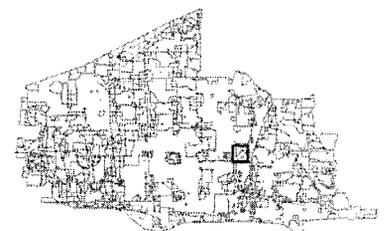
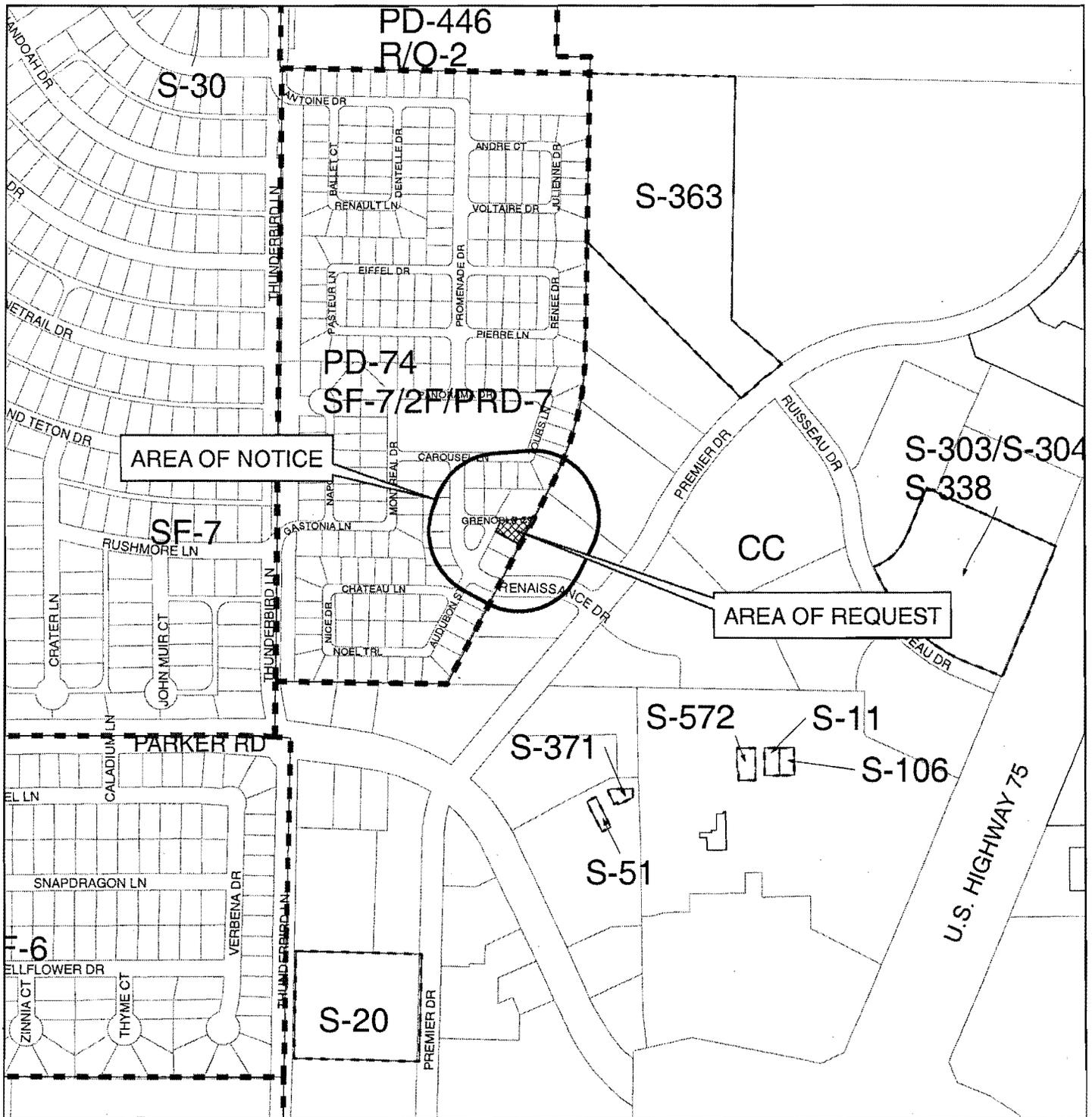
Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

Zoning Case 2011-24

BEING a tract of land situated in the Daniel Rowlett Survey, Abstract No. 738, being all of Lot 3, Block C of Ruisseau Place, Phase I, an addition to the City of Plano, Collin County, Texas, according to the final plat thereof recorded in Cabinet G, Page 363, of the Plat Records, Collin County, Texas.



Zoning Case #: 2011-24

Existing Zoning: PLANNED DEVELOPMENT-74-SINGLE-FAMILY RESIDENCE-7,
TWO-FAMILY RESIDENCE (DUPLEX), &
PLANNED RESIDENTIAL DISTRICT-7

○ 200' Notification Buffer



DATE: September 20, 2011
TO: Honorable Mayor & City Council
FROM: Chris Caso, Chairman, Planning & Zoning Commission
SUBJECT: Results of Planning & Zoning Commission Meeting of September 19, 2011

**AGENDA ITEM NO. 8 - PUBLIC HEARING
ZONING CASE 2011-26
APPLICANT: CITY OF PLANO**

Request to amend Subsection 3.1605 (Downtown Sign District) of Section 3.1600 (Sign Regulations) of Article 3 (Supplementary Regulations) and related sections of the Zoning Ordinance to allow for reader board/electronic message center signs.

APPROVED: 8-0 **DENIED:** _____ **TABLED:** _____

STIPULATIONS:

Recommended for approval as follows: (Additions are indicated in underlined text; deletions are indicated in strikethrough text.)

Amend Subsection 3.1605 (Downtown Sign District) of Section 3.1600 (Sign Regulations) of Article 3 (Supplementary Regulations) such portion of subsection to read as follows:

3. General Provisions

d. Sign Materials

Sign finish materials shall be one of the following:

- i. Metal, painted or enameled.
- ii. Cold cathode tube (neon).
- iii. Carved relief in stone or cast stone.
- iv. Wood or carved wood which is painted or sealed.
- v. The use of plastic on the exterior of a sign is prohibited, except on a marquee and institution signs.

e. Lighting of Signs

- i. All electrical shall comply with the currently adopted version of the National Electrical Code.

- ii. Buildings and signs may be illuminated by remote light sources provided that these light sources are shielded to protect adjacent properties.
- iii. No illuminated sign may contain flashing or moving elements or change its brightness. (Exception: historic signs.)
- iv. No signs, except a marquee and institution signs, may be illuminated by fluorescent or back lighting. Institution signs with a reader board/electronic message center shall be illuminated in accordance with 3.1603(7). (Exception: historic signs.)

5. Signs Allowed/Prohibited

b. Prohibited Signs

The following signs are prohibited in the Downtown Sign District:

- i. Any sign not specifically permitted by this section is prohibited.
- ii. Any sign that flashes, blinks, revolves, or is put into motion by the atmosphere will not be permitted unless otherwise allowed in 3.1605.
- iii. Portable signs, except for a-frame or sandwich board signs, will not be permitted.

6. Table of Permitted Signs

SIGNS PERMITTED IN EACH SUB-AREA OF THE DOWNTOWN SIGN DISTRICT		
Sign Type	Area A	Area B
A-frame/Sandwich Board Sign	X	X
Armature Sign		X
Awning Sign	X	X
Banner Sign	X	X
Directory Sign	X	X
Hanging Sign	X	X
<u>Institution Sign</u>		<u>X</u>
Marquee Sign	X	X
Pole Sign		X
Municipally-owned Sign	X	X

Mural Sign	X	X
Onsite Directional Sign	X	X
Projecting Sign	X	
Wall Sign - Attached	X	X
Window Sign	X	
(X = Permitted)		

7. Sign Standards

r. Institution Signs

Institution signs shall not exceed 32 square feet with a maximum height of six feet, and shall be monument-type signs. Required setback shall be eight feet from the front property line (or any property line adjacent to a street) and 30 feet from any adjoining property line. Institution signs are limited to one per street front along major streets only as defined by Subsection 8.222 (5)(a)(i).

EH/dw

CITY OF PLANO
PLANNING & ZONING COMMISSION

September 19, 2011

Agenda Item No. 8

Public Hearing: Zoning Case 2011-26

Applicant: City of Plano

DESCRIPTION:

Request to amend Subsection 3.1605 (Downtown Sign District) of Section 3.1600 (Sign Regulations) of Article 3 (Supplementary Regulations) and related sections of the Zoning Ordinance to allow for reader board/electronic message center signs.

REMARKS:

In 2009, the Planning & Zoning Commission and City Council evaluated various changes to the sign regulations including the wall signage calculation method for retail shopping centers, electronic message center signs with shorter image display time, and allowing for light pole banner signs. Since that time, sign types and designs have continued to change as businesses find new ways to advertise. Staff has continued to receive variance requests to the existing regulations and believes it is appropriate to consider whether or not the existing regulations need to be modified. At its meeting on May 16, 2011, the Commission called a public hearing to consider amendments to the signage regulations within the Zoning Ordinance. This zoning case is the first phase of proposed amendments to Section 3.1600 (Sign Regulations) of Article 3 (Supplementary Regulations).

Recently, the city received a request to allow for reader board/electronic message center signs within the Downtown Sign District. The Downtown Sign District regulates the construction of new signs and alterations made to existing signs to ensure consistency with the historic, urban, and pedestrian-oriented nature of this district. The Downtown Sign District encompasses all properties that are zoned Downtown Business/Government (BG), and is further classified into two distinct areas, Area A and Area B, as delineated on the attached illustration.

Signs in this district have been generally designed to be compatible with the architectural composition of the building and the district so as to not obscure any architectural accent, pattern, or object on the structure. Currently, reader board/electronic message center signs are not allowed within the Downtown Sign

District with the exception of municipal signs, which are allowed to have the reader board/electronic message center component. In 2009, the city received a Certificate of Appropriateness to install a ten-foot by eight-foot LED reader board/electronic message center sign at the Cox Building Playhouse on H Avenue. This is the only sign of this type within the BG district.

Typically, LED signs are not used in historic areas with the exception of theaters, schools, and other institutional, entertainment, or performance venues. Given these types of uses, it may be appropriate to allow for freestanding reader board/electronic message center signs within the downtown area. Presently, institutional uses are allowed to have freestanding reader board/electronic message center signs elsewhere within the city, regardless if properties are zoned residential or nonresidential.

Section 3.1600 (Sign Regulations) defines an institution sign as, “any sign used to identify schools, religious facilities, hospitals, childcare facilities, and similar public or quasi-public institutions.” The existing reader board/electronic message center sign at the Cox Building Playhouse has been beneficial to the building and the activities which operate therein, and staff believes other institutional uses within the Downtown Sign District should be provided the opportunity to install reader board/electronic message center signs.

Area B includes several institutional uses including religious facilities and public buildings. Area A does not contain any such institutional uses and is mainly composed of multifamily residences, retail, and office uses. The institutional buildings located within Area B would benefit from the proposed changes to the sign ordinance because of their placement and setbacks in relation to street rights-of-way. Additionally, lots within Area B are currently allowed to have pole signs, whereas lots within Area A are not allowed pole or monument signs. Therefore, staff supports amendments to the Downtown Sign District to allow institutional uses within Area B only to have freestanding monument signage, including allowing for these signs to have a reader board/electronic message center component.

RECOMMENDATION:

Recommended for approval as follows: (Additions are indicated in underlined text; deletions are indicated in strikethrough text.)

Amend Subsection 3.1605 (Downtown Sign District) of Section 3.1600 (Sign Regulations) of Article 3 (Supplementary Regulations) such portion of subsection to read as follows:

3. General Provisions

d. Sign Materials

Sign finish materials shall be one of the following:

- i. Metal, painted or enameled.
- ii. Cold cathode tube (neon).
- iii. Carved relief in stone or cast stone.

- iv. Wood or carved wood which is painted or sealed.
- v. The use of plastic on the exterior of a sign is prohibited, except on a marquee and institution signs.

e. Lighting of Signs

- i. All electrical shall comply with the currently adopted version of the National Electrical Code.
- ii. Buildings and signs may be illuminated by remote light sources provided that these light sources are shielded to protect adjacent properties.
- iii. No illuminated sign may contain flashing or moving elements or change its brightness. (Exception: historic signs.)
- iv. No signs, except a marquee and institution signs, may be illuminated by fluorescent or back lighting. Institution signs with a reader board/electronic message center shall be illuminated in accordance with 3.1603(7). (Exception: historic signs.)

5. Signs Allowed/Prohibited

b. Prohibited Signs

The following signs are prohibited in the Downtown Sign District:

- i. Any sign not specifically permitted by this section is prohibited.
- ii. Any sign that flashes, blinks, revolves, or is put into motion by the atmosphere will not be permitted unless otherwise allowed in 3.1605.
- iii. Portable signs, except for a-frame or sandwich board signs, will not be permitted.

6. Table of Permitted Signs

SIGNS PERMITTED IN EACH SUB-AREA OF THE DOWNTOWN SIGN DISTRICT		
Sign Type	Area A	Area B
A-frame/Sandwich Board Sign	X	X
Armature Sign		X
Awning Sign	X	X
Banner Sign	X	X
Directory Sign	X	X
Hanging Sign	X	X
<u>Institution Sign</u>		<u>X</u>

Marquee Sign	X	X
Pole Sign		X
Municipally-owned Sign	X	X
Mural Sign	X	X
Onsite Directional Sign	X	X
Projecting Sign	X	
Wall Sign - Attached	X	X
Window Sign	X	
(X = Permitted)		

7. Sign Standards

r. Institution Signs

Institution signs shall not exceed 32 square feet with a maximum height of six feet, and shall be monument-type signs. Required setback shall be eight feet from the front property line (or any property line adjacent to a street) and 30 feet from any adjoining property line. Institution signs are limited to one per street front along major streets only as defined by Subsection 8.222 (5)(a)(i).

Zoning Case 2011-26

An Ordinance of the City of Plano, Texas, amending Subsection 3.1605 (Downtown Sign District) of Section 3.1600 (Sign Regulations) of Article 3 (Supplementary Regulations) and related sections of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, to allow for reader board/electronic message center signs; and providing a publication clause, a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date.

WHEREAS, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 10th day of October, 2011, for the purpose of considering a change in the Zoning Ordinance; and

WHEREAS, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

WHEREAS, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 10th day of October, 2011; and

WHEREAS, the City Council is of the opinion and finds that such change would not be detrimental to the public health, safety, or general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

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

Section I. Subsection 3.1605 (Downtown Sign District) of Section 3.1600 (Sign Regulations) of Article 3 (Supplementary Regulations) of the Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended to allow for reader board/electronic message center signs, such portion of subsection to read as follows:

Section 3.1600 (Sign Regulations)

Subsection 3.1605 (Downtown Sign District)

3. General Provisions

d. Sign Materials

Sign finish materials shall be one of the following:

- i. Metal, painted or enameled.
- ii. Cold cathode tube (neon).
- iii. Carved relief in stone or cast stone.
- iv. Wood or carved wood which is painted or sealed.
- v. The use of plastic on the exterior of a sign is prohibited, except on a marquee and institution signs.

e. Lighting of Signs

- i. All electrical shall comply with the currently adopted version of the National Electrical Code.
- ii. Buildings and signs may be illuminated by remote light sources provided that these light sources are shielded to protect adjacent properties.
- iii. No illuminated sign may contain flashing or moving elements or change its brightness. (Exception: historic signs.)
- iv. No signs, except a marquee and institution signs, may be illuminated by fluorescent or back lighting. Institution signs with a reader board/electronic message center shall be illuminated in accordance with 3.1603(7). (Exception: historic signs.)

5. Signs Allowed/Prohibited

b. Prohibited Signs

The following signs are prohibited in the Downtown Sign District:

- i. Any sign not specifically permitted by this section is prohibited.
- ii. Any sign that flashes, blinks, revolves, or is put into motion by the atmosphere will not be permitted unless otherwise allowed in 3.1605.
- iii. Portable signs, except for a-frame or sandwich board signs, will not be permitted.

6. Table of Permitted Signs

SIGNS PERMITTED IN EACH SUB-AREA OF THE DOWNTOWN SIGN DISTRICT		
Sign Type	Area A	Area B
A-frame/Sandwich Board Sign	X	X
Armature Sign		X
Awning Sign	X	X
Banner Sign	X	X
Directory Sign	X	X
Hanging Sign	X	X
Institution Sign		X
Marquee Sign	X	X
Pole Sign		X
Municipally-owned Sign	X	X
Mural Sign	X	X
Onsite Directional Sign	X	X
Projecting Sign	X	
Wall Sign - Attached	X	X
Window Sign	X	
(X = Permitted)		

7. Sign Standards

r. Institution Signs

Institution signs shall not exceed 32 square feet with a maximum height of six feet, and shall be monument-type signs. Required setback shall be eight feet from the front property line (or any property line adjacent to a street) and 30 feet from any adjoining property line. Institution signs are limited to one per street front along major streets only as defined by Subsection 8.222 (5)(a)(i).

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

Section III. The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

Section IV. Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

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

Section VI. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED THIS THE 10TH DAY OF OCTOBER, 2011.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

DATE: September 20, 2011, 2011
TO: Honorable Mayor & City Council
FROM: Chris Caso, Chairman, Planning & Zoning Commission
SUBJECT: Results of Planning & Zoning Commission Meeting of September 19, 2011

**AGENDA ITEM NO. 9 - PUBLIC HEARING
ZONING CASE 2011-28
APPLICANT: CITY OF PLANO**

Request to amend Section 1.600 (Definitions) of Article 1 (General Regulations), Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses), and related sections of the Zoning Ordinance pertaining to private recreation facility and recreation center uses.

APPROVED: 8-0 **DENIED:** _____ **TABLED:** _____

STIPULATIONS:

Recommended for approval as follows: (Additions are in underlined text; deletions are shown as strikethrough text)

Amend Section 1.600 (Definitions) of Article 1 (General Regulations), such definitions to read as follows:

Private Recreation Facility or Area - A ~~recreation facility or area~~ which is owned and/or operated by a nonprofit organization, that provides for sports, leisure, and recreation activities operated for the exclusive use of ~~private residents or neighborhood groups,~~ its members and their guests and not the general public.

Recreation Center - A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, owned and/or operated by a governmental agency.

KP/dw

CITY OF PLANO
PLANNING & ZONING COMMISSION

September 19, 2011

Agenda Item No. 9

Public Hearing: Zoning Case 2011-28

Applicant: City of Plano

DESCRIPTION:

Request to amend Section 1.600 (Definitions) of Article 1 (General Regulations), Section 2.500 (Permitted Uses) of Article 2 (Zoning Districts and Uses), and related sections of the Zoning Ordinance pertaining to private recreation facility and recreation center uses.

REMARKS:

Earlier this year an appeal of the Director of Planning's interpretation was made regarding the appropriate use classification for outdoor athletic fields operated by a nonprofit organization as a Community Center. The Planning & Zoning Commission determined that an amendment to the Community Center definition to include outdoor athletic fields should be considered. Zoning Case 2011-16 was called for this purpose. After hearing this case, the Commission forwarded a revised definition for Community Center to the City Council. The Commission was agreeable to evaluating the zoning districts in which this use was allowed; however, they sought direction from Council first regarding the proposed definition revision.

On July 25, 2011, the Council considered Zoning Case 2011-16 including the Commission's recommendation. At this meeting, the Council denied the proposed amendment to the Community Center definition. The Council referred the item back to the Commission with direction to review the definitions of private recreation facility and recreation center, as well as to evaluate the zoning districts in which these two land uses are permitted. Below is information regarding each use for the Commission's consideration.

Private Recreation Facility

A private recreation facility is currently defined as "A recreation facility operated for the exclusive use of private residents or neighborhood groups and their guests and not the general public." Examples of private recreation facilities are amenities, such as a clubhouse or pool, provided within a single-family residential neighborhood or within a

multifamily complex for the enjoyment of residents and their guests. Private recreation facility uses are presently allowed by right in the following zoning districts:

- SF-A - Single-Family Attached;
- PH - Patio Home;
- MH - Mobile Home;
- MF-1 - Multifamily-1;
- MF-2 - Multifamily-2;
- MF-3 - Multifamily-3;
- GR - General Residential; and
- All nonresidential districts except Downtown Business/Government.

Private recreation facility uses are allowed subject to approval of a specific use permit (SUP) in all other residential districts.

If the Commission deems it appropriate, the definition for private recreation facility could be expanded to offer additional clarification of the intent and range of activities covered by the definition (additions are underlined; deletions are shown as strike-through):

Private Recreation Facility or Area - A ~~recreation~~ facility or area that provides for sports, leisure, and recreation activities operated for the exclusive use of ~~private residents or neighborhood groups~~ its members and their guests and not the general public, which is owned and/or operated by a nonprofit organization.

The proposed amendment to this definition would allow for athletic fields and other activities where structures or facilities may not be needed, to occur on sites in use as a private recreation facility or area. The following issues are for the Commission's consideration related to the proposed definition change:

Permitted Districts:

With regard to the residential districts where this use is currently allowed by right (i.e. SF-A, PH, GR, and MF districts), the activities referenced within the proposed definition for private recreation facility or area are consistent with the intensity of uses typically found within these moderate to higher density residential districts:

Single-Family Attached and Patio Home Districts - These districts are intended to provide for single-family housing in a medium density range. The required open space provided in these districts is an integral part of the development. Private recreation facilities that include amenities such as swimming pools, clubhouses, and tennis courts are allowed to satisfy open space requirements and are commonly provided.

General Residential District - This zoning district provides for infill residential development that is consistent with the unique character of the Douglass Community near downtown Plano. Integral to this district is the existing Douglass Community Center which serves the immediate neighborhood and surrounding areas.

Multifamily Districts - Multifamily districts generally have access to major arterial roadways and commonly contain amenities such as swimming pools, clubhouses, tennis courts, sand volleyball, and basketball courts. When comparing the scale of permissible developments within the multifamily districts, multifamily developments may be constructed to allow for two to three story buildings with a maximum height ranging from 35 feet to 45 feet. The traffic generation associated with a multifamily development has the potential to be significantly higher when compared to a private recreation facility or area. Screening is also required between multifamily zoned properties and single-family zoned properties.

Existing Private Recreation Facilities:

Since the proposed definition is still consistent with the existing definition of private recreation center, the changes to the definition do not cause any existing private recreation center uses to become nonconforming uses. The proposed definition provides for leisure activities in addition to recreational activities, which is consistent with the operation of private recreation facilities that have clubhouses as amenities.

Structural Improvements:

The proposed definition removes the implication that structures or other man-made facilities are being provided, and allows for land area to be used without structural improvements.

Operational Requirements:

Regardless of where private recreation facilities or areas are located within the city, in addition to development standards provided for in the Zoning Ordinance, these facilities/areas shall comply with performance standards established in the Zoning Ordinance and Municipal Code of Ordinances.

Based on the above analysis, staff recommends amending the definition as proposed and maintaining the existing regulations relating to permitted and prohibited districts for this use.

Recreation Center

Recreation center is currently defined as: “A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities.” This definition appears to have been historically applied to city-owned facilities although, not in all instances because some city facilities have been classified as other uses (i.e. park/playground, community center, and senior center). Regardless, municipally-owned facilities are allowed by right in all districts. The recreation center definition overlaps to some extent other definitions within the Zoning Ordinance including private recreation facility, health/fitness center, community center, and park/playground.

The recreation center use is prohibited in all residential districts. Recreation centers are permitted in all nonresidential districts with the exception of Neighborhood Office (O-1), Light Industrial-1 (LI-1) and Light Industrial-2 (LI-2) districts.

No modifications to the definition of recreation center would be required to accommodate athletic fields. Modifications to the use charts would be necessary to allow recreation centers in some or all residential districts due to the use currently being prohibited in the residential districts. If the Commission determines that the recreation center use is intended to only apply to municipally-owned facilities, the definition could be amended as follows:

“Recreation Center - A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, owned and/or operated by a governmental agency.”

As noted above, the Zoning Ordinance currently prohibits recreation centers in all residential districts. Since, municipally-owned facilities can be built in any zoning district, it is not necessary to amend the districts in which this use is allowed.

Staff recommends no action be taken at this time regarding the recreation center definition. Instead, staff recommends that the private recreation facility definition be amended as presented below.

RECOMMENDATION:

Recommended that the definition for “private recreation facility” be changed to read as follows: (Additions are in underlined text; deletions are shown as strikethrough text)

Amend Section 1.600 (Definitions) of Article 1 (General Regulations), such definition to read as follows:

Private Recreation Facility or Area - A ~~recreation~~ facility or area that provides for sports, leisure, and recreation activities operated for the exclusive use of ~~private residents or neighborhood groups,~~ its members, and their guests and not the general public, which is owned and/or operated by a nonprofit organization.

Zoning Case 2011-28

An Ordinance of the City of Plano, Texas, amending Section 1.600 (Definitions) of Article 1 (General Regulations) of the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, pertaining to private recreation facility and recreation center uses; and providing a publication clause, a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date.

WHEREAS, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 10th day of October, 2011, for the purpose of considering a change in the Zoning Ordinance; and

WHEREAS, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

WHEREAS, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 10th day of October, 2011; and

WHEREAS, the City Council is of the opinion and finds that such change would not be detrimental to the public health, safety, or general welfare, and will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

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

Section I. Section 1.600 (Definitions) of Article 1 (General Regulations) of the Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended pertaining to private recreation facility and recreation center uses, such portion of section to read as follows:

Section 1.600 (Definitions)

Private Recreation Facility or Area - A facility or area which is owned and/or operated by a nonprofit organization, that provides for sports, leisure, and recreation activities operated for the exclusive use of its members and their guests and not the general public.

Recreation Center - A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, owned and/or operated by a governmental agency.

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

Section III. The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

Section IV. Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

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

Section VI. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED THIS THE 10TH DAY OF OCTOBER, 2011.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY