PLANO CITY COUNCIL

WILL CONVENE INTO EXECUTIVE SESSION AT 5:00 P.M. ON OCTOBER 23, 2006, FOLLOWED BY PRELIMINARY OPEN MEETING IMMEDIATELY THEREAFTER, IN THE PLANO MUNICIPAL BUILDING, 1520 K AVENUE, IN COMPLIANCE WITH VERNON'S TEXAS CODES ANNOTATED, GOVERNMENT CODE CHAPTER 551 (OPEN MEETINGS ACT), AS FOLLOWS:

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

EXECUTIVE SESSION

I.	Legal Advice	Wetherbee	5 min.
	A. Respond to questions and receive legal advice on agenda items		
	B. Municipal Setting Designation Program		
II.	Personnel	Council	25 min.
	A. Appointment Planning & Zoning Commission		
	B. Evaluation of Council Appointees		

PRELIMINARY OPEN MEETING

I.	Consideration and action resulting from Executive Session discussion:		
	A. Personnel Appointment Planning & Zoning Commission	Council	1 min.
II.	Personnel		
	A. Appointments/Reappointments Plano Housing Authority	Council	1 min.
III.	Discussion and Direction re a Proposed Fountain in the Shops at Legacy	Fehmi Karahan	15 min.
IV.	Mobility Report	Lloyd Neal	5 min.
V.	DART Status Report	Robert Pope	5 min.
VI.	Comprehensive Monthly Financial Report	John McGrane	5 min.
VII.	Presentation re Updated City of Plano Logo	Susan Helt	10 min.

VIII.	Council items for discussion/action on future agendas	Council	5 min.
IX.	Consent and Regular Agenda	Council	5 min.
X.	Council Reports	Council	5 min.
	A. Council May Receive Information, discuss and provide direction on the following reports:		
	B. Council may receive reports from its other members who serve as liaisons to boards, commissions, and committees		

In accordance with the provisions of the Open Meetings Act, during Preliminary Open Meetings, agenda items will be discussed and votes may be taken where appropriate.

Municipal Center is wheelchair accessible. A sloped curb entry is available at the main entrance facing Avenue L, with specially marked parking spaces nearby. Access and special parking are also available on the north side of building. The Council Chamber is accessible by elevator to the lower level. Requests for sign interpreters or special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary at 972-941-7120.

C I T Y C O U N C I L

1520 AVENUE K

DATE: **October 23, 2006**

CALL TO ORDER: **7:00 p.m.**

INVOCATION: **Rev. Dr. Ronald D. Henderson, Sr. Pastor**
Custer Road United Methodist Church

PLEDGE OF ALLEGIANCE: **Younger Generation Chorus**

ITEM NO.	EXPLANATION	ACTION TAKEN
	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. **The City Council may convene into Executive Session to discuss posted items in the regular meeting as allowed by law.** **PROCLAMATIONS AND SPECIAL RECOGNITION** Proclamation: Arbor Day, November 4, 2006 Presentation: To the City of Plano by the National Society of the Sons of the American Revolution **CERTIFICATES OF APPRECIATION** Animal Shelter Advisory Committee Keith Clark Jeffrey D. Cosby Arts of Collin County Commission Board of Directors George "Robbie" Robinson Board of Adjustment Nicholas Nash Building Standards Commission John Bellair Community Relations Commission David Woolard Cultural Affairs Commission Chrissy Yung	

ITEM NO.	EXPLANATION	ACTION TAKEN
	<u>Keep Plano Beautiful Commission</u> Kent Baker C. Edwin "Ed" Nalley Kendie Payne Christopher Scott Young <u>Library Advisory Board</u> Mary McGowan Harmon Norton <u>Parks and Recreation Planning Board</u> Francis Ngoh <u>Planning and Zoning Commission</u> Dennis Abraham Joyce R. Beach <u>Plano Transition and Revitalization Commission</u> Larry May Craig N. Perry <u>Public Arts Committee</u> Janet Shaw <u>Retirement Security Plan Committee</u> John McGrane Karen Rhodes <u>Self Sufficiency Committee</u> Diana Axthelm Melissa Anne Manfre Evelyn D. Sandberg <u>Senior Citizens Advisory Board</u> Joseph Celso Mary Norman, MD Naomi Selinger Sanit <u>Tax Increment Financing Reinvestment Zone No. 1 Board</u> Jon Christiansen Dong Shen <u>Technology Commission</u> Hu Shen <u>Transportation Advisory Committee</u> Charles Gillett	

ITEM NO.	EXPLANATION	ACTION TAKEN
	THE CITY SECRETARY RECEIVES SPEAKER CARDS AT THE BEGINNING OF THE MEETING	
	COMMENTS OF PUBLIC INTEREST	
	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.	
	BOARD/COMMISSION REPORTS	
	Youth Advisory Commission, Chair Kayla Moorse	
	CONSENT AGENDA	
	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.	
(a)	**Approval of Minutes**	
	October 9, 2006 October 10, 2006	
	Approval of Expenditures	
	Purchase from Existing Contract/Agreement: (Purchase of products/services through Cooperative Purchasing Interlocal Contract with another governmental/quasi-governmental agency or an additional purchase from current City of Plano annual purchase agreement).	
(b)	To authorize the purchase of sports field lighting equipment for Enfield Park Ball Field Lighting Improvements, including installation, fixtures, wiring, switch gear, and controls in the amount of $748,136 from Techline Sports, L.P., through the Texas Association of School Board Purchasing Cooperative Program, Contract #204-04, and authorizing the City Manager to execute any and all documents necessary to effectuate this purchase.	
(c)	To authorize the purchase of maintenance and support of HP printers and servers in the amount of $31,371 from Hewlett-Packard Company through a Department of Information Resources (DIR) contract, and authorizing the City Manager to execute all necessary documents. (DIR-BUSOP-178)	
(d)	To authorize the purchase of IBM i550 in the amount of $260,145 from Sirius Computer Solutions through TXMAS Contract, and authorizing the City Manager to execute all necessary documents. (TXMAS-4-70080)	
(e)	To approve a one-time purchase of a Movable Shelving and Storage System for the Police Property and Evidence Unit from Metroplex Office Systems in the amount of $45,256.	

ITEM NO.	EXPLANATION	ACTION TAKEN
	Approval of Contract: (Purchase of products/services exempt from State of Texas Competitive Bid Laws)	
(f)	To approve a Professional Engineering Services Contract by and between the City and Wier & Associates, Inc., in the amount of $162,300 for the design of Communications Parkway – Parker Road to Spring Creek Parkway and authorizing the City Manager to execute all necessary documents.	
(g)	To approve an Engineering Contract by and between the City and Jones & Carter, Inc. in the amount of $131,550 for Hayfield Drive, Thunderbird Lane, Morton Vale and Cloverhaven Reconstruction and authorizing the City Manager to execute all necessary documents.	
(h)	To approve an Engineering Contract by and between the City and Jaster-Quintanilla Dallas, LLP in the amount of $60,555 for design of construction plans and related services for the construction of Headquarters Drive - Parkwood Boulevard to Preston Road and authorizing the City Manager to execute all necessary documents.	
(i)	To approve the terms and conditions of an Engineering Services Contract by and between the City and Alan Plummer Associates, Inc. in the amount of $104,555 for design of Alma Drive and Parker Road Drainage Improvements and authorizing the City Manager to execute all necessary documents.	
	Approval of Agreements	
(j)	To approve an Agreement between the City of Plano and the Shops of Legacy, L.P. whereby the City will provide funding in part for The Lights of Legacy. The City will contribute $60,000 for this annual event benefiting the Children's Medical Center Legacy.	
	Subdivision Improvement Agreement	
(k)	To approve the terms and conditions of a Subdivision Improvement Agreement by and between the City of Plano, Texas, and Newmark Homes, L.P. for off-site paving improvements in Cloverhaven Way and Bright Star Way.	
	Change Order: (Change to current City of Plano contract allowable under State law)	
(l)	To Duit Construction Company, Inc., increasing the contract by $132,949 for the Alma Road Whitetopping Street Resurfacing, Change Order No. 1. (Original Bid No. 2006-112-B).	
	<u>Adoption of Resolutions</u>	
(m)	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 $544,089; authorizing the City Manager to execute such agreements with these organizations for the provision of support of Heritage Preservation; and providing an effective date.	
(n)	To approve the terms and conditions of the Funding Agreements between the City of Plano, Texas, and six special events in the total amount of $254,437, authorizing the City Manager to execute such agreements; and providing an effective date.	

ITEM NO.	EXPLANATION	ACTION TAKEN
(o)	To approve the terms and conditions of the Funding Agreements between the City of Plano, Texas, and various arts organizations, which all render services that are beneficial to the public and serve a valid public purpose in the total amount of $601,301; authorizing the City Manager to execute such agreements with these organizations for provision of support of the arts; and providing an effective date.	
(p)	To approve an annual contract with renewals for the purchase of additional DriveCams and driving feedback systems for implementation on City operated vehicles in an estimated annual amount of two hundred thirty-seven thousand six hundred fifty dollars ($237,650) from DriveCam Inc., the sole source vendor of such equipment and services; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the contract; and providing an effective date.	
(q)	To approve the terms and conditions of an Interlocal Cooperation Agreement by and between the City of Plano, Texas, and the Texas Municipal League for Intergovernmental Insurance Pool; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the agreement; and providing an effective date.	
(r)	To approve the terms and conditions of an amendment to Municipal Maintenance Agreement for the furnishing, installing, operation and maintenance of cameras on State Highway Rights-of-Way to monitor compliance with traffic-control signals by and between the State of Texas and the City of Plano; authorizing its execution by the City Manager; and providing an effective date.	
	Adoption of Ordinances	
(s)	To approve the carrying forward of Fiscal Year 2005-2006 funds to Fiscal Year 2006-2007; and providing an effective date.	
(t)	To abandon all right, title and interest of the City, in and to a portion of those certain easements being a fifteen foot (15') sanitary sewer easement recorded in Volume 4111, Page 2589, a fifteen foot (15') sanitary sewer easement recorded in Volume 4565, Page 0031 and a sixty foot (60') temporary drainage easement recorded in Volume 4111, Page 2605 of the Land Records of Collin County, Texas and being situated in the Collin County School Land Survey No. 7 Survey, Abstract Number 153 and being located north of McDermott Road and east of Ohio Drive; which is located within the City limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such right-of-way to the abutting property owner, Pasquinelli Portrait Homes–The Enclave at Willow Crest LP, to the extent of its interest; authorizing the City Manager to execute any documents deemed necessary; and providing an effective date.	

ITEM NO.	EXPLANATION	ACTION TAKEN
(u)	To amend the Plano Code of Ordinances, Chapter 12, Motor Vehicles and Traffic, Article V, Stopping, Standing, and Parking, Section 12-101, Prohibited on certain streets at all times, to prohibit stopping, standing, or parking of motor vehicles on both sides of Alliance Boulevard between Preston Road and Allied Drive within the City limits of the City of Plano; declaring it unlawful and a misdemeanor to stop, stand, or park motor vehicles upon such sections of such roadway within the limits herein defined; providing a fine for criminal penalties not to exceed $200.00 for each offense; and providing a repealer clause, a severability clause, a savings clause, and an effective date.	
(v)	To repeal Ordinance No. 2003-9-44, codified as Sections 18-32, 18-33, and 18-34 of Article II, Collection Charges, of Chapter 18, Solid Waste of the Code of Ordinances of the City of Plano, Texas; establishing a revised schedule of rates and charges for solid waste disposal and collection applicable to residential and commercial accounts; and providing a repealer clause, a severability clause, and an effective date.	
	ITEMS FOR INDIVIDUAL CONSIDERATION:	
	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.	
	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.	
(1)	**Public Hearing and an ordinance** to designate a certain area within the City of Plano as Reinvestment Zone No. 94 for a tax abatement consisting of a 4.0782 acre tract of land located at the west right-of-way line of Preston Road and the north right-of-way line of Headquarters Drive, in the City of Plano; establishing the boundaries of such zone; ordaining other matters relating thereto; and providing an effective date.	
(2)	**A resolution** to approve the terms and conditions of an agreement by and between the City of Plano, Texas, the County of Collin, Texas, the Collin County Community College District and NYLO Hotels, L.L.C., a Delaware Limited Liability Company, and providing for a business personal property and real property tax abatement, and authorizing its execution by the City Manager; and providing an effective date.	
(3)	**Public Hearing and an ordinance as requested in Zoning Case 2006-22** – To amend the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 578 so as to allow the additional use of Day Care Center on one lot on 0.1± acre of land located 110± feet north of Chapel Hill Boulevard and 1,418± feet east of Midway Road in the City of Plano, Collin County, Texas, presently zoned Regional Commercial; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, and an effective date. Applicant: Kiddin' Around Property Management Corporation	

ITEM NO.	EXPLANATION	ACTION TAKEN
(4)	**Public Hearing and an ordinance for Comprehensive Plan Revision** – To adopt the updated Utilities Element of the Comprehensive Plan, amendments to the text as originally adopted by Resolution No. 87-2-21(R); approving the utilization of said element as revised and amended by the appropriate personnel and departments of the City of Plano for the purpose of guiding future development within the City of Plano, Texas; and providing an effective date. Applicant: City of Plano	
(5)	**Presentation, direction and consideration of a resolution** regarding a Coalition Membership for TXU Coal Plants: A Resolution to approve the bylaws of the Texas Clean Air Cities Coalition (the "Coalition") or coalition of cities and other local government entities and organizations formed to pursue mutual interests in respect of certain coal-burning electric power plants proposed for construction in Texas, and to preserve the rights of Texas local governments to protect their air quality and their access to sufficient and reasonably priced electric energy; accepting membership in said coalition; appointing a representative to serve on behalf of the City of Plano; approving payment of a membership assessment; authorizing its execution by the City Manager; and providing an effective date.	
(6)	**Presentation and Direction** regarding City of Plano Smoke Free Ordinance	
(7)	**Discussion and Direction** regarding the funding for The Plano Santa's Parade.	
	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.	

city of plano

Pat Evans
Mayor

Scott Johnson
Mayor Pro Tem

Sally Magnuson
Deputy Mayor Pro Tem

Shep Stahel
Place 1

Loretta Ellerbe
Place 3

Harry LaRosiliere
Place 5

Jean Callison
Place 7

Lee Dunlap
Place 8

Thomas H. Muehlenbeck
City Manager

October 19, 2006

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

Honorable Mayor and City Council:

We will begin Monday evening in Executive Session where we will receive advice from the City Attorney and discuss the municipal setting designation program. One appointment will be considered during Executive Session for the Planning and Zoning Commission. There is also an opportunity allotted to proceed with the evaluation of Council appointees.

The Preliminary Open Meeting agenda consists of an additional appointment, that to the Plano Housing Authority. Mr. Fehmi Karahan will make a presentation regarding a proposed fountain in the Shops at Legacy. We will also hear the Mobility Report from Lloyd Neal, the DART Status Report from Robert Pope and the Comprehensive Monthly Financial Report from John McGrane. Also on the agenda is a presentation by Susan Helt regarding an update of the current City of Plano logo.

I look forward to seeing you Monday.

Sincerely yours,

Thomas H. Muehlenbeck

Thomas H. Muehlenbeck
City Manager

THM/cp

P.O. Box 860358
Plano, Texas 75086-0358
972-941-7000
www.plano.gov

MEMO

DATE: October 16, 2006

TO: Honorable Mayor and City Council
City Manager Muehlenbeck
City Secretary Bealke

FROM: Di Zucco, Assistant City Secretary

RE: Personnel Appointments/Reappointments
Executive and Worksession Meetings

The following personnel appointments/reappointments will be considered at the October 23, 2006 Council Meeting.

Executive Session	**Worksession Meeting**
Planning and Zoning Commission (Resignation of Dennis Abraham – term expires 10-07)	Plano Housing Authority

BRDSCOM/PERSMEMO

II a

Preliminary Open Meeting Agenda Item III

Presentation re Proposed Fountain
In the Shops at Legacy

Karahan

IIIa

plano
Transportation Division

Transportation Mobility / Safety Report

September 2006

- Traffic Signals:

  New Signal Construction/Design:
  - ✓ **Implemented new signal timing sequence at Preston Road and SH-121**
  - o Constructing traffic signal at Parkwood @ Headquarters (**80%** complete)
  - o Developing As-Built drawings for 200 signalized intersections (5% complete)
  - o Designing traffic signal at Spring Creek @ Parkwood (**100%** complete)
  - o Designing traffic signal at Tennyson Parkway @ Corporate Drive (**90%** complete)

- Traffic Safety:

  - ✓ **Installed additional traffic safety signing for the Lexington Park project**
  - ✓ **Installed pedestrian safety enhancements at Preston Road @ Alliance Boulevard**
  - ✓ **Issued work orders to install 40 mph signs on Ridgeview Drive**

- Safe Streets Program (SSP)

  - o **An updated SSP Project Location Map is now on the Transportation Division web site**
  - o Sailmaker Lane: **Permanent Plan mailed to residents. Responses due 10//06**
  - o Country Place Drive north of Park Boulevard:: **Permanent Plan mailed to residents**
  - o Rainier Road south of Spring Creek Parkway: **Permanent Plan approved by residents with 50% response and 76% approval.**
  - o Mission Ridge north of Spring Creek: **Permanent Plan being mailed to residents.**
  - o Lexington Drive: **Permanent Plan being mailed to residents.**
  - o Micarta Drive: **Heavy enforcement efforts did not resolve the problem. Temporary Plan being developed.**

Participating Neighborhoods

- o Michael Drive (Petition forms being sent to the sponsor)
- o Hawkhurst Drive (Permanent Plan devices being ordered)
- o Russell Creek Drive (Permanent Plan devices being ordered)
- o Seabrook (Permanent Plan devices being ordered)
- o Cumberland Trail (Permanent Plan devices being ordered)
- o Crossbend from Tumbril Lane to Coit (Permanent Plan devices being ordered)
- o Sailmaker Lane (**Permanent Plan mailed to residents**)
- o Travis Drive (Permanent Plan devices being ordered \)
- o Ranier Road south of Spring Creek Parkway (**Permanent Plan approved by residents**)
- o Lexington Drive (Temporary Devices installed 2/06)
- o Country Place Drive north of Park Boulevard (**Permanent Plan mailed to residents**)
- o Mission Ridge North of Spring Creek (**Permanent Plan being mailed to residents**)
- o Peachtree Lane (Work Order sent to Public Works for installation of temporary devices)
- o Silverstone Drive (Work Order sent to Public Works for installation of temporary devices)
- o Parkhaven Drive (Permanent Plan devices being ordered)

IV a

- Mission Ridge from Parker to Matterhorn (Temporary Plan approved by residents)
- Royal Oaks Drive (Temporary Plan approved by residents)
- Old Pond Drive (**Temporary Plan approved by residents**)
- Micarta Drive (**Temporary Plan under development**)
- Robinson Road (**Heavy Enforcement concludes in October**)

- Long Range Planning:
  - ✓ **Staff completed required IS-100, IS-200, and IS-700 NIMS training**
  - ✓ **2006 Traffic Volume Map 80% completed**
  - ✓ **Prepared bid documents for traffic counting contract**
  - Revise Plano Thoroughfare Standards (**90%** complete)
  - Developing detour plan for repair of railroad crossing at US-75 and Plano Parkway (90% complete)
  - Attended monthly DRMC, RTC, TAC, STTC, and ITE meetings
  - Working to modify TED web page to match the new City of Plano web page format (**95%** completed)
  - Analyzing employee commute patterns (**90%** completed)

IV b

Preliminary Open Meeting Agenda Item V

DART Status Report

Pope

Va

Preliminary Open Meeting Agenda Item VI

Comprehensive Monthly Financial Report
McGrane

VIa

Plano's Comprehensive Monthly

finance report

September 2006

All American

All the Time

On the cover, "The Tracks of Our Past and Future - Evolution" Public Art Project, directed by the Douglass Community Arts Advisory Committee, is located along the retainer wall of DART Rail in the Douglass Community. Photos taken by Wes Smith.

About This Report

The City of Plano Finance Department is dedicated to excellence in local government, comprehensive fiscal management, compliance and reporting. The Comprehensive Monthly Finance Report (CMFR) is a unique document, directed at providing our audience (internal and external users), with the general awareness of the City's financial positions and economic activity.

This report is comprised of five sections:

1. The **Financial Analysis** reports the performance of the major operating funds of the City. Narrative disclosures are used to highlight any significant changes or fluctuations.

1A. The **Financial Summary** provides comparative data for major revenue sources and expenditure items.

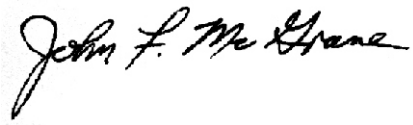
2. The **Economic Analysis** section contains a summary of the key economic indicators and an in-depth review with graphic illustrations.

3. The **Investment Report** provides a description of investment activity during the month and a summary of interest earnings.

4. The **Quarterly Investment Report** summarizes investment activity for the previous fiscal quarter, and also provides various data on portfolio performance.

We would like to acknowledge those responsible for this report: Allison Friloux for the Financial Summary, Brent Yowell for the Economic Analysis Report and the Investment Report.

The CMFR is intended to provide our audience with a timely, unique and informative document. Please provide us with any comments or suggestions you may have and should you desire additional information, feel free to contact my office.



John F. McGrane
Director of Finance
P.O. Box 860358
Plano, TX 75006-0358
972-941-7135

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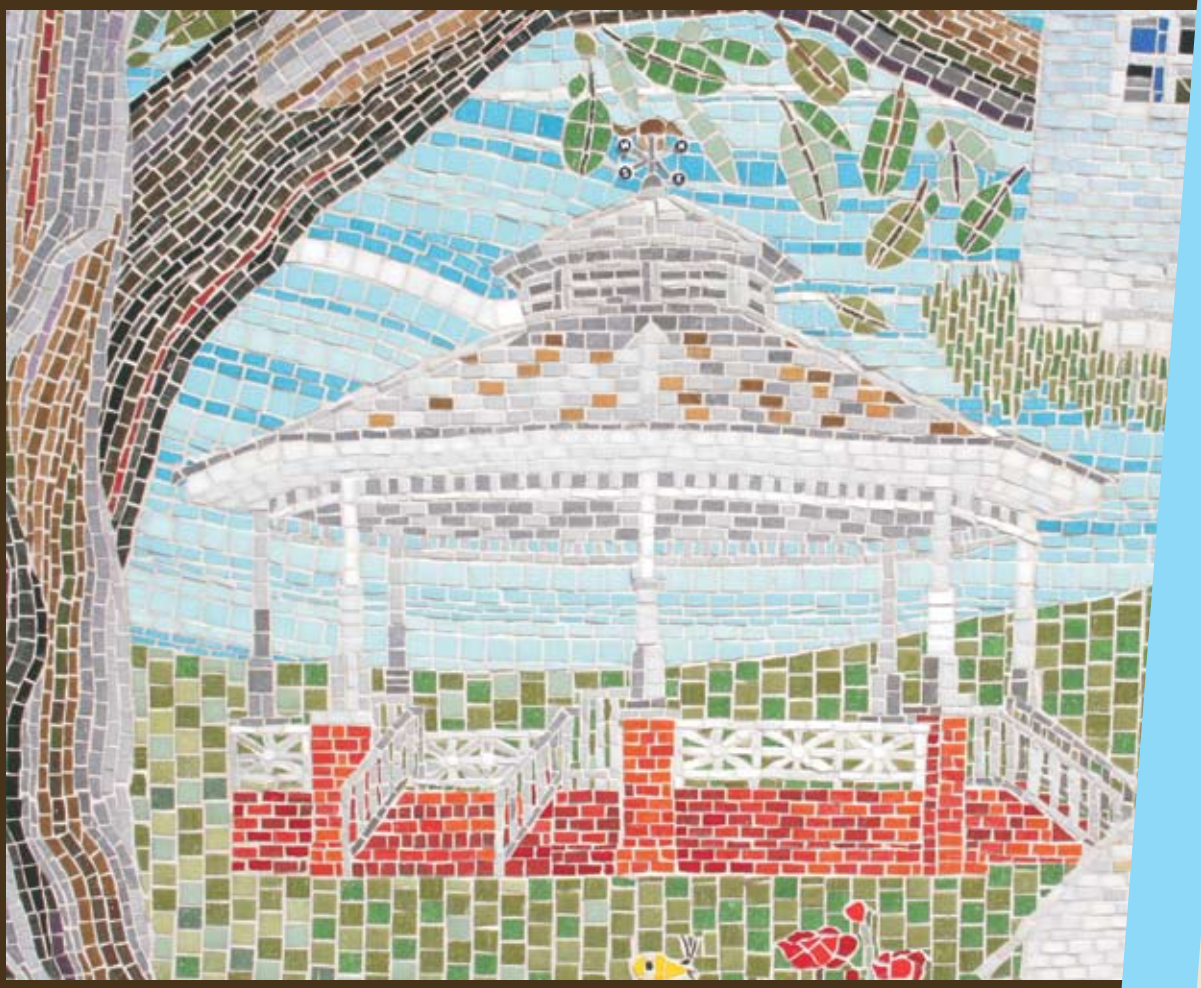
SECTION-1



FINANCIAL ANALYSIS

City of Plano

Comprehensive Monthly Finance Report

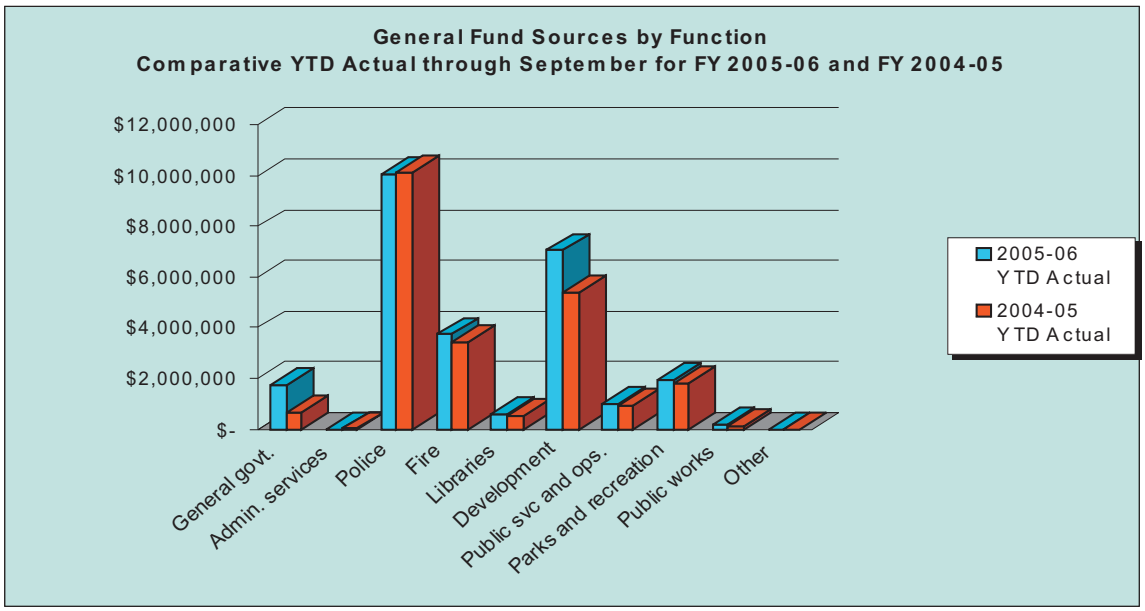
This report is designed for internal use and does not include all the funds and accounts included in the City of Plano's operations. For a complete report, refer to the City of Plano Comprehensive Annual Financial Report, available through the City's Finance Department.

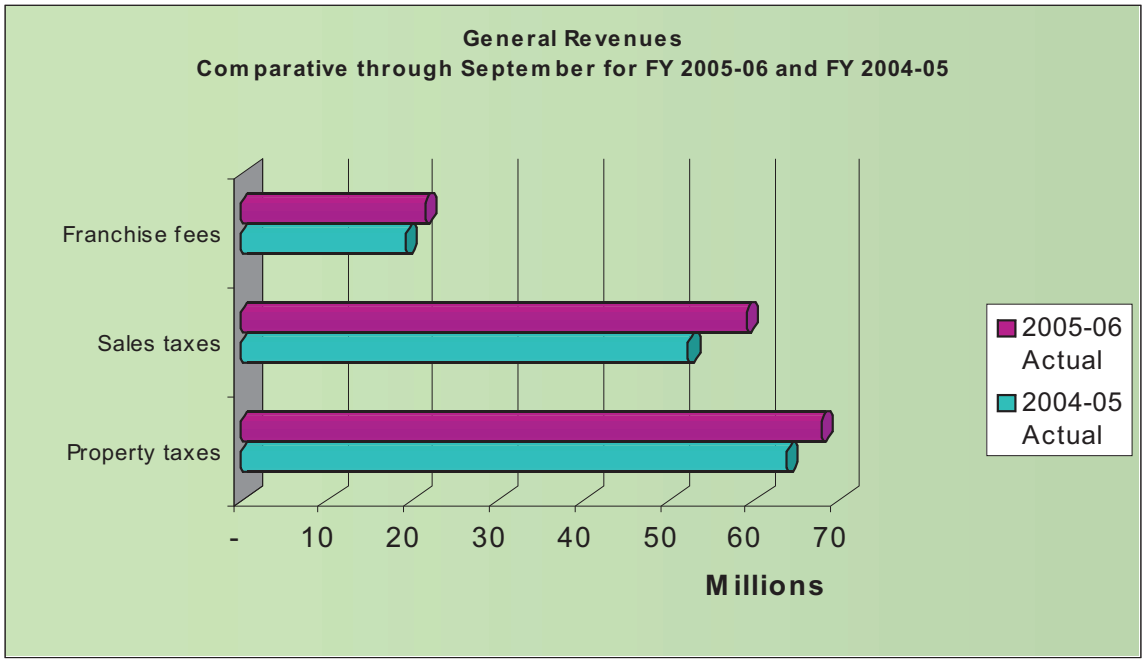
Report Notes September, 2006

The information represented in the graphs below is derived from the statement of activities which is located after this section. The statement of activities presents information demonstrating how the City's net assets are changing during the current fiscal year. The format of the statement of activities reports General Fund and Business-type revenues and expenses by function which provides readers with a broad overview of the City of Plano's finances.

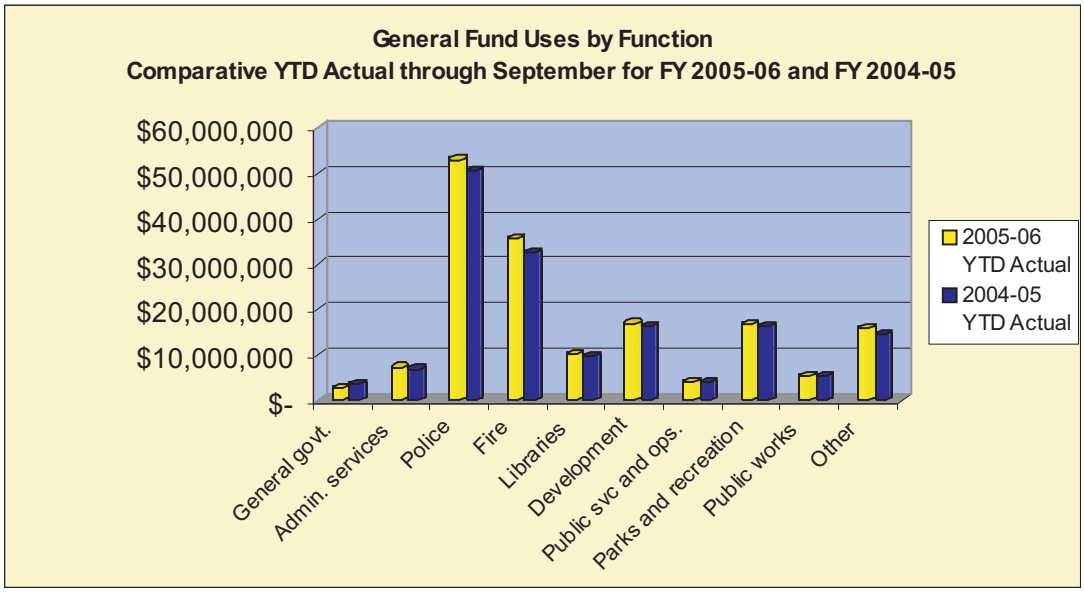
The information in this section compares year to date activity in the current fiscal year to the same time period in prior year. Please note that beginning fund balances in all funds are subject to final audit adjustments.

Highlights of General Fund Variances





Report Notes Continued
September, 2006



General Government

- The General Fund recorded proceeds of $353,936 from the gain of the sale of Rice Field in January 2006. The sale of Rice Field included 1.895 acres of land previously purchased for $99,673. The net gain on the sale of Rice Field is $254,263.
- A new program implemented in the current year for the recreation centers allows for $10 of each membership fee collected to be utilized to purchase replacement equipment for the various recreation centers. The amount collected for this program in the current year is $169,363.
- In prior year, $24,900 was spent for the 2005 bond pamphlets that were distributed to citizens discussing the bonds that were on the ballot for that specific election.
- According to a funding agreement between the City and Plano Sister Cities, Inc., approved in September 2004, disbursement of funds was made in prior year in the amount of $20,400. The agreement from prior year provides Plano Sister Cities, Inc., as an organization, to expend such funds to promote, foster, coordinate and publicize international municipal programs for the purpose of enhancing international relationships with the City.
- In the current year, additional work was performed on the Interurban Railway Museum in addition to including a new information kiosk for the downtown retail district. The cost of these additions amounted to $11,086.
- A new monument, located at Courtyard Theater, has been added in the current year in the amount of $9,000.
- An increase of $46,447 has occurred over prior year for tuition reimbursements to City employees.
- Budgeted transfers to the Technology Services Fund from the General Fund have decreased over prior year by $1,200,000.

Administrative Services

- Audit fees for the City's annual audit, performed by Deloitte & Touche LLP, have increased $21,908 attributed to higher fees assessed in the current year's contract.
- Election costs decreased over prior year by $76,821 primarily attributed to sharing of costs with other entities, such as Plano Independent School District and Collin County Community College District, in current year elections.
- Personal services for administrative service departments increased over the prior year in the amount of $428,166 or 7%, primarily attributed to salary increases and mid-year increases to

Administrative Services cont.

correct compression issues within salary ranges.

- An increase in the volume of exams administered by the Human Resource department to police officers being hired increased over prior year by $6,790. In the current fiscal year, there are more replacement officers due to a larger volume of police retirees in the current year. In addition, the Police department budgeted 10 new positions this year.

Police

- Personal services increased over prior year by $2,451,072 or 5%, attributed to increased salary and benefit related expenditures as well as an increase in retiree payouts of $384,362.
- Every two years the Police department purchases state criminal and traffic law books which occurred in the current year. The amount paid for these books totaled $8,626.
- In the prior year, the Police department purchased five new Crown Victorias and three new Chevrolet Impalas, all new additions to the fleet, with an overall cost of $158,255.
- Radio purchases decreased over prior year by $42,969.
- The annual contract for radio and mobile data system maintenance, related to public safety communications, increased $15,740 over prior year attributed to added equipment coming out of warranty to be covered under the current contract.
- The Public Safety Communications department incurred expenditures for adding offices for two positions that were filled in the current fiscal year. The cost of these improvements was $25,610.

Fire

- Ambulance service revenues increased $303,318 as compared to prior year primarily due to a 15% increase in rates effective October 1, 2005.
- Fire protection plan revenues have increased $44,298 as a result of larger commercial projects in addition to an increase in multi-family dwelling units.
- Personal services increased $1,989,127 over prior year primarily attributed to increased salary and benefit related expenditures in the current year.
- In the current fiscal year, seven replacement carbon fiber cylinders were purchased to operate the self-contained breathing apparatus (SCBA). Nineteen new SCBA were purchased for assigned personnel that will be primarily be stationed at Fire Station No.11 opening November 2006. The cost of this purchase was $33,233.
- The Fire department had an increase in fire hose purchases in the current year, as fire hoses are purchased on an as needed basis.
- Capital outlay funds were spent to purchase a rescue tool for Fire Station No. 11 which costs $24,203.
- The Fire department funded a portion of a new project in which portable computers are utilized to transmit data, entered from an incident scene, to the emergency rooms at the area hospitals. The amount of funds encumbered for this project is $46,770. The majority of the funding is from the Fire department's replacement fund. The total amount encumbered funded through the Fire department and the Fire department replacement fund is $305,770.
- Funds to purchase new Autopulse devices were spent in the amount of $122,136. This equipment is an automatic cardiopulmonary resuscitation (CPR) device.
- The Fire department made radio purchases in the current year in the amount of $94,318, whereas no funds were spent for radios by the Fire department last fiscal year.
- Replacement charges for fire equipment decreased $42,598 over prior year due to a decrease in

Report Notes Continued
September, 2006

Fire Cont.

budgeted amounts to repay the equipment replacement fund for equipment purchased in prior years.

- Payment made to the equipment replacement fund for fire rolling stock increased over prior year by $109,774, attributed to timing of replacements in the current fiscal year.
- Expenditures for municipal garage charges, incurred for maintaining fire fleet by equipment services, increased $123,655 due to increased labor rates and fuel costs.
- A new ambulance was added to the fleet in the current year that cost $189,708 increasing capital outlay expenditures.
- New structural collapse training classes occurred in the current year costing $22,500. This training is for the City's regional response team to become part of the Dallas Regional Urban Search and Rescue Task Force.

Libraries

- Revenues collected for library book fines increased over prior year by $25,927 primarily due to the renovation of Haggard Library during the months of July 2004 through December 2005. The amount of revenues collected for library fines for Haggard Library in the current year is $47,403.
- The City receives payment from Collin County Community College and Allen Public Library for each entity's portion of maintenance costs associated with the Dynix System. These revenues are recorded at $55,997 year to date as of September 2006. Last fiscal year, the payment received totaled $34,524. The reason for the increase in revenues is attributed to a larger need of technology services assistance as well as increased server maintenance costs.
- Personal services expenditures are greater over prior year by $360,096 primarily attributed to increased salary and benefit related costs.
- The Library Administration department purchased a new Dodge Grand Caravan this current year in the amount of $17,106.

Development

- Building inspection fee revenues increased over prior year by $1,440,142 due to an increasing number of down payments for required plan reviews of large projects for commercial building development and multi-family dwelling units.
- Engineering inspection fee revenues increased $141,182 over prior year attributed to an increased number of inspections for roadway, residential and commercial projects performed in the current year.
- Rental registration revenues have been incurred in the current year reported at $90,208. This new program is the result of the recently adopted City ordinance requiring registration of multi family complexes that are twenty years old and older with five or more dwelling units.
- Facilities maintenance payments increased over prior year by $494,812 and $73,144, respectively, for electric and gas, primarily driven by higher natural gas prices.
- The Facilities Services department incurred and encumbered expenditures of $25,938, an increase of $17,567 over prior year, for power washing services at City facilities. The cost increase is attributed to special projects needed in the current year.
- In the prior year, the Property Standards office underwent an office reconfiguration that was funded by Facilities Maintenance, causing expenditures in the prior year to be $24,638 greater than the current year.
- Increases in the Property Standards department's expenditures include the addition of six new

Report Notes Continued
September, 2006

Development Cont.

vehicles to the fleet in the current year totaling $132,688. The Property Standards department purchased 3 Toyota Prius and 3 Chevrolet trucks, all of which are hybrid vehicles.

- In the prior year, the Neighborhood Maintenance program purchased items utilized for safe streets programs in the amount of $85,232. Expenditures of $5,259 have been incurred in the current year. The purchasing and installation issues have been resolved which were factors attributing to the decrease in costs in the current year. Contract development will resume and orders will be placed beginning in fiscal year 2006-07.

Public Services and Operations

- Lease fees pertaining to rental of space on City property and/or facilities increased over prior year by $79,330 due to a larger amount of space leased.
- Salary and benefit related expenditures increased $99,172 primarily due to increased salary and benefit costs.
- Reimbursements from the Municipal Drainage Fund for work from staff in the Health department increased $13,134. The Municipal Drainage Fund is utilizing two Environmental Health Specialists in the current year as opposed to one in the prior year.
- Services for temporary staff assisting with maintenance of kennels have increased over prior year by $6,431 due to a shortage of Animal Services personnel.
- Payment to veterinarians for services for spaying/neutering animals at the shelter has increased $6,687 over prior year primarily due to increased fees as well as a better evaluation of spaying/neutering adoptable animals.
- The Animal Services department has purchased 4 trucks and one tandem axle trailer, as new additions to the fleet, with a total cost of $81,528.

Parks and Recreation

- In the current year, the Parks and Recreation departments have received $129,644 in insurance and damage receipts from the Property Liability Loss Fund pertaining to events that have resulted in damage to City property. As compared to prior year, this is an increase of $86,940.
- Salary and benefit related expenditures increased $515,216 primarily attributed to increased salary and benefit related costs.
- Printing services and expenditures for postage have decreased over prior year by $36,485 primarily due to the annual Parks and Recreation Guide not being printed in the current year. Due to an excess of guides that were printed and not distributed from prior year, the Parks and Recreation department will distribute the remaining guides in the current year. In addition, due to the fact that the Tom Muehlenbeck Recreation Center is scheduled to open in the summer of 2007, the new guide will be printed and published next fiscal year including the new facility.
- The Creative Arts division spent $13,522 on advertising to promote scheduled events at the Amphitheater at Oak Point Park and the Cox Building Playhouse.
- The Park Field Services department experienced an increase in contractual service amounts for restroom and litter cleaning and median and right of way mowing. The City is requiring the contractor to use a lightweight turf truckster to prevent turf damage to the fields, increasing the contractual amount as compared to last year. Payment for median and right of way mowing has

Report Notes Continued
September, 2006

Parks and Recreation Cont.

increased primarily attributed to an increase in territory coverage.

- Payment to Plano Independent School District increased $119,730 for usage of utility and custodial services for Williams and Clark Recreation Centers. The payment amount has increased over prior year primarily due to higher utility costs.
- The Athletics Fields Maintenance department purchased, in the current year, a new pickup truck in the amount of $18,108.
- Municipal garage charges to maintain parks and recreation rolling stock increased over prior year by $54,064 primarily attributed to labor and fuel rate increases in the current year.
- In prior fiscal year, Liberty Recreation Center funded the cost to remove and add new fencing around the grounds with expenditures totaling $33,500.
- The Park Support Services department has increased purchases for maintenance parts and supplies in the current year by $29,935. Due to the current drought, various parks staff members' assignments have been altered so projects are being worked this year that were not last year due to staffing issues.
- A new pickup truck was purchased in the current year for the Park Support Services department that cost $30,798.
- In March 2006, the Parks division purchased new hardware and software for a work management program that cost $21,407.
- The infield areas for specific ballfields at Heritage Yards and Carpenter Park have had improvements performed in the current year costing $43,710. This type of service began in the current year and is on an as needed basis.
- Electric payments made for Parks and Recreation departments have increased over prior year in the amount of $27,649 primarily due to increased natural gas prices which impacts electric costs.
- Expenditures for special programs operations of the Parks and Recreation department to Collin County Committee on Aging have increased in the current year by $12,947 due to an increase in cost of services as stated in the current contract.
- The Recreation Administration department and Courtyard Theater purchased defibrillators in the prior fiscal year costing $34,352. The defibrillators are stationed at all recreation center facilities and Courtyard Theater.

Public Works

- In the current year, the streets, signals and signs and markings departments have received $87,683 in insurance and damage receipts from the Property Liability Loss Fund pertaining to events that have resulted in damage to City property. As compared to prior year, this is an increase of $55,464.

Other

- Payments made to support social service agencies increased over last fiscal year by $192,628 due to an increase in funding.
- Expenditures for consulting services have been incurred in the current year in the amount of $95,000 to update and revise Plano Center's Business Plan.
- Consulting services were utilized in the current year in search of hiring the City's Fire Chief and Homeland Security Director costing $48,307.
- Electric utility payments increased $147,334 over prior year due to an increase in natural gas prices.
- Interdepartmental billings to the Water & Sewer fund increased $174,517 due to increased

Report Notes Continued
September, 2006

Other Cont.

rates and meters and overall increased consumption during the on-going drought at city facilities.

- Technology services charges decreased over prior year by $189,788 due to a decline in budgeted amounts.

Property Tax Revenues

- Ad valorem tax revenues increased $4,064,507 attributed to increased assessed property values in the current year.

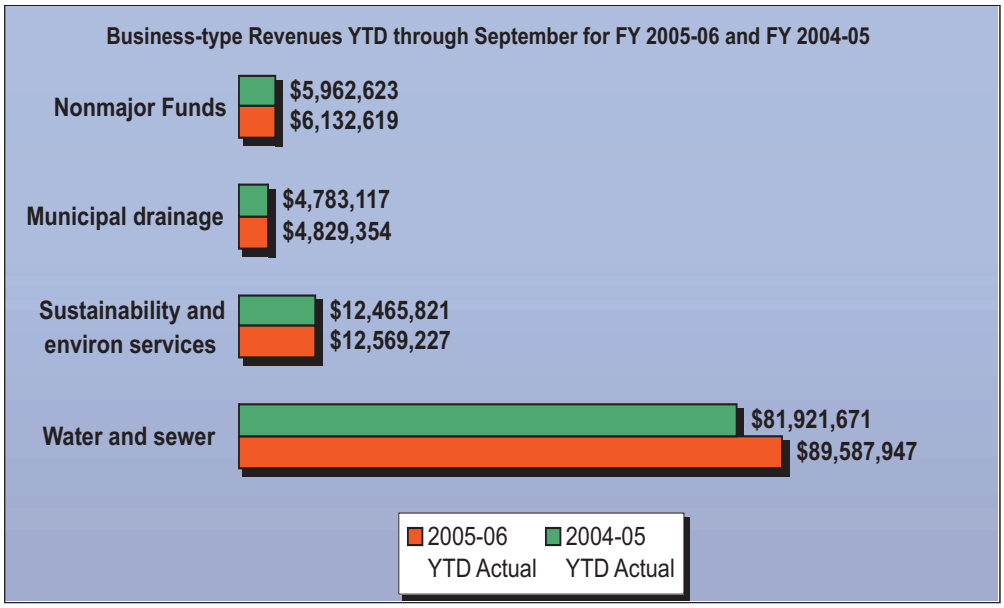
Sales Tax Revenues

- Sales tax revenues increased over prior year by $6,773,258. When comparing the months of September 2006 and September 2005, an increase of 13.5% was noted in sales tax revenues.

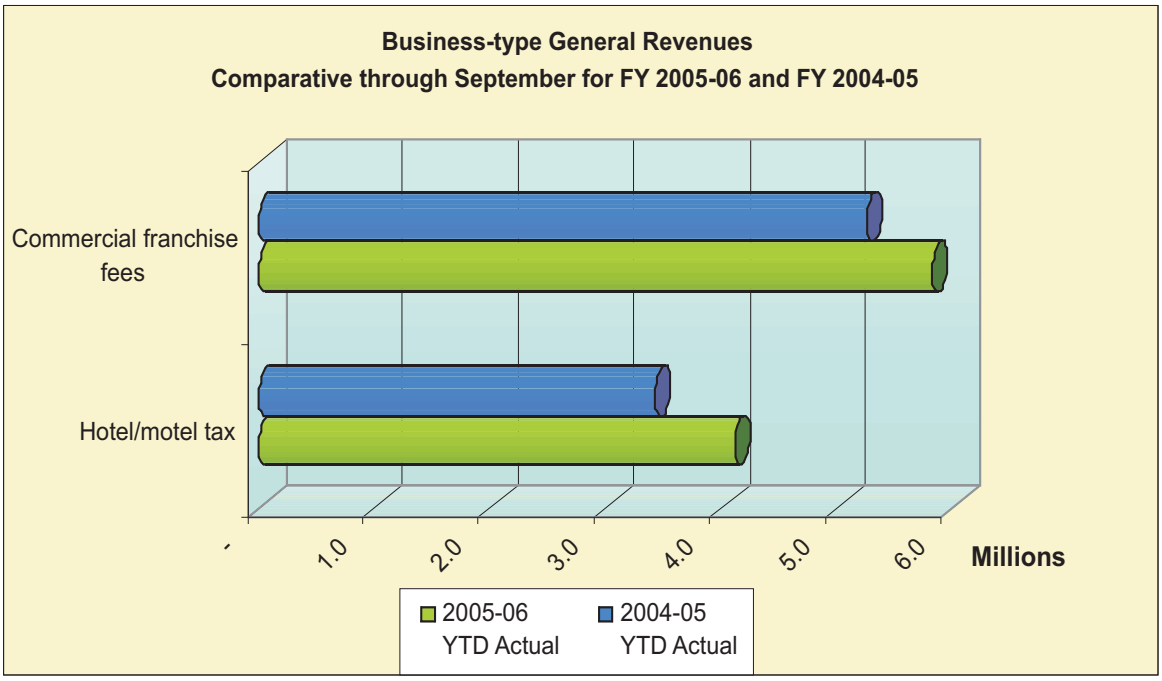
Franchise Fee Revenues

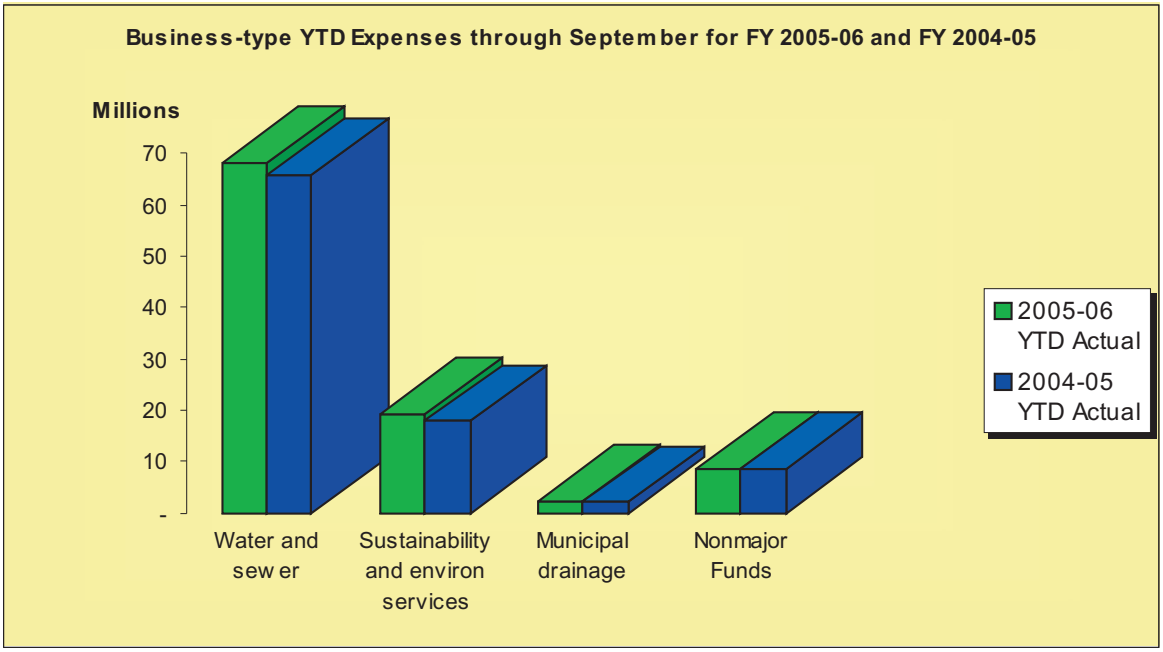
- Electrical Franchise revenues increased over prior year in the amount of $1,593,006 primarily attributed to increased natural gas prices which impact electric rates as well as a settlement payment received from TXU in the amount of $858,521. The settlement is the result of the Steering Committee of Cities Served by TXU voting to recommend that member cities initiate rate proceedings at the city level against TXU Electric Delivery and to show cause why its rates should not be reduced. TXU and the Steering Committee reached settlement to abate the show cause proceeding in exchange for certain monetary concessions to the Steering Committee.
- Gas Franchise revenues increased over prior year by $571,145 primarily attributed to increased natural gas prices.
- General Fund interest income increased $1,316,302 over last year due to the recording of an unrealized loss of $2,613,547 in fiscal year 2005 to adjust investments to fair value. An adjustment is done quarterly to comply with Governmental Accounting Standards Board (GASB) Statement No. 31.

Highlights of Business-type Variances



Report Notes Continued
September, 2006





Water & Sewer

- Water and sewer revenues increased $3,266,100 and $3,628,767, respectively. Overall consumption is higher in the current year due to the on-going drought, as well as increased winter consumption, which raised the residential winter quarter average for sewer income. Since implementation of Stage 3 of the drought plan on June 19, the amount of water being pumped on a daily basis is down 12.54% when comparing June 19-October 11 data of the

Water & Sewer Cont.

current year versus prior year. The amount of water pumped from June 19-October 11 is down approximately 1.5 billion gallons as compared to prior year.

- Water and sewer penalty revenues increased over prior year by $137,686. This increase is the result of substantially higher winter month billings in the current year with a comparable percentage of late paying customers when comparing the two fiscal years.
- Sewer tie-on revenues are collected for domestic meters that are purchased based on the approved site plan from Engineering. These revenues increased $106,340 due to increased permits issued for commercial building development and multi-family dwelling units.
- The purchase of Rice Field in February 2005 resulted in expenses increasing $550,750 in the prior year. In January 2006, Rice Field sold for $904,686. The General Fund recorded proceeds of $353,936 from the gain on the sale of land. The sale of Rice Field included 1.895 acres of land previously purchased for $99,673. The net gain on the sale of Rice Field is $254,263.
- Water and Sewer Fund interest income increased $202,407 over last year due to the recording of an unrealized loss of $2,613,547 in fiscal year 2005 to adjust investments to fair value. An adjustment is done quarterly to comply with GASB Statement No. 31.
- Payment to North Texas Municipal Water District (NTMWD) for services such as wastewater and pre-treatment increased over prior year by $1,624,698 due to timing of receipt of the September 2006 billing/refund. In last fiscal year, the NTMWD invoice was not received until November 2005. Payments are based on contractual amounts.
- Contractual amounts with NTMWD for water services have increased over prior year by $747,148.
- Electric utility payments increased $571,577 over prior year primarily due to an increase in natural gas prices.
- Municipal garage charges for maintaining equipment has increased over prior year by $116,330 due to increased fuel and labor charges.
- The Utility Operations department pays for debris hauling services in the current year of which $203,492 has been paid. This service was not utilized in the prior year.
- A portion of the increase in contractual / professional services is attributed to an increase of $349,226 for payment in lieu of taxes.
- Encumbered funds and payments to Link 2 Gov for internet processing services have increased $52,070 due to higher usage of on-line bill payments by citizens.
- Capital outlay expenses and encumbrances have decreased over prior year by $966,936, primarily due to the automated meter reading project nearing completion. The project is expected to complete by the end of this fiscal year however, there will be on-going maintenance and purchases of replacement FireFly units in future years.
- Costs associated with the Environmental Education Complex have been incurred in the amount of $13,342. Additional funds of $127,858 are encumbered in the current year for architectural services related to the Environmental Education Complex.

Report Notes Continued
September, 2006

Sustainability and Environmental Services

- Commercial franchise revenues are $597,059 higher than prior year. Overall commercial tonnage disposed has increased over prior year, in addition to an increase in the number of commercial entities serviced. Another factor impacting franchise revenues is a 1% increase in the percentage rate used to compute the amount of revenues to be collected from Allied Waste Services. This percentage change was implemented in February 2005.
- Recycling revenues have decreased $101,138 attributed to the fluctuating market. Due to the nature of the recycling business, the recycling market fluctuates and when comparing year to date revenues over last year, the recycling market has dropped.
- Compost sales are higher than last fiscal year by $59,638 which is due to the increased compost market and production.
- Tipping fee revenues are $31,287 greater than the same period in the prior year. The increase is attributed to an increase in participation in the current year. These revenues are collected when other cities and commercial businesses bring yard waste, wood and other types of material used to make compost products to the City, which is the regional composter for NTMWD.
- Personal services increased $272,753, or 6%, primarily attributed to increased salary and benefit related costs.
- Payment to NTMWD increased $158,082 over prior year. The increase is due to timing of receipt of the September 2006 billing. In last fiscal year, the NTMWD invoice/refund was not received until November 2005. Payments are based on contractual amounts
- Garage charges for maintaining environmental waste services fleet increased $448,393 over prior year primarily due to higher labor and fuel costs.
- Capital outlay expenses increased due to purchase of a trommel screen in the current year in the amount of $307,549. In addition, composting operations purchased a tractor trailer, Mack tractor and John Deere front end loader in the current year in the amounts of $64,267, $95,510 and $279,932, respectively.

Municipal Drainage

- Debris hauling services increased over prior year by $125,392 as this type of service is a new expense in the current year.
- Expenses of $52,921 have been incurred in the current year for expansion of offices for the storm water technician. For 2006-07, one additional full time position is budgeted.
- Municipal Drainage Operations purchased a new walk-behind concrete saw in the current year costing $15,720.
- A new Ford Hybrid SUV has been added to the Municipal Drainage fleet in the amount of $25,161 in the current year.

Report Notes Continued
September, 2006

Civic Center

- Since the ratification by voters at an election in May 2005 for the legal sale of mixed beverages in restaurants by food and beverage certificate holders only, revenues for mixed beverages have increased $118,569 as compared to prior year.
- Since the closure of the cafeteria at the Municipal Center in September 2005, cafeteria sales decreased $73,566 over prior year. Although revenues have ceased due to the closure of this operation, the staffing levels remain constant and were not reduced.
- Concession revenues are up $26,929 over prior year due to Plano Center assuming operations at Enfield and Carpenter Parks. In addition, the Plano Center is in charge of providing concessions to two soccer fields that were not included in its operations in prior year.
- Inside catering and equipment rental revenues have increased $54,827 and $45,721, respectively, attributed to a larger volume of events held at Plano Center. The social and corporate events are spending more on catering and equipment rentals than in prior year as last year's market did not use as much of the ancillary services. The types of events primarily held last year were local trade shows, start up business and minor socials.
- Hotel/motel tax revenues increased over prior year by $689,191 due to increases in utilization and average room rate of hotels within the City.
- Contractual services in support of historic preservation and the arts have increased $112,677 and $57,748, respectively, primarily due to funding for each of these services increasing $146,165 over prior year's re-estimate.

Golf Course

- Golf fees are $82,763 lower than prior year. It is speculated that a portion of the decrease in revenues is the result of increased competition from neighboring areas, warmer temperatures and higher gas prices in the current year. Although revenues have decreased over prior year, the City is currently charging Plano Independent School District (PISD) for utilizing the golf course which was not done in the prior year. The amount billed and collected from PISD in the current year is $15,000.
- Golf Fund miscellaneous revenues decreased over prior year primarily attributed to the appreciation payment of $84,000 for American Golf's management lease sale of a portion of Ridgeview Ranch.
- In the prior fiscal year, the golf course overseeded the fareways which totaled $9,240. This type of work was not done in the current year because the grass on the fareways was declining due to stress of overseeding.
- Payment made to the equipment replacement fund for golf rolling stock decreased over prior year by $20,372 attributed to timing of replacements in the current fiscal year.

Recreation Revolving

- In the current year, payment made to class instructors for services increased $15,931 while recreation revenues have increased $37,453. The increase in revenues is attributed to additional participation in the current year, which warrants the need for more class instructors.

Report Notes Continued
September, 2006

Property Management

- Contractual services decreased $26,298 primarily due to expenses spent to install a new roof for Downtown Center North in the prior year.

SECTION-1A

FINANCIAL SUMMARY

City of Plano

Comprehensive Monthly Finance Report

City of Plano, Texas
Statement of Activities
For the Period Ended September 30, 2006

Function/Program Activities	Expenses/Expenditures: Budget	Expenses/Expenditures: Re-estimate	Expenses/Expenditures: Actual/Encumb.	Expenses/Expenditures: Actual & Encumb./ Re-estimate	Program Revenues: Budget	Program Revenues: Re-estimate	Program Revenues: Actual	Program Revenues: Actual/ Re-estimate	Net (Expense) Revenue and Changes in Net Assets: General Fund: Budget	General Fund: Re-estimate	General Fund: Actual	Business-type Activities: Budget	Business-type Activities: Re-estimate	Business-type Activities: Actual	Actual Total
General Fund															
General Fund Activities:															
General government	$ 2,948,595	$ 3,001,658	$ 2,827,933	94.2%	$ 962,470	$ 1,255,217	$ 1,705,808	135.9%	$ (1,986,125)	$ (1,746,441)	$ (1,122,125)				$ (1,122,125)
Administrative services	7,618,546	7,695,647	7,333,138	95.3%	-	-	-	-	(7,618,546)	(7,695,647)	(7,333,138)				(7,333,138)
Police	55,350,345	54,995,894	53,076,684	96.5%	10,652,797	10,641,727	10,071,036	94.6%	(44,697,548)	(44,354,167)	(43,005,648)				(43,005,648)
Fire	36,871,932	36,697,481	35,543,731	96.9%	3,641,837	3,611,235	3,729,741	103.3%	(33,230,095)	(33,086,246)	(31,813,990)				(31,813,990)
Libraries	10,322,462	10,741,950	10,289,998	95.8%	529,840	565,724	562,201	99.4%	(9,792,622)	(10,176,226)	(9,727,797)				(9,727,797)
Development	17,778,108	18,021,893	17,027,069	94.5%	4,252,745	6,302,295	7,050,394	111.9%	(13,525,363)	(11,719,598)	(9,976,675)				(9,976,675)
Public services and operations	4,738,407	4,670,089	4,213,875	90.2%	893,093	1,000,005	991,052	99.1%	(3,845,314)	(3,670,084)	(3,222,823)				(3,222,823)
Parks and recreation	17,432,182	17,268,886	16,869,519	97.7%	2,124,662	1,922,378	1,917,521	99.7%	(15,307,520)	(15,346,508)	(14,951,998)				(14,951,998)
Public works	5,555,101	5,653,602	5,450,829	96.4%	117,718	122,088	160,971	131.8%	(5,437,383)	(5,531,514)	(5,289,858)				(5,289,858)
Other	19,706,167	17,261,499	15,999,173	92.7%	-	-	-	-	(19,706,167)	(17,261,499)	(15,999,173)				(15,999,173)
Total General Fund	178,321,845	176,008,599	168,631,949	95.8%	23,175,162	25,420,669	26,188,724	103.0%	(155,146,683)	(150,587,930)	(142,443,225)				(142,443,225)
Business-type Activities:															
Water and sewer	67,501,264	69,369,145	68,072,902	98.1%	85,159,814	89,162,195	89,587,947	100.5%				$ 17,658,550	$ 19,793,050	$ 21,515,045	21,515,045
Sustainability and environ services	18,751,284	20,611,815	19,200,528	93.2%	12,472,583	12,656,548	12,569,227	99.3%				(6,278,701)	(7,955,267)	(6,631,301)	(6,631,301)
Municipal drainage	2,607,588	2,418,383	2,210,264	91.4%	4,811,906	4,680,313	4,829,354	103.2%				2,204,318	2,261,930	2,619,090	2,619,090
Civic center	6,153,579	6,461,426	5,378,340	83.2%	2,184,914	2,356,681	2,470,734	104.8%				(3,968,665)	(4,104,745)	(2,907,606)	(2,907,606)
Municipal golf course	866,028	865,510	816,682	94.4%	1,096,850	922,415	866,642	94.0%				230,822	56,905	49,960	49,960
Property management	19,500	19,500	24,435	125.3%	68,500	68,500	76,989	112.4%				49,000	49,000	52,554	52,554
Recreation revolving	2,460,542	2,515,936	2,389,146	95.0%	2,606,601	2,577,060	2,650,126	102.8%				146,059	61,124	260,980	260,980
Downtown center development	45,000	45,000	43,356	96.3%	67,678	67,678	68,128	100.7%				22,678	22,678	24,772	24,772
Total business-type activities	98,404,785	102,306,715	98,135,653	95.9%	108,468,846	112,491,390	113,119,147	100.6%	-	-	-	10,064,061	10,184,675	14,983,494	14,983,494
Total	$ 276,726,630	$ 278,315,314	$ 266,767,602		$ 131,644,008	$ 137,912,059	$ 139,307,871		(155,146,683)	(150,587,930)	(142,443,225)	10,064,061	10,184,675	14,983,494	(127,459,731)

	General Revenues: Budget	General Revenues: Re-estimate	General Revenues: Actual	Business-type Activities: Budget	Business-type Activities: Re-estimate	Business-type Activities: Actual	Actual Total
General revenues:							
Property taxes	68,331,840	68,415,677	67,814,250	-	-	-	67,814,250
Sales taxes	50,589,530	58,781,815	59,024,267	-	-	-	59,024,267
Other taxes	772,689	886,137	735,377	-	-	-	735,377
Hotel/Motel tax	-	-	-	3,411,137	3,910,904	4,112,246	4,112,246
Franchise fees	19,084,469	20,227,241	21,460,521	5,307,371	5,782,842	5,821,192	27,281,713
Investment income	1,600,000	1,700,000	2,378,164	292,500	410,500	506,686	2,884,850
Total general revenues	140,378,528	150,010,870	151,412,579	9,011,008	10,104,246	10,440,124	161,852,703
Change in net assets	(14,768,155)	(577,060)	8,969,354	19,075,069	20,288,921	25,423,618	34,392,972
Net assets - beginning			39,224,186			348,951,116	388,175,302
Net assets - ending			$ 48,193,540			$ 374,374,734	$ 422,568,274

Note: For annual reporting purposes, reclassifications may be occur at year end.

Monthly Financial Summary Report
Through September 30 of Fiscal Years 2006, 2005, and 2004
General Fund

	Fiscal Year	Annual Budget	Re-estimated Budget	12 Months Actual	Actual/ Re-estimate	Performance Index
REVENUES:						
Ad valorem tax	2006	$ 61,823,000	61,823,000	61,860,000	100.1%	100.06
	2005	58,007,000	58,007,000	57,795,000	99.6%	99.63
	2004	58,761,000	58,761,000	58,752,000	100.0%	99.98
Sales tax	2006	50,590,000	58,782,000	59,024,000	100.4%	100.41
	2005	48,668,000	50,590,000	52,251,000	103.3%	103.28
	2004	44,279,000	48,668,000	49,602,000	101.9%	101.92
Other revenue	2006	51,140,000	54,826,000	57,355,000	104.6%	104.61
	2005	50,719,000	50,716,000	50,245,000	99.1%	99.07
	2004	48,108,000	50,253,000	49,883,000	99.3%	99.26
TOTAL REVENUE	2006	163,553,000	175,431,000	178,239,000	101.6%	101.60
	2005	157,394,000	159,313,000	160,291,000	100.6%	100.61
	2004	151,148,000	157,682,000	158,237,000	100.4%	100.35
EXPENDITURES & ENCUMBRANCES:						
Current operating	2006	$ 176,624,000	173,909,000	167,248,000	96.2%	N/A
	2005	169,111,000	163,596,000	158,632,000	97.0%	N/A
	2004	155,728,000	152,562,000	146,610,000	96.1%	N/A
Capital outlay	2006	1,697,000	2,099,000	2,022,000	96.3%	96.33
	2005	1,458,000	2,365,000	2,255,000	95.3%	95.35
	2004	1,100,000	1,962,000	2,045,000	104.2%	104.23
Total expenditures and encumbrances	2006	178,321,000	176,008,000	169,270,000	96.2%	96.17
	2005	170,569,000	165,961,000	160,887,000	96.9%	96.94
	2004	156,828,000	154,524,000	148,655,000	96.2%	96.20
Excess (deficiency) of revenues over (under) expenditures	2006	(14,768,000)	(577,000)	8,969,000	-	-
	2005	(13,175,000)	(6,648,000)	(596,000)	-	-
	2004	(5,680,000)	3,158,000	9,582,000	-	-
OTHER FINANCING SOURCES (USES)						
Transfers in	2006	8,645,000	9,572,000	9,572,000	100.0%	100.00
	2005	7,405,000	7,978,000	7,978,000	100.0%	100.00
	2004	7,141,000	7,275,000	7,275,000	100.0%	100.00
Transfers out	2006	(10,240,000)	(10,740,000)	(10,740,000)	100.0%	100.00
	2005	(9,660,000)	(10,160,000)	(10,160,000)	100.0%	100.00
	2004	(9,750,000)	(11,087,000)	(11,087,000)	100.0%	100.00
NET CHANGE IN FUND BALANCES	2006	(16,363,000)	(1,745,000)	7,801,000		
	2005	(15,430,000)	(8,830,000)	(2,778,000)		
	2004	(8,289,000)	(654,000)	5,770,000		
FUND BALANCES-BEGINNING	2006			39,224,000		
	2005			39,497,000		
	2004			29,802,000		
FUND BALANCES-ENDING SEPTEMBER 30	2006			47,025,000		
	2005			36,719,000		
	2004			35,572,000		

Note: For annual reporting purposes, a portion of Transfers In (Out) may be reclassified at year end.

Monthly Financial Summary Report
Through September 30 of Fiscal Years 2006, 2005, and 2004
Water and Sewer Fund

	Fiscal Year	Annual Budget	Re-estimated Budget	12 Months Actual	Actual/ Re-estimate	Performance Index
REVENUES:						
Water and sewer revenue	2006	$ 83,000,000	86,275,000	86,788,000	100.6%	100.59
	2005	80,656,000	78,905,000	79,770,000	101.1%	101.10
	2004	80,768,000	76,973,000	73,106,000	95.0%	94.98
Other fees and service charges	2006	2,360,000	3,087,000	3,003,000	97.3%	97.28
	2005	2,188,000	2,186,000	2,152,000	98.4%	98.44
	2004	2,382,000	2,245,000	2,112,000	94.1%	94.08
TOTAL REVENUE	2006	85,360,000	89,362,000	89,791,000	100.5%	100.48
	2005	82,844,000	81,091,000	81,922,000	101.0%	101.02
	2004	83,150,000	79,218,000	75,218,000	95.0%	94.95
EXPENSES & ENCUMBRANCES:						
Capital outlay	2006	70,000	601,000	358,000	59.6%	59.57
	2005	1,064,000	1,947,000	1,816,000	93.3%	93.27
	2004	2,020,000	2,111,000	2,063,000	97.7%	97.73
Other expenses & encumbrances	2006	67,431,000	68,768,000	67,715,000	98.5%	98.47
	2005	66,315,000	64,279,000	64,043,000	99.6%	99.63
	2004	63,551,000	61,576,000	59,998,000	97.4%	97.44
Total expenses and encumbrances	2006	67,501,000	69,369,000	68,073,000	98.1%	98.13
	2005	67,379,000	66,226,000	65,859,000	99.4%	99.45
	2004	65,571,000	63,687,000	62,061,000	97.4%	97.45
Excess (deficiency) of revenues over (under) expenses	2006	17,859,000	19,993,000	21,718,000	-	-
	2005	15,465,000	14,865,000	16,063,000	-	-
	2004	17,579,000	15,531,000	13,157,000	-	-
TRANSFERS IN (OUT)						
Transfers in	2006	230,000	333,000	333,000	100.0%	100.00
	2005	469,000	328,000	328,000	100.0%	100.00
	2004	469,000	469,000	469,000	100.0%	100.00
Transfers out	2006	(19,439,000)	(20,890,000)	(20,890,000)	100.0%	100.00
	2005	(19,728,000)	(16,514,000)	(16,514,000)	100.0%	100.00
	2004	(20,566,000)	(20,717,000)	(20,717,000)	100.0%	100.00
CHANGE IN NET ASSETS	2006	$ (1,350,000)	(564,000)	1,161,000		
	2005	(3,794,000)	(1,321,000)	(123,000)		
	2004	(2,518,000)	(4,717,000)	(7,091,000)		
TOTAL NET ASSETS-BEGINNING	2006			317,131,000		
	2005			319,626,000		
	2004			324,442,000		
TOTAL NET ASSETS-ENDING SEPTEMBER 30	2006			318,292,000		
	2005			319,503,000		
	2004			317,351,000		

Note: For annual reporting purposes, a portion of Transfers In (Out) may be reclassified at year end.

Monthly Financial Summary Report
Through September 30 of Fiscal Years 2006, 2005, and 2004
Sustainability and Environmental Services Fund

	Fiscal Year	Annual Budget	Re-estimated Budget	12 Months Actual	Actual/ Re-estimate	Performance Index
REVENUES:						
Commerical solid waste franchise	2006	$ 5,307,000	5,783,000	5,821,000	100.7%	100.66
	2005	5,161,000	5,210,000	5,255,000	100.9%	100.86
	2004	4,963,000	5,069,000	5,022,000	99.1%	99.07
Refuse collection revenue	2006	11,106,000	11,263,000	11,258,000	100.0%	99.96
	2005	11,035,000	11,182,000	11,329,000	101.3%	101.31
	2004	10,444,000	10,946,000	11,004,000	100.5%	100.53
Other fees and service charges	2006	1,367,000	1,393,000	1,311,000	94.1%	94.11
	2005	1,113,000	1,249,000	1,142,000	91.4%	91.43
	2004	913,000	939,000	874,000	93.1%	93.08
TOTAL REVENUE	2006	17,780,000	18,439,000	18,390,000	99.7%	99.73
	2005	17,309,000	17,641,000	17,726,000	100.5%	100.48
	2004	16,320,000	16,954,000	16,900,000	99.7%	99.68
EXPENSES & ENCUMBRANCES:						
Capital outlay	2006	532,000	2,206,000	761,000	34.5%	34.50
	2005	436,000	552,000	537,000	97.3%	97.28
	2004	14,000	66,000	60,000	90.9%	90.91
Other expenses & encumbrances	2006	18,219,000	18,406,000	18,440,000	100.2%	100.18
	2005	16,843,000	17,167,000	17,239,000	100.4%	100.42
	2004	16,326,000	15,793,000	15,963,000	101.1%	101.08
Total expenses and encumbrances	2006	18,751,000	20,612,000	19,201,000	93.2%	93.15
	2005	17,279,000	17,719,000	17,776,000	100.3%	100.32
	2004	16,340,000	15,859,000	16,023,000	101.0%	101.03
Excess (deficiency) of revenues over (under) expenses	2006	(971,000)	(2,173,000)	(811,000)	-	-
	2005	30,000	(78,000)	(50,000)	-	-
	2004	(20,000)	1,095,000	877,000	-	-
CHANGE IN NET ASSETS	2006	$ (971,000)	(2,173,000)	(811,000)		
	2005	30,000	(78,000)	(50,000)		
	2004	(20,000)	1,095,000	877,000		
TOTAL NET ASSETS-BEGINNING	2006			2,578,000		
	2005			2,902,000		
	2004			2,305,000		
TOTAL NET ASSETS-ENDING SEPTEMBER 30	2006			1,767,000		
	2005			2,852,000		
	2004			3,182,000		

Note: For annual reporting purposes, a portion of Transfers In (Out) may be reclassified at year end.

Monthly Financial Summary Report
Through September 30 of Fiscal Years 2006, 2005, and 2004
Municipal Drainage Fund

	Fiscal Year	Annual Budget	Re-estimated Budget	12 Months Actual	Actual/ Re-estimate	Performance Index
REVENUES:						
Fees and service charges	2006	$ 4,812,000	4,677,000	4,801,000	102.7%	102.65
	2005	4,788,000	4,788,000	4,778,000	99.8%	99.79
	2004	4,782,000	4,752,000	4,673,000	98.3%	98.34
Miscellaneous revenue	2006	47,000	112,000	177,000	158.0%	158.04
	2005	35,000	50,000	60,000	120.0%	120.00
	2004	20,000	30,000	26,000	86.7%	86.67
TOTAL REVENUE	2006	4,859,000	4,789,000	4,978,000	103.9%	103.95
	2005	4,823,000	4,838,000	4,838,000	100.0%	100.00
	2004	4,802,000	4,782,000	4,699,000	98.3%	98.26
EXPENSES & ENCUMBRANCES:						
Capital outlay	2006	27,000	52,000	105,000	201.9%	201.92
	2005	-	2,000	2,000	100.0%	-
	2004	-	-	2,000	-	-
Other expenses & encumbrances	2006	2,581,000	2,366,000	2,105,000	89.0%	-
	2005	2,009,000	2,152,000	2,031,000	94.4%	-
	2004	1,859,000	1,834,000	1,688,000	92.0%	-
Total expenses and encumbrances	2006	2,608,000	2,418,000	2,210,000	91.4%	91.40
	2005	2,009,000	2,154,000	2,033,000	94.4%	94.38
	2004	1,859,000	1,834,000	1,690,000	92.1%	92.15
Excess (deficiency) of revenues over (under) expenses	2006	2,251,000	2,371,000	2,768,000	-	-
	2005	2,814,000	2,684,000	2,805,000	-	-
	2004	2,943,000	2,948,000	3,009,000	-	-
TRANSFERS IN (OUT)						
Operating transfers in	2006	-	-	-	-	-
	2005	-	1,300,000	1,300,000	100.0%	100.00
	2004	-	-	-	-	-
Operating transfers out	2006	(2,421,000)	(2,412,000)	(2,412,000)	100.0%	100.00
	2005	(2,474,000)	(2,506,000)	(2,506,000)	100.0%	100.00
	2004	(2,493,000)	(2,493,000)	(2,493,000)	100.0%	100.00
CHANGE IN NET ASSETS	2006	(170,000)	(41,000)	356,000		
	2005	340,000	1,478,000	1,599,000		
	2004	450,000	455,000	516,000		
TOTAL NET ASSETS-BEGINNING	2006			17,924,000		
	2005			14,995,000		
	2004			13,749,000		
TOTAL NET ASSETS-ENDING SEPTEMBER 30	2006			18,280,000		
	2005			16,594,000		
	2004			14,265,000		

Note: For annual reporting purposes, a portion of Transfers In (Out) may be reclassified at year end.

Monthly Financial Summary Report
Through September 30 of Fiscal Years 2006, 2005, and 2004
NonMajor Business-Type Fund

	Fiscal Year	Annual Budget	Re-estimated Budget	12 Months Actual	Actual/ Re-estimate	Performance Index
REVENUES:						
Hotel/motel tax	2006	$ 3,411,000	3,911,000	4,112,000	105.1%	105.14
	2005	2,936,000	3,328,000	3,423,000	102.9%	102.85
	2004	2,805,000	2,805,000	3,077,000	109.7%	109.70
Other revenue	2006	6,071,000	6,095,000	6,288,000	103.2%	103.17
	2005	6,243,000	5,935,000	6,011,000	101.3%	101.28
	2004	6,350,000	6,015,000	5,650,000	93.9%	93.93
TOTAL REVENUE	2006	9,482,000	10,006,000	10,400,000	103.9%	103.94
	2005	9,179,000	9,263,000	9,434,000	101.8%	101.85
	2004	9,155,000	8,820,000	8,727,000	98.9%	98.95
EXPENSES & ENCUMBRANCES:						
Capital outlay	2006	5,000	11,000	48,000	436.4%	436.36
	2005	6,000	8,000	19,000	237.5%	237.50
	2004	1,561,000	1,531,000	1,497,000	97.8%	97.78
Other expenses & encumbrances	2006	9,541,000	9,897,000	8,604,000	86.9%	86.94
	2005	9,109,000	8,729,000	8,457,000	96.9%	96.88
	2004	8,910,000	8,380,000	7,986,000	95.3%	95.30
Total expenses and encumbrances	2006	9,546,000	9,908,000	8,652,000	87.3%	87.32
	2005	9,115,000	8,737,000	8,476,000	97.0%	97.01
	2004	10,471,000	9,911,000	9,483,000	95.7%	95.68
Excess (deficiency) of Revenues over (under) expenses	2006	(64,000)	98,000	1,748,000	-	-
	2005	64,000	526,000	958,000	-	-
	2004	(1,316,000)	(1,091,000)	(756,000)	-	-
TRANSFERS IN (OUT):						
Operating transfers in	2006	-	790,000	790,000	-	-
	2005	-	-	-	-	-
	2004	-	-	-	-	-
Operating transfers out	2006	(538,000)	(573,000)	(573,000)	100.0%	100.00
	2005	(579,000)	(527,000)	(527,000)	100.0%	100.00
	2004	(451,000)	(434,000)	(434,000)	100.0%	100.00
CHANGE IN NET ASSETS	2006	(602,000)	315,000	1,965,000		
	2005	(515,000)	(1,000)	431,000		
	2004	(1,767,000)	(1,525,000)	(1,190,000)		
TOTAL NET ASSETS-BEGINNING	2006			11,317,000		
	2005			11,620,000		
	2004			12,069,000		
TOTAL NET ASSETS-ENDING SEPTEMBER 30	2006			13,282,000		
	2005			12,051,000		
	2004			10,879,000		

Note: For annual reporting purposes, a portion of Transfers In (Out) may be reclassified at year end.

Equity in Treasury Pool
September, 2006

FUND NO.	FUND NAME	CASH	EQUITY IN TREASURY POOL	TOTAL 9/30/06	TOTAL 10/01/05	TOTAL 9/30/05
GENERAL FUND:						
01	General	$ 83,000	43,945,000	44,028,000	34,010,000	34,010,000
77	Payroll	-	2,445,000	2,445,000	1,687,000	1,687,000
24	City Store	-	8,000	8,000	6,000	6,000
994	Plano All-America City	-	(29,000)	(29,000)	(29,000)	(29,000)
		83,000	46,369,000	46,452,000	35,674,000	35,674,000
DEBT SERVICE FUND:						
03	G.O. Debt Service	-	2,165,000	2,165,000	1,933,000	1,933,000
		-	2,165,000	2,165,000	1,933,000	1,933,000
CAPITAL PROJECTS:						
22	Recreation Center Facilities	-	326,000	326,000	610,000	610,000
23	Street Enhancement	-	1,272,000	1,272,000	1,220,000	1,220,000
25	1991 Police & Courts Facility	-	1,001,000	1,001,000	961,000	961,000
27	1991 Library Facility	-	321,000	321,000	377,000	377,000
28	1991 Fire Facility	-	1,092,000	1,092,000	1,059,000	1,059,000
31	Municipal Facilities	-	372,000	372,000	354,000	354,000
32	Park Improvements	-	3,703,000	3,703,000	3,542,000	3,542,000
33	Street & Drainage Improvement	-	984,000	984,000	(132,000)	(132,000)
35	Capital Reserve	-	33,250,000	33,250,000	26,902,000	26,902,000
38	DART L.A.P.	-	706,000	706,000	677,000	677,000
39	Spring Creekwalk	-	21,000	21,000	20,000	20,000
52	Park Service Areas	-	5,164,000	5,164,000	4,190,000	4,190,000
53	Creative & Performing Arts	-	1,562,000	1,562,000	1,499,000	1,499,000
54	Animal Control Facilities	-	193,000	193,000	187,000	187,000
59	Service Center	-	119,000	119,000	115,000	115,000
60	Joint Use Facilities	-	522,000	522,000	501,000	501,000
85	Public Arts	-	-	-	-	-
110	G.O. Bond Clearing - 1999	-	1,613,000	1,613,000	2,478,000	2,478,000
190	G.O. Bond Clearing - 2000	-	3,797,000	3,797,000	3,641,000	3,641,000
230	G.O. Bond Clearing - 2001	-	2,454,000	2,454,000	2,558,000	2,558,000
240	G.O. Bond Clearing - 2001-A	-	190,000	190,000	182,000	182,000
250	Tax Notes Clearing - 2001-A	-	207,000	207,000	253,000	253,000
92	G.O. Bond Refund/Clearing - 2002	-	1,000	1,000	266,000	266,000
270	G.O. Bond Refund/Clearing - 2003	-	1,469,000	1,469,000	1,818,000	1,818,000
310	G.O. Bond Refund/Clearing - 2005	-	1,659,000	1,659,000	27,403,000	27,403,000
093	G.O. Bond Clearing - 2006	-	37,198,000	37,198,000	-	-
089	C.O. Bond Clearing - 2006	-	3,805,000	3,805,000	-	-
		-	103,001,000	103,001,000	80,681,000	80,681,000
ENTERPRISE FUNDS:						
26	Municipal Drainage CIP	-	131,000	131,000	81,000	81,000
34	Sewer CIP	-	4,492,000	4,492,000	4,361,000	4,361,000
36	Water CIP	-	4,571,000	4,571,000	5,108,000	5,108,000
37	Downtown Center Development	-	69,000	69,000	41,000	41,000
41	Water & Sewer - Operating	153,000	7,752,000	7,905,000	3,676,000	3,676,000
42	Water & Sewer - Debt Service	-	2,051,000	2,051,000	1,594,000	1,594,000
43	Municipal Drainage - Debt Service	-	2,579,000	2,579,000	2,481,000	2,481,000
44	W & S Impact Fees Clearing	-	2,447,000	2,447,000	1,131,000	1,131,000
45	Sustainability & Environmental Services	34,000	276,000	310,000	1,193,000	1,193,000
46	Convention & Tourism	4,000	3,066,000	3,070,000	1,902,000	1,902,000
81	Friends of Plano Centre	-	4,000	4,000	3,000	3,000
47	Municipal Drainage	13,000	3,691,000	3,704,000	3,295,000	3,295,000
48	Municipal Golf Course	-	114,000	114,000	69,000	69,000
49	Property Management	-	365,000	365,000	287,000	287,000
51	Recreation Revolving	-	934,000	934,000	778,000	778,000
95	W & S Bond Clearing - 1990	-	184,000	184,000	177,000	177,000
96	W & S Bond Clearing - 1991	-	102,000	102,000	98,000	98,000
101	W & S Bond Clearing - 1993A	-	275,000	275,000	264,000	264,000
103	Municipal Bond Drain Clearing-1995	-	261,000	261,000	251,000	251,000
104	Municipal Drain Bond Clearing-1996	-	164,000	164,000	157,000	157,000
107	Municipal Drain Bond Clearing-1997	-	232,000	232,000	223,000	223,000
108	Municipal Drain Bond Clearing-1998	-	78,000	78,000	75,000	75,000
210	Municipal Drain Bond Clearing-1999	-	145,000	145,000	139,000	139,000
260	Municipal Drain Rev Bond Clearing - 2001	-	121,000	121,000	116,000	116,000
280	Municipal Drain Rev Bond Clearing - 2003	-	32,000	32,000	31,000	31,000
320	Municipal Drain Rev Bond Clearing - 2005	-	1,359,000	1,359,000	2,302,000	2,302,000
094	Municipal Drain Rev Bond Clearing - 2006	-	1,461,000	1,461,000	-	-
		204,000	36,956,000	37,160,000	29,833,000	29,833,000

Equity in Treasury Pool
September, 2006

FUND NO.	FUND NAME	CASH	EQUITY IN TREASURY POOL	TOTAL 9/30/06	TOTAL 10/01/05	TOTAL 9/30/05
SPECIAL REVENUE FUNDS:						
2	Sproles Library	-	268,000	268,000	257,000	257,000
4	TIF-Mall	-	40,000	40,000	30,000	30,000
5	TIF-East Side	-	5,891,000	5,891,000	4,374,000	4,374,000
11	LLEBG-Police Grant	-	70,000	70,000	37,000	37,000
12	Criminal Investigation	-	814,000	814,000	756,000	756,000
13	Grant	-	(669,000)	(669,000)	-	-
14	Wireline Fees	-	286,000	286,000	301,000	301,000
15	Judicial Efficiency	-	99,000	99,000	86,000	86,000
16	Industrial	-	16,000	16,000	16,000	16,000
17	Intergovernmental	-	285,000	285,000	262,000	262,000
18	Government Access/CATV	-	225,000	225,000	322,000	322,000
19	Teen Court Program	-	30,000	30,000	22,000	22,000
20	Municipal Courts Technology	-	1,251,000	1,251,000	1,050,000	1,050,000
55	Municipal Court-Building Security Fees	-	1,142,000	1,142,000	996,000	996,000
56	911 Reserve Fund	-	5,815,000	5,815,000	4,771,000	4,771,000
57	State Library Grants	-	23,000	23,000	-	-
67	Disaster Relief	-	1,079,000	1,079,000	-	-
68	Animal Shelter Donations	-	75,000	75,000	31,000	31,000
73	Memorial Library	-	189,000	189,000	166,000	166,000
86	Juvenile Case Manager	-	95,000	95,000	-	-
87	Traffic Safety	-	298,000	298,000	-	-
88	Child Safety	-	552,000	552,000	-	-
		-	17,874,000	17,874,000	13,477,000	13,477,000
INTERNAL SERVICE FUNDS:						
6	Public Safety Technology	-	1,612,000	1,612,000	1,495,000	1,495,000
9	Technology Infrastructure	-	3,846,000	3,846,000	3,671,000	3,671,000
58	PC Replacement	-	1,089,000	1,089,000	825,000	825,000
61	Equipment Maintenance	-	(4,421,000)	(4,421,000)	-	-
62	Information Technology	-	1,541,000	1,541,000	3,060,000	3,060,000
63	Office Services	-	(321,000)	(321,000)	-	-
64	Warehouse	-	158,000	158,000	309,000	309,000
65	Property/Liability Loss	-	5,366,000	5,366,000	5,398,000	5,398,000
66	Technology Services	-	9,960,000	9,960,000	8,991,000	8,991,000
71	Equipment Replacement	-	9,523,000	9,523,000	6,777,000	6,777,000
78	Health Claims	-	18,766,000	18,766,000	12,412,000	12,412,000
79	Parkway Service Ctr. Expansion	-	173,000	173,000	2,048,000	2,048,000
		-	47,292,000	47,292,000	44,986,000	44,986,000
FIDUCIARY FUNDS:						
7	Unclaimed Property	-	46,000	46,000	35,000	35,000
8	Library Training Lab	-	9,000	9,000	7,000	7,000
69	Collin County Seized Assets	-	299,000	299,000	232,000	232,000
74	Developers' Escrow	-	3,866,000	3,866,000	6,812,000	6,812,000
76	Economic Development	-	1,134,000	1,134,000	977,000	977,000
84	Rebate	-	1,181,000	1,181,000	1,630,000	1,630,000
		-	6,535,000	6,535,000	9,693,000	9,693,000
TOTAL		$ 287,000	260,192,000	260,479,000	216,277,000	216,277,000

		CASH	TRUST INVESTMENTS	TOTAL 9/30/06	TOTAL 10/01/05	TOTAL 9/30/05
TRUST FUNDS						
42	Water & Sewer Reserve	$ -	957,000	957,000	913,000	935,000
72	Retirement Security Plan	-	53,866,000	53,866,000	42,016,000	53,865,000
TOTAL TRUST FUNDS		$ -	54,823,000	54,823,000	42,929,000	54,800,000

A Treasury Pool fund has been created for the purpose of consolidating cash and investments. All City funds not restricted or held in trust are included in this consolidated fund. Each fund's "Equity in Treasury Pool" represents the fund's proportionate share of the Treasury Pool Fund. At September 30, 2006 the Treasury Pool, including an adjustment to Fair Value as required by GASB 31, consisted of the following:

Cash	3,660,000
Local Government Investment Pool	49,289,000
Federal Securities	188,596,000
Certificates of Deposit	19,600,000
Fair Value Adjustment	(2,810,000)
Interest Receivable	1,857,000
	260,192,000

Health Claims Fund
Through September 30 of Fiscal Years 2006 and 2005

Health Claims Fund	FY 05-06 Oct-March	FY 04-05 Oct-March	6 Month Variance Favorable (Unfavorable)	FY 05-06 April-August	FY 04-05 April-August	5 Month Variance Favorable (Unfavorable)	FY 05-06 September	FY 04-05 September	Monthly Variance Favorable (Unfavorable)	FY 05-06 Total	FY 04-05 Total	Year to Date Variance Favorable (Unfavorable)
Revenues												
Employees Health Ins. Contributions	$ 1,056,000	$ 1,025,000	31,000	$ 895,000	$ 865,000	30,000	$ 183,000	$ 173,000	10,000	$ 2,134,000	$ 2,063,000	71,000
Employers Health Ins. Contributions	8,883,000	9,370,000	(487,000)	7,486,000	7,295,000	191,000	1,529,000	63,000	1,466,000	17,898,000	16,728,000	1,170,000
Contributions for Retirees	241,000	215,000	26,000	214,000	192,000	22,000	44,000	38,000	6,000	499,000	445,000	54,000
Cobra Insurance Receipts	17,000	22,000	(5,000)	12,000	12,000	-	4,000	4,000	-	33,000	38,000	(5,000)
Retiree Insurance Receipts	166,000	153,000	13,000	139,000	126,000	13,000	27,000	31,000	(4,000)	332,000	310,000	22,000
City Council Receipts	4,000	5,000	(1,000)	-	6,000	(6,000)	-	1,000	(1,000)	4,000	12,000	(8,000)
Plano Housing Authority	23,000	28,000	(5,000)	20,000	15,000	5,000	5,000	3,000	2,000	48,000	46,000	2,000
Interest	214,000	(1,000)	215,000	282,000	227,000	55,000	187,000	(42,000)	229,000	683,000	184,000	499,000
Total Revenues	10,604,000	10,817,000	(213,000)	9,048,000	8,738,000	310,000	1,979,000	271,000	1,708,000	21,631,000	19,826,000	1,805,000
Expenses												
Insurance	641,000	552,000	(89,000)	600,000	474,000	(126,000)	120,000	94,000	(26,000)	1,361,000	1,120,000	(241,000)
Contracts- Professional Svc.	117,000	128,000	11,000	38,000	40,000	2,000	46,000	81,000	35,000	201,000	249,000	48,000
Contractractual Repair	-	-	-	-	1,000	1,000	-	-	-	-	1,000	1,000
Contracts- Other	450,000	425,000	(25,000)	384,000	372,000	(12,000)	86,000	91,000	5,000	920,000	888,000	(32,000)
Health Claims Paid Reinsurance	(257,000)	(93,000)	164,000	(47,000)	(274,000)	(227,000)	250,000	(1,059,000)	(1,309,000)	(54,000)	(1,426,000)	(1,372,000)
Health Claims - Prescription	1,130,000	361,000	(769,000)	1,142,000	1,020,000	(122,000)	370,000	332,000	(38,000)	2,642,000	1,713,000	(929,000)
Health Claims Paid -UHC	5,176,000	5,415,000	239,000	3,950,000	4,742,000	792,000	1,008,000	951,000	(57,000)	10,134,000	11,108,000	974,000
Health Claims Paid-EBS	-	35,000	35,000	-	-	-	-	-	-	-	35,000	35,000
Cobra Insurance Paid	2,000	3,000	1,000	1,000	1,000	-	-	1,000	1,000	3,000	5,000	2,000
Retiree Insurance Paid	46,000	39,000	(7,000)	44,000	34,000	(10,000)	9,000	7,000	(2,000)	99,000	80,000	(19,000)
Plano Housing Authority	4,000	3,000	(1,000)	2,000	1,000	(1,000)	-	1,000	1,000	6,000	5,000	(1,000)
Total Expenses	7,309,000	6,868,000	(441,000)	6,114,000	6,411,000	297,000	1,889,000	499,000	(1,390,000)	15,312,000	13,778,000	(1,534,000)
Net increase (decrease)	$ 3,295,000	$ 3,949,000	(654,000)	2,934,000	2,327,000	607,000	90,000	(228,000)	318,000	$ 6,319,000	$ 6,048,000	271,000
Health Claims Fund Balance - Cumulative	$ 13,089,000	$ 7,695,000	5,394,000	$ 16,023,000	$ 10,022,000	6,001,000	$ 16,113,000	$ 9,794,000	6,319,000			

Analysis of Property Liability Loss Fund Through September 30 of Fiscal Years 2006, 2005 and 2004

PROPERTY LIABILITY LOSS FUND	Fiscal Year 2006	Fiscal Year 2005	Fiscal Year 2004
Claims Paid per General Ledger	$ 1,377,000	1,701,000	1,131,000
Net Judgments/Damages/Attorney Fees	960,000	326,000	1,051,000
Total Expenses	$ 2,337,000	2,027,000	2,182,000
Fund Balance	$ 1,768,000	1,875,000	2,519,000

Current Capital Improvement Projects
Status Report
September 30, 2006

Project Description	Start (Est.) Complete (Est.)	2005-06 Budget (thousands)	2005-06 Re-estimate (thousands)	Total Project Budget (thousands)	Inception to Date Cost (thousands)	Encumbrances (thousands)	Comments:
15th STREET – G Avenue to I Avenue	01/07 10/07	953	938	1,766	266	7	Bids were opened September 6th. Two bids were received. The bids were rejected and the project has been re-advertised.
15th STREET AND MISCELLANEOUS DRAINAGE IMPROVEMENTS	08/07 02/08	-	204	3,048	49	109	Design is proceeding. U tility contacts have been made to locate existing facilities. Field Survey work is complete. Field subsurface test boring is complete.
ALMA ROAD WHITETOPPING - Plano Parkway to 15th Street	07/06 11/06	1,376	1,059	1,850	902	1,158	About half of the whitetopping is complete.
ANIMAL SHELTER EXPANSION	03/07 12/07	200	286	1,441	160	24	Preliminary design is underway.
Cloisters Water Rehab	09/07 09/08	-	70	1,770	77	115	Engineering survey work began the week of July 3rd.
COMMUNICATIONS -Falls to Parker	04/06 11/06	700	588	641	411	200	Paving and street light conduit/foundation construction is complete. Pavement marking work is near complete. Landscaping work is delayed due to City water conservation regulations.
COMMUNICATIONS Spring Creek to Tennyson	01/07 12/07	200	1,190	3,470	114	92	Field survey work is complete. Preliminary plans have been reviewed by City staff and returned to the consultant for correction. 404 Environmental issue being evaluated.
DOMINION PARKWAY – Hedgcoxe to Headquarters	11/06 04/07	-	47	1,900	-	454	Pre-construction meeting to be held on October 12th.
FIRE STATION 11	01/05 11/06	-	2,163	3,322	2,646	335	Underground utilities and grade beam complete. Fire lane complete. Roofing complete. Interior finish out underway.

Current Capital Improvement Projects
Status Report
September 30, 2006

Project Description	Start (Est.) Complete (Est.)	2005-06 Budget (thousands)	2005-06 Re-estimate (thousands)	Total Project Budget (thousands)	Inception to Date Cost (thousands)	Encumbrances (thousands)	Comments:
FIRE STATION 12/LOGISTICS FACILITY & Emergency Operations Center	03/07 05/08	1,800	2,800	12,902	1,824	968	Design development underway.
INTERSECTION IMPROVEMENTS – 2004	01/07 10/07	762	515	1,236	134	23	Pre-final plans for three intersection locations are in review by City staff. Pre-final plans for the Coit/Legacy intersection are currently in review by City staff.
INTERSECTION IMPROVEMENTS – 2005	01/07 08/07	764	266	997	195	22	City staff review comments have been returned to the consultant for plan completion.
INTERSECTION IMPROVEMENTS - JUPITER/PLANO PARKWAY	09/07 02/08	590	80	723	78	43	Final revised schematics and ESA (Categorical Exclusion) approved by TxDOT Dallas. Schematics and CatEx sent to TxDot Austin. TransSystems is preparing 60% plans for State review.
INTERSECTION IMPROVEMENTS – Preston and Legacy	12/07 10/08	120	161	2,502	63	280	Parsons is working on design schematic and Environmental Categorical exclusion. Design will begin after approval by TxDot Dallas.
INTERSECTION IMPROVEMENTS - PRESTON/PLANO PARKWAY	12/07 10/08	120	5	2,190	70	219	Parsons Brinkerhoff is working on Categorical Exclusion and design schematic. Design will begin after approval by TxDot Dallas.
INTERSECTION IMPROVEMENTS – Spring Creek Parkway and K Avenue	10/06 03/07	75	65	733	69	7	Contractor was given Notice to Proceed at the Preconstruction Meeting October 3rd.
INTERSECTION IMPROVEMENTS – Spring Creek Parkway and Coit	04/08 01/09	100	151	2,000	84	-	The original traffic study and alternate study are complete. The design contract was awarded by City Council October 9th.
LOS RIOS - Parker to Jupiter	07/04 01/07	-	373	7,345	5,464	196	Landscaping and ground stabilization operations are on hold due to water restrictions.

Current Capital Improvement Projects
Status Report
September 30, 2006

Project Description	Start (Est.) Complete (Est.)	2005-06 Budget (thousands)	2005-06 Re-estimate (thousands)	Total Project Budget (thousands)	Inception to Date Cost (thousands)	Encumbrances (thousands)	Comments:
MCDERMOTT – Coit To Custer	07/06 04/07	2,529	533	2,204	950	1,159	Most of the main lane paving is complete.
MCDERMOTT – Coit To Ohio	03/07 03/08	200	123	4,086	361	7	90% plans have been received and are being reviewed by City staff. The schematic has been approved. The CADEX has also been resubmitted for final review.
MIDWAY ROAD WIDENING - Parker to Spring Creek Parkway	07/06 05/07	10	718	2,084	361	1,240	Construction continues with pavement widening between Parker Road and Windhaven Parkway.
TOM MUEHLENBECK RECREATION CENTER	04/06 07/07	12,153	10,300	23,000	7,772	14,742	Site work is underway. Block walls being erected.
OAK POINT PARK VISITOR CENTER COMPLEX	02/07 02/08	4,000	1,646	12,878	344	879	Design development underway.
P AVENUE – 18th to Park	03/06 02/07	2,705	2,275	2,574	1,589	829	TriCon is constructing the sanitary sewer main north of he creek. Storm drainage and paving south of the creek are complete. Northbound paving will begin this month. Traffic control is one way south for P Avenue.
PARKER ROAD – K Ave. to P Ave.	04/07 04/08	2,255	890	4,190	330	75	Pre-final plans have been reviewed by City staff and returned to the consultant for correction. Right of way acquisition and utility adjustments are now underway.
PARKER ROAD ELEVATED TANK REPAINT	11/07 06/08	-	21	735	3	36	Project bid August 31st. Bids were higher than expected and were rejected. Project will re-bid next year..
PARKER ROAD ESTATES WEST WATER REHAB	10/06 07/07	-	58	2,002	294	1,697	Construction has started on Deep Valley.
PARKWOOD BOULEVARD - Park Boulevard to Spring Creek Parkway	10/06 10/07	250	300	4,200	145	140	Preliminary plans have been reviewed and returned to the engineer.

Current Capital Improvement Projects
Status Report
September 30, 2006

Project Description	Start (Est.) Complete (Est.)	2005-06 Budget (thousands)	2005-06 Re-estimate (thousands)	Total Project Budget (thousands)	Inception to Date Cost (thousands)	Encumbrances (thousands)	Comments:
PLANO PARKWAY – Los Rios to 14th	06/05 08/06	1,968	2,025	3,852	3,395	359	Plano Parkway opened to traffic on August 14th. Contract will be held open for maintenance of parkways pending removal from water restrictions.
PLANO PARKWAY – Tollroad to Park	11/06 06/07	1,861	469	2,628	305	62	Bids will be opened on October 12th.
POLICE ACADEMY RANGE EXPANSION	11/06 06/07	20	2,564	3,759	577	38	Schematic design prepared. Target and trap systems being reviewed by police departments.
RAILROAD CROSSINGS – Quiet Zones	11/06 03/07	100	760	1,197	675	5	Bids withdrawn pending agreement with the Railroads.
RASOR BOULEVARD - Ohio to SH 121	8/07 4/08	-	200	2,189	12	324	Huitt-Zollars Inc. has started on design.
RIDGEVIEW DRIVE Custer to Independence	08/05 11/06	2,000	2,315	2,849	2,481	405	All lane widening, paving and bridge work is complete. Irrigation is being installed.
SH 121 WATER LINE – Spring Creek Parkway to Dallas North Tollway	01/07 05/07	-	525	525	-	-	Preliminary plans are being reviewed.
SPRING CREEK PARKWAY (SHILOH) – Royal Oaks to Parker	10/05 12/06	1,100	2,446	2,603	2,299	274	The road was opened to traffic June 29th.
STEWART MAIN Capital to Plano Parkway	09/06 12/06	-	500	522	42	368	About half the water line has been installed.
US 75 RAMP IMPROVEMENTS	01/06 01/07	1,000	1,350	3,429	2,102	6	Problems with design have held up work for about two weeks. Revised design has been given to TXDOT and the contractor for pricing of changes needed to complete drainage work.
US 75/PARKER ROAD INTERCHANGE	06/07 10/08	1,000	1,064	6,250	826	698	Comments on the environmental document have been received from TXDOT. TXDOT has approved the schematic.

Current Capital Improvement Projects
Status Report
September 30, 2006

Project Description	Start (Est.) Complete (Est.)	2005-06 Budget (thousands)	2005-06 Re-estimate (thousands)	Total Project Budget (thousands)	Inception to Date Cost (thousands)	Encumbrances (thousands)	Comments:
WHIFFLETREE WATER REHAB	02/06 11/06	1,450	1,406	1,723	1,482	153	Construction is complete on Town Bluff, Hilltop, Laguna, Malibu, Singletree, Doubletree, Whiffletree, Therondun, Fountainhead, Timberlake and L Avenue. Construction is underway on Cannoncita.
WYATT NORTH ADDITION PAVING & WATER	01/07 01/08	-	239	2,369	126	86	Preliminary plans reviewed and returned to Huitt Zollars for revision. Revised set received September 7 th and distributed for City review. Huitt Zollars will provide existing top of curb for City review.

SECTION-2

ECONOMIC ANALYSIS

City of Plano

Comprehensive Monthly Finance Report

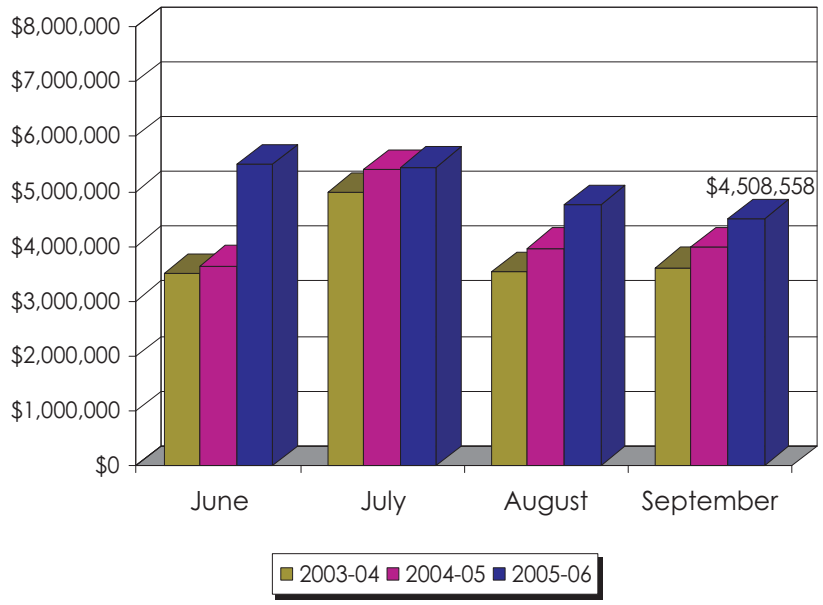
Economic Analysis

Sales tax of $4,508,558 was reported in September for the City of Plano. This amount represents an increase of 13.54% over the amount reported in September 2005.

Sales Tax

Actual Monthly Revenue

Figure I



Sales tax revenue is generated from the 1% tax on applicable business activity within the City. These taxes were collected in August by businesses filing monthly returns, reported in September to the State, and received in October by the City of Plano.

Figure I represents actual sales and use tax receipts for the months of June through September for fiscal years 2003-04, 2004-2005 and 2005-2006.

Annualized Sales Tax Index

Compared to Dallas Consumer Price Index

Figure II

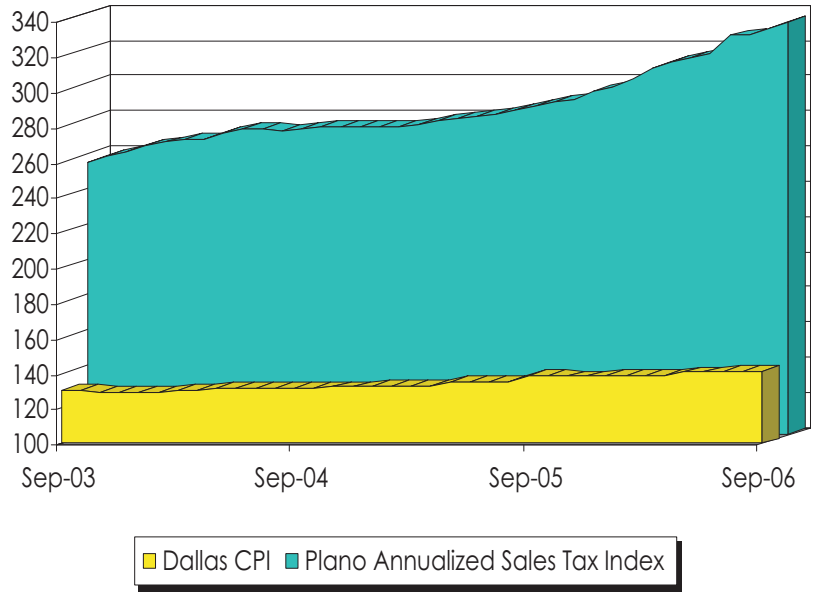


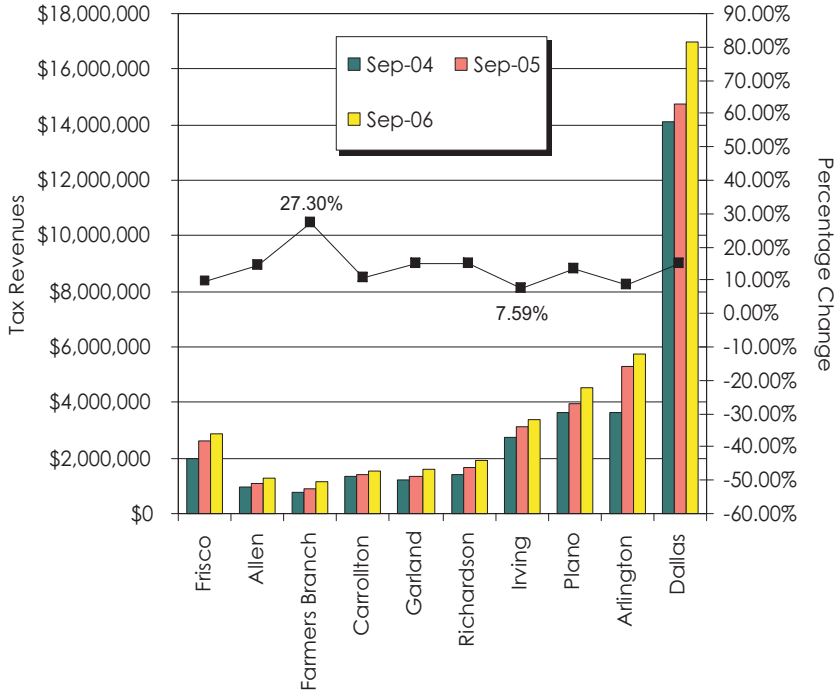
Figure II, left, tracks the percentage change in annualized sales tax revenues compared to the percentage change in the Dallas-area CPI, using 1982-84 as the base period. For September 2006, the adjusted CPI was 141.07 and the Sales Tax Index was 334.51.

Since January 1998, the BLS has moved the Dallas-Area pricing cycle for CPI computation to odd-numbered months.

Economic Analysis

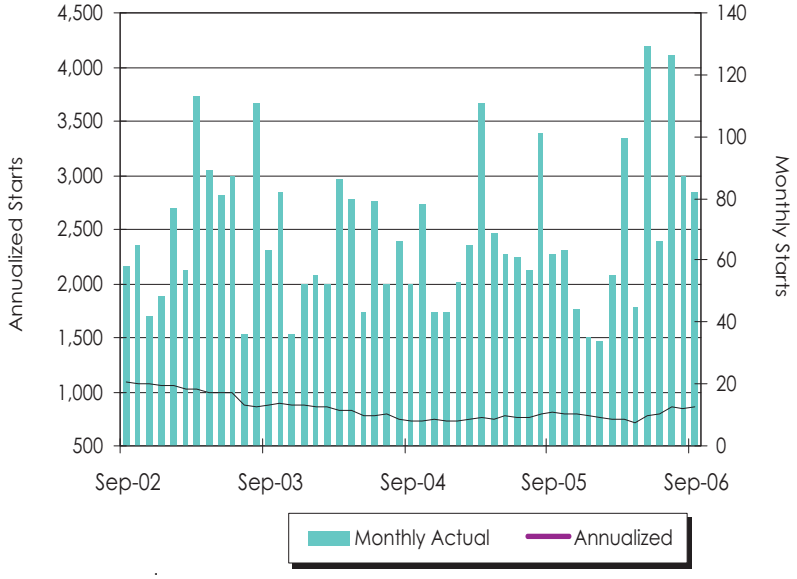
Figure III shows sales tax receipts from September 2004 – September 2006 for the City of Plano and nine area cities. Each of the cities shown has a sales tax rate of 1%, except for the cities of Allen and Frisco, which have a 2% rate, but distribute half of the amount shown in the graph to 4A and 4B development corporations within their respective cities, and the City of Arlington which has a 1.75% sales tax rate with .25% dedicated to road maintenance and .50% for funding of the Dallas Cowboys Complex Development Project. For the September reporting month, the City of Plano received $4,508,558 from this 1% tax.

Sales Tax Comparisons
City of Plano and Area Cities
Figure III



The percentage change in sales tax collections for the area cities, comparing September 2005 to September 2006, ranged from 27.30% for the City of Farmers Branch to 7.59% for the City of Irving.

Single Family Housing Starts
Figure IV



In September 2006, a total of 82 actual single-family housing permits, representing a value of $13,021,883, were issued. This value represents a 23.43% increase from the same period a year ago. Annualized single-family housing starts of 865 represent a value of $173,946,826.

Figure IV above shows actual single-family housing starts versus annualized housing starts for September 2002 through September 2006.

Economic Analysis

Yield Curve

Figure V

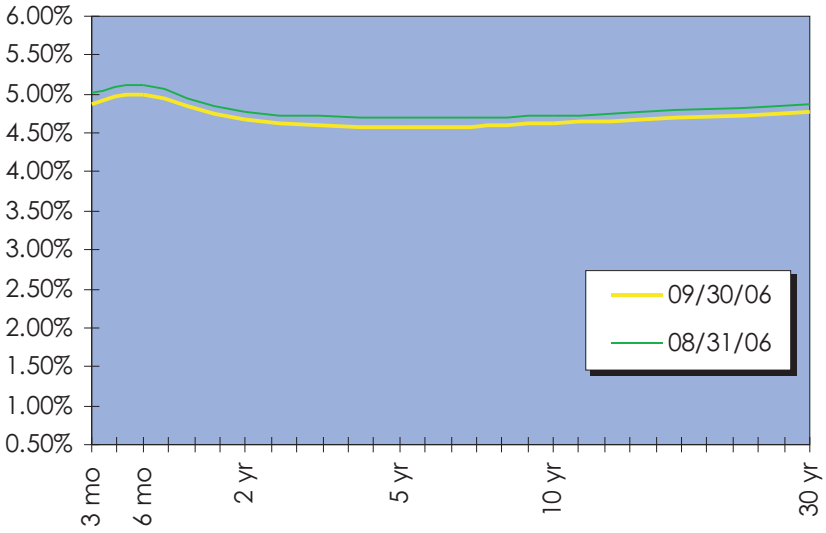


Figure V, left, shows the U.S. Treasury yield curve for September 30, 2006 in comparison to August 31, 2006. All of the reported treasury yields decreased in the month of September, with the greatest decrease in reported rates occurring in the 3-month sector at -13 basis points.

Unemployment Rates

Unadjusted Rate Comparison

Figure VI*

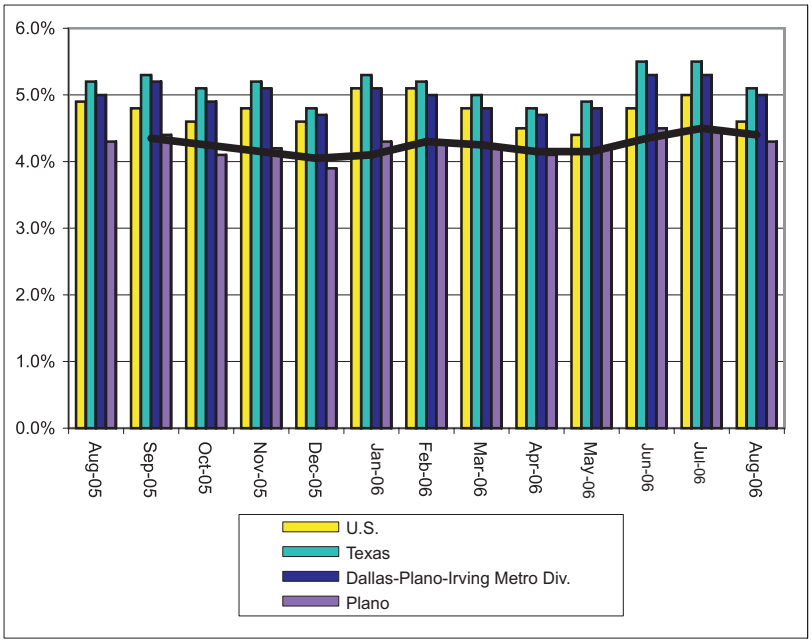


Figure VI shows unadjusted unemployment rates based on the BLS U.S. City Average, and LAUS estimates for the State of Texas, the Dallas-Plano-Irving Metropolitan Division and the City of Plano from August 2005 to August 2006.

*Due to recent changes in labor force estimation methodology by the BLS and the TWC, sub-state unemployment rate data prior to January 2005 are no longer comparable with current estimates. As a result, statistically significant changes in the reported unemployment rates may have occurred

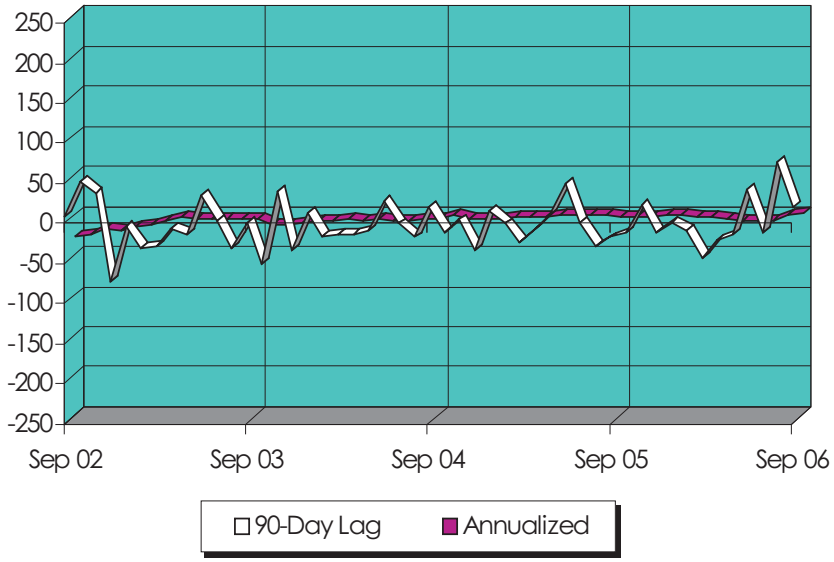
Economic Analysis

Figure VII shows the net difference between the number of housing starts three months ago and new refuse customers in the current month (90-day lag) as well as the average difference between these measures for the past four years (annualized).

Housing Absorption

90-Day Lag From Permit Date

Figure VII

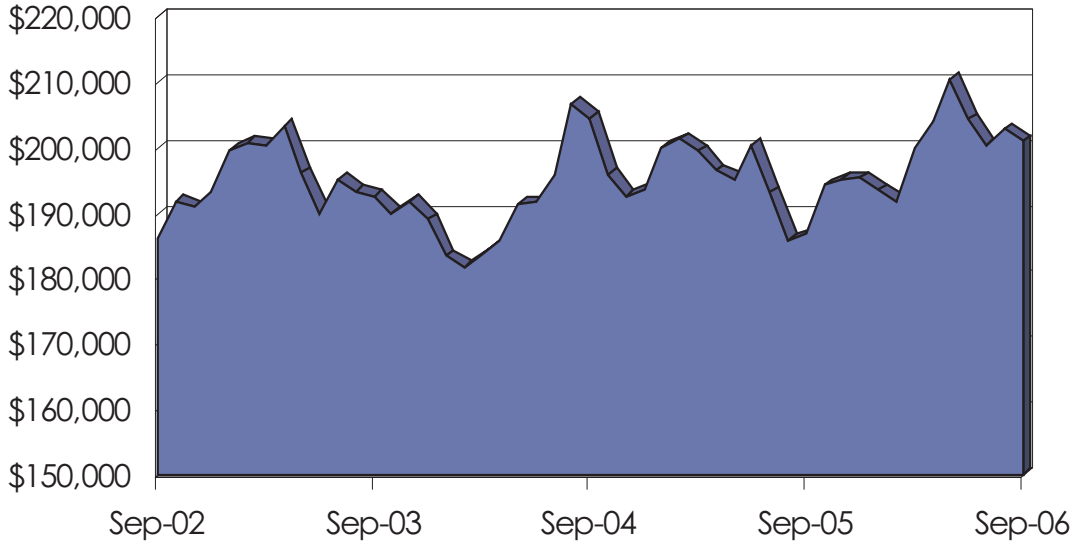


For the current month, the 90-day lag is 18 homes, meaning that in June 2006 there were 18 more housing starts than new refuse customers in September 2006. The annualized rate is 2 which means there was an average of 2 more housing start than new garbage customers per month over the past year.

The annualized average declared construction value of new homes increased 7.64% to $201,095 when compared to September 2005.

Single-Family New Home Value

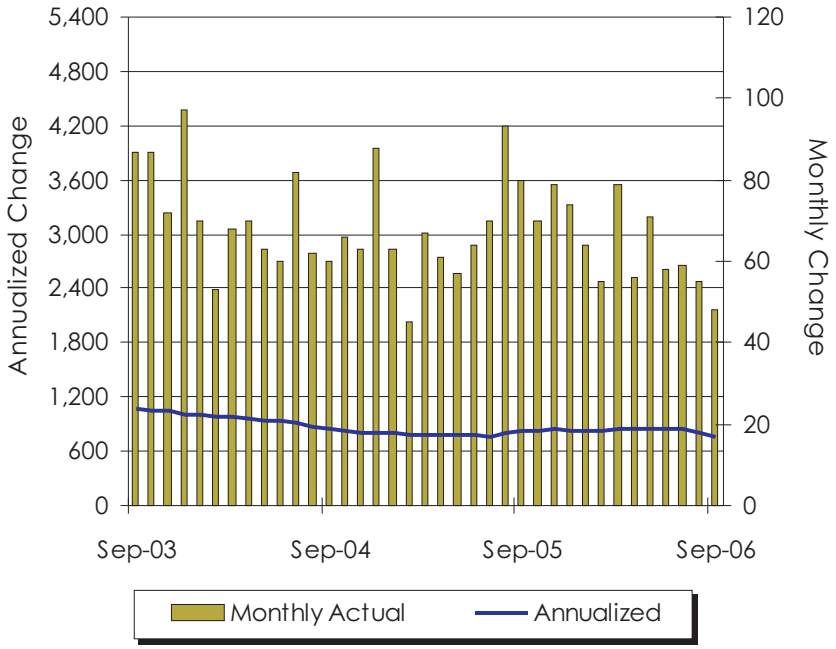
Figure VIII



Economic Analysis

Refuse Collections Accounts Net Gains/Losses

Figure IX

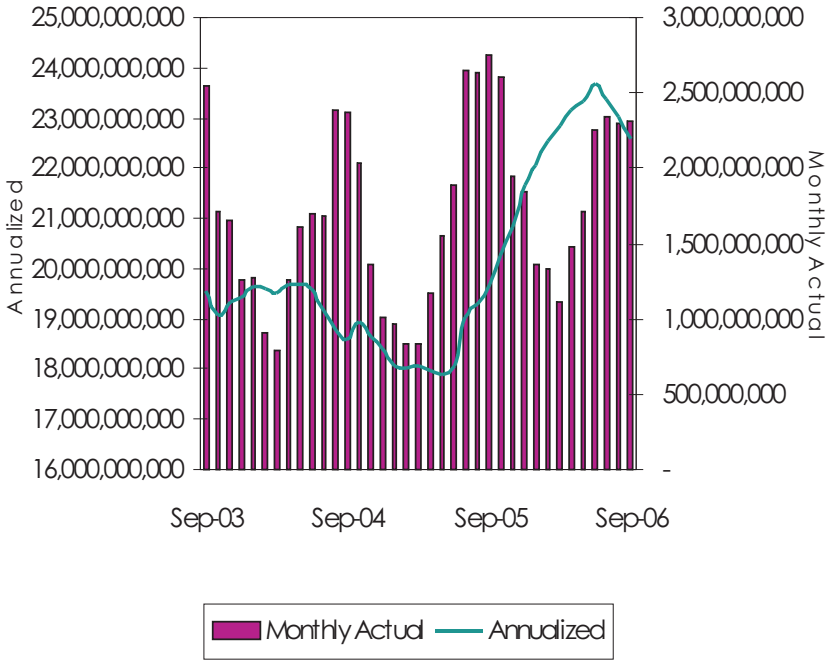


In September, net new refuse collection accounts totaled 48, in comparison to 80 new accounts in September of 2005. This change represents a decrease of 40.00% year-to-year. Annualized new refuse accounts totaled 768, showing a decrease of 49, or a 6.00% change when compared to the same time last year.

Figure IX shows actual versus annualized new refuse collection accounts.

Local Water Consumption (Gallons)

Figure X



In September, the City of Plano pumped 2,178,121,000 gallons of water from the North Texas Municipal Water District (NTMWD). Consumption was 2,308,823,000 gallons among 77,081 billed water accounts while billed sewer accounts numbered 73,444. The minimum daily water pumpage was 46,590,000 gallons, which occurred on Sunday, September 24th. Maximum daily pumpage was 93,498,000 gallons and occurred on Friday, September 15th. This month's average daily pumpage was 72,604,000 gallons.

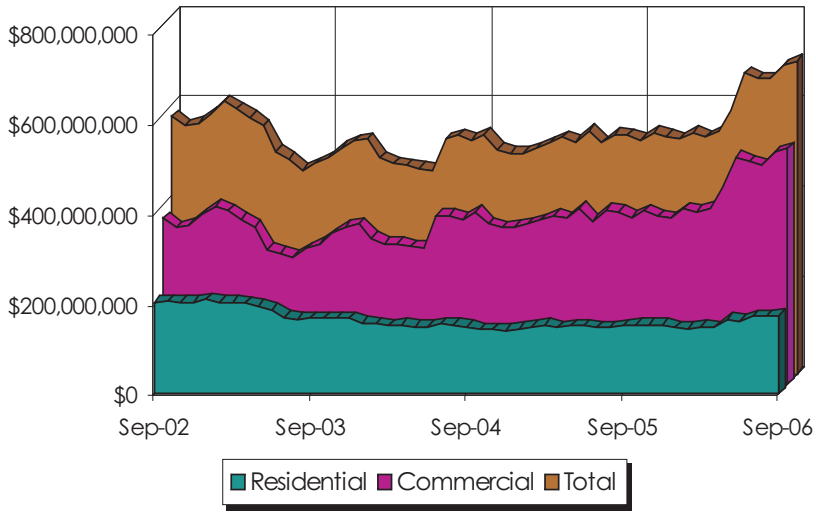
Figure X shows the monthly actual and annualized average for local water consumption.

Economic Analysis

In September, a total of 183 new construction permits were issued, for properties valued at $52,556,817. This includes 82 single-family residences, 10 apartment buildings, 1 office/bank, 6 other, 49 commercial additions/alterations, 33 interior finish-outs, and 2 demolitions. There were 13 permits issued for pools/spas.

Annualized Building Permit Values

Figure XI



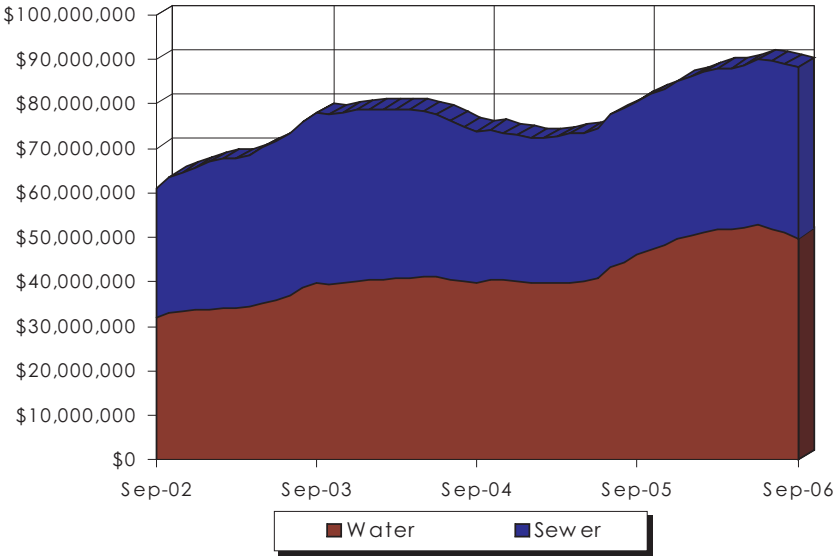
The overall annualized value was $696,951,543, up 33.73% from the same period a year ago. The annualized value of new residential construction increased to a value of $173,946,826, up 15.66% from a year ago. The annualized value of new commercial construction increased 41.05% to $523,004,717.*

* As of January 2002, data on commercial construction value is based on both the building shell and interior finish work, per the Building Inspection Department.

The actual water and sewer customer billing revenues in September were $5,451,263 and $3,517,375, representing a decrease of 18.61% and an increase of 11.84% respectively, compared to September 2005 revenues. The aggregate water and sewer accounts netted $8,968,638 for a decrease of 8.88%.

Annualized Water & Sewer Billings

Figure XII



September consumption brought annualized revenue of $49,764,926 for water and $38,364,539 for sewer, totaling $88,129,465. This total represents an increase of 9.30% compared to last year's annualized revenue.

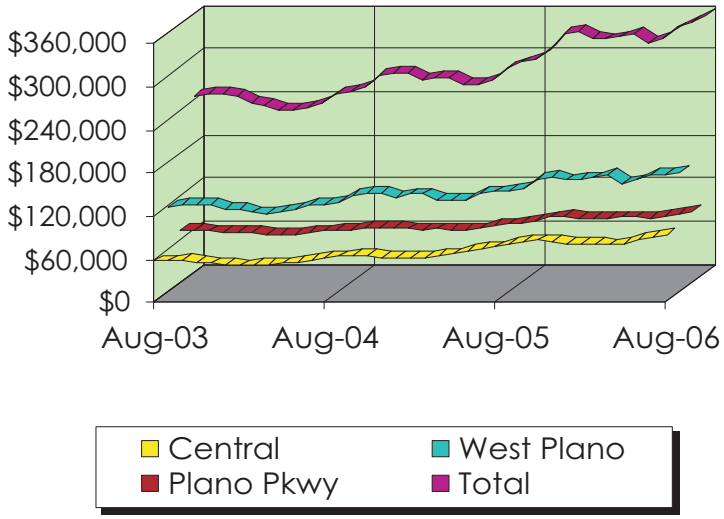
Figure XII presents the annualized billing history of water and sewer revenues for September 2002 through September 2006.

Economic Analysis

August revenue from hotel/motel tax was $365,700.[1] This represents an increase of $64,727 or 21.51% compared to August 2005. The average monthly revenue for the past six months (see graph) was $356,615, an increase of 19.97% from the previous year's average. The six-month average for the Central area increased to $92,915, the West Plano average increased to $165,952, and the Plano Pkwy average increased to $97,748 from the prior year.

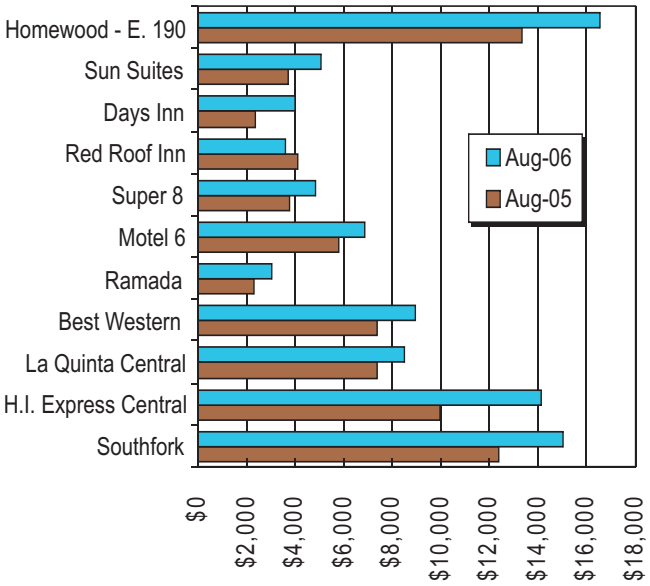
[1]This amount will not always equal the hotel/motel taxes reported in the financial section. The economic report is based on the amount of taxes earned during a month, while the financial report indicates when the City received the tax.

Hotel/Motel Occupancy Tax
Six Month Trend
Figure XIII



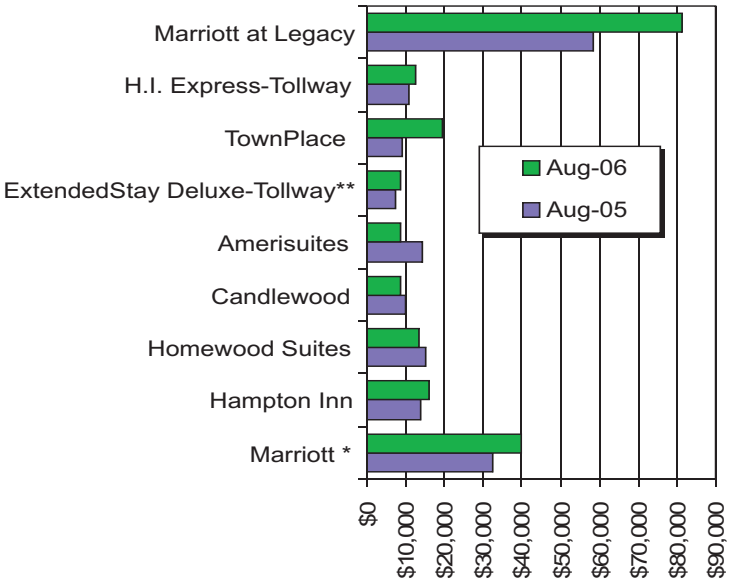
Figures XIV, XV and XVI show the actual occupancy tax revenue from each hotel/motel in Plano for August 2006 compared to the revenue received in August 2005.

Hotel/Motel Occupancy Tax
Monthly Comparison by Hotel - Central
Figure XIV



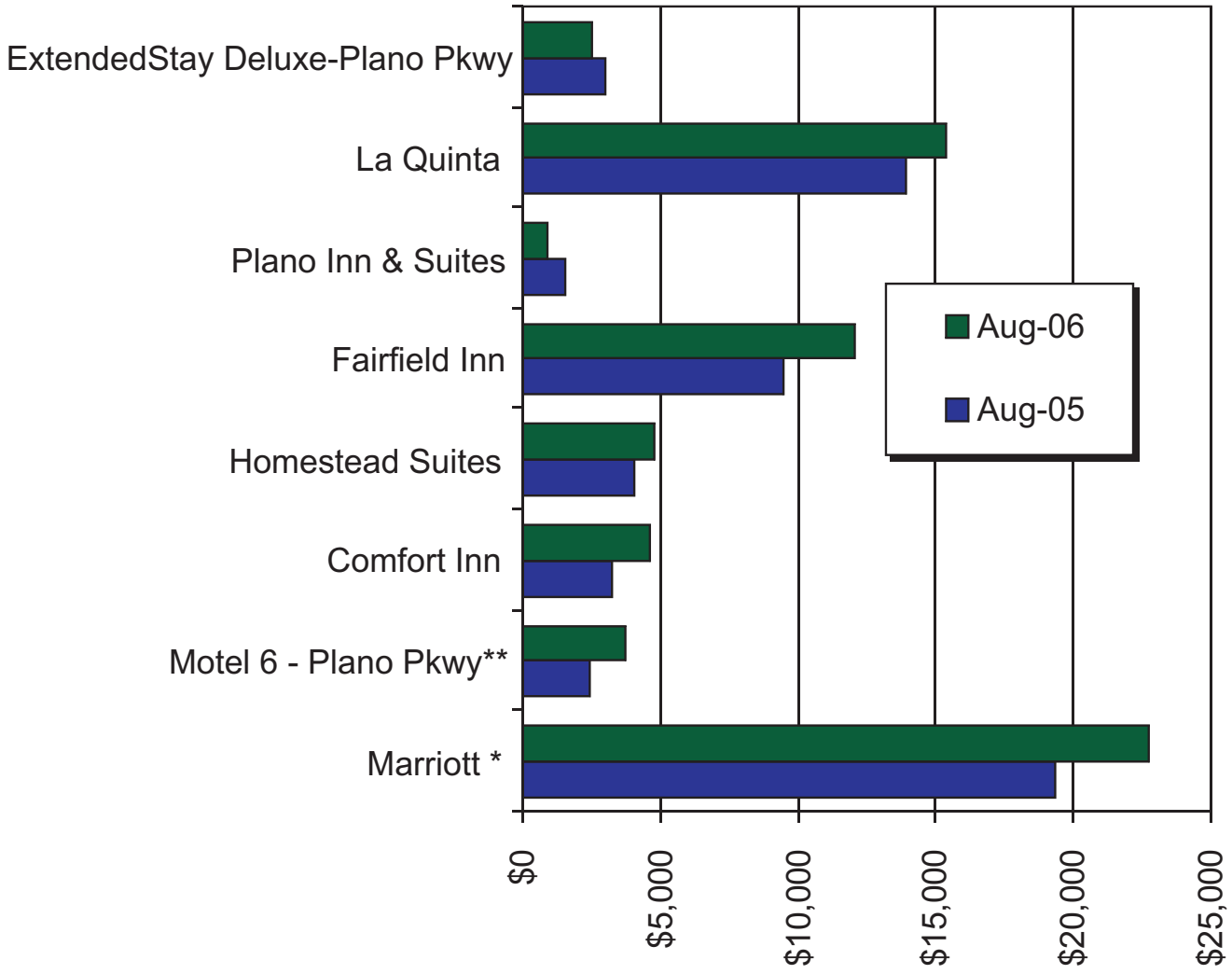
** Wellesley Inn & Suites and Studio Plus became ExtendedStay Deluxe hotels in 2005.

Hotel/Motel Occupancy Tax
Monthly Comparison by Hotel - West Plano
Figure XV



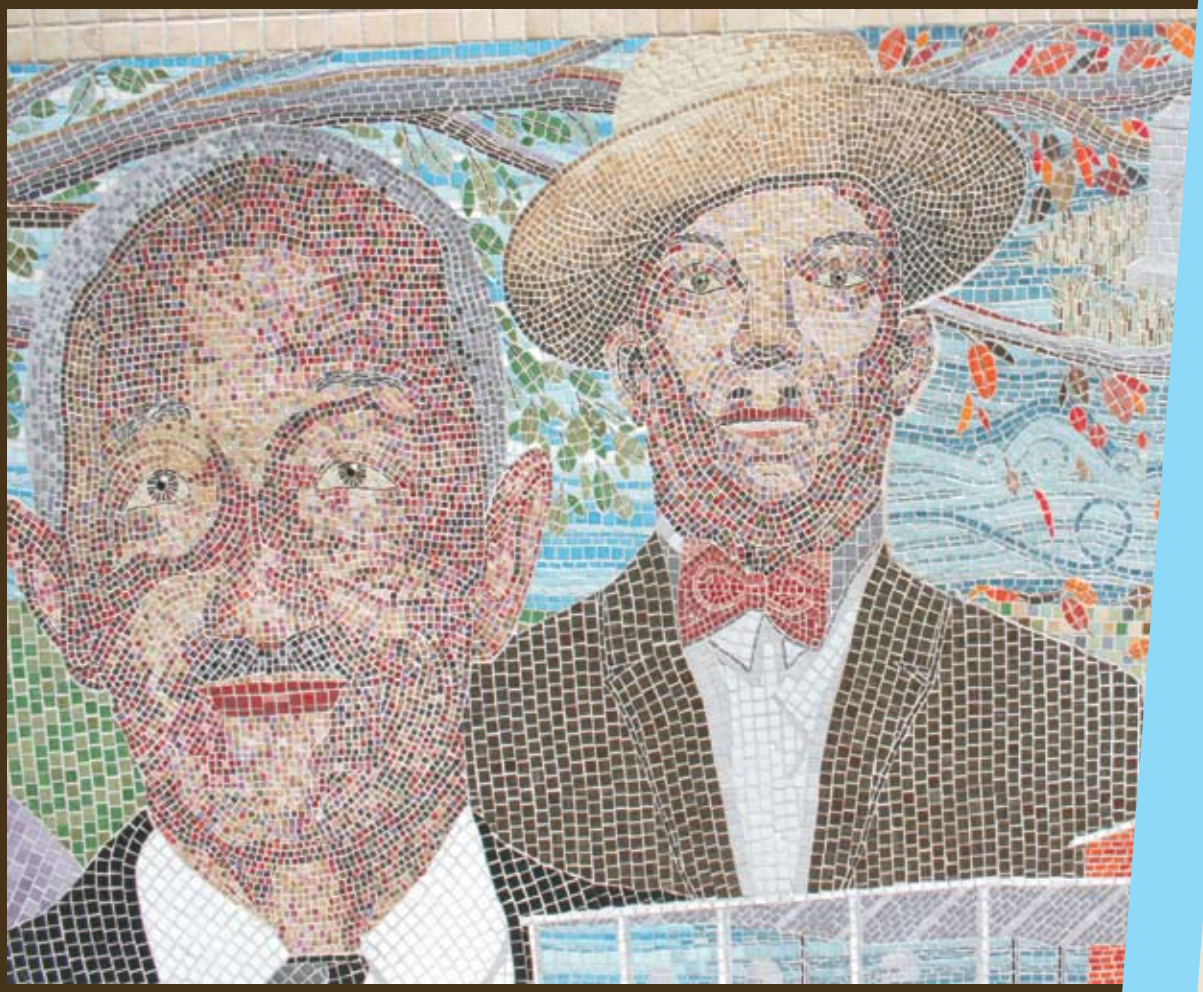
* Since August 2005, Marriott International Tax Revenue Numbers On This Graph Represent Two (2) Marriott-Owned Hotels (Courtyard By Marriott 1ND and Residence Inn #323)

HOTEL/MOTEL OCCUPANCY TAX
MONTHLY COMPARISON BY HOTEL-PLANO PKWY
FIGURE XVI



* Since August 2005, Marriott International Tax Revenue Numbers On This Graph Represent One (1) Marriott-Owned Hotel (Courtyard By Marriott #1N4)
** Formerly Sleep Inn

SECTION-3



INVESTMENT REPORT

City of Plano

Comprehensive Monthly Finance Report

Funds of the City of Plano are invested in accordance with Chapter 2256 of the "Public Funds Investment Act. " The Act clearly defines allowable investment instruments for local governments. The City of Plano Investment Policy incorporates the provisions of the Act and all investment transactions are executed in compliance with the Act and the Policy.

Investment Report
September, 2006

Interest received during September totaled $1,384,701 and represents interest paid on maturing investments and coupon payments on investments. Interest allocation is based on average balances within each fund during the month.

During September, the two-year Treasury note yield decreased throughout the month, starting at 4.76 and ending at 4.69.

As of September 30, a total of $249.1 million was invested in the Treasury Fund. Of this amount, $62.4 million was General Obligation Bond Funds, $.5 million was Water & Sewer Revenue Bond Funds, and $186.2 million was in the remaining funds.

Investments	Current Month Actual	Fiscal Y-T-D	Prior Fiscal Y-T-D	Prior Fiscal Year Total
(1) Funds Invested	$10,200,000	$184,140,000	$151,353,000	$151,353,000
(2) Interest Received	$1,384,701	$10,076,585*	$6,338,580	$6,338,580
(3) Earnings Potential Factor	111.5%	124.4%	119.4%	119.4%
(4) Investment Potential	105.6%	104.7%	108.8%	108.8%
(5) Actual Aggressive Dividend	$119,104	$147,956	$653,700	$653,700
(6) Average 2 Year T-Note Yield	4.76		3.91	

* See interest allocation footnote on Page C-3.
(1) Does not include funds on deposit earning an "earnings credit" rate and/or moneys in investment pools or cash accounts.
(2) Cash basis.
(3) Comparison of actual yield of investments to average yield of 2 year Treasury notes for current month.
(4) Measures the percent of funds invested at month end compared to total available investable funds.
(5) Difference between amount of interest earned due to aggressive investing of funds, when compared to passive use of funds earning an "earnings credit" rate, during current month.
(6) Compares 2006 to 2005.

Month-to-Month Comparison

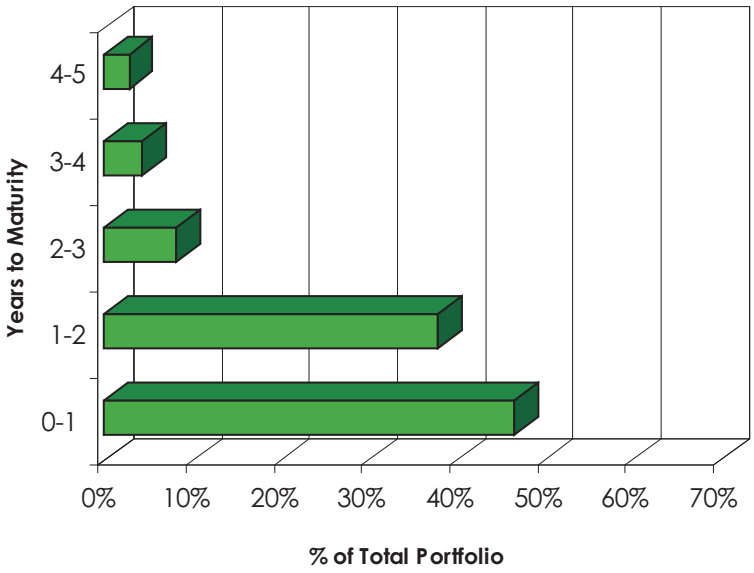
	Aug 06	Sep 06	Difference
Portfolio Holding Period Yield	4.34	4.27	-.07 (-7 basis points)
Avg. 2-Year T-Note Yield	4.90	4.76	-.14 (-14 basis points)

Investment Report

Portfolio Maturity Schedule
Figure I

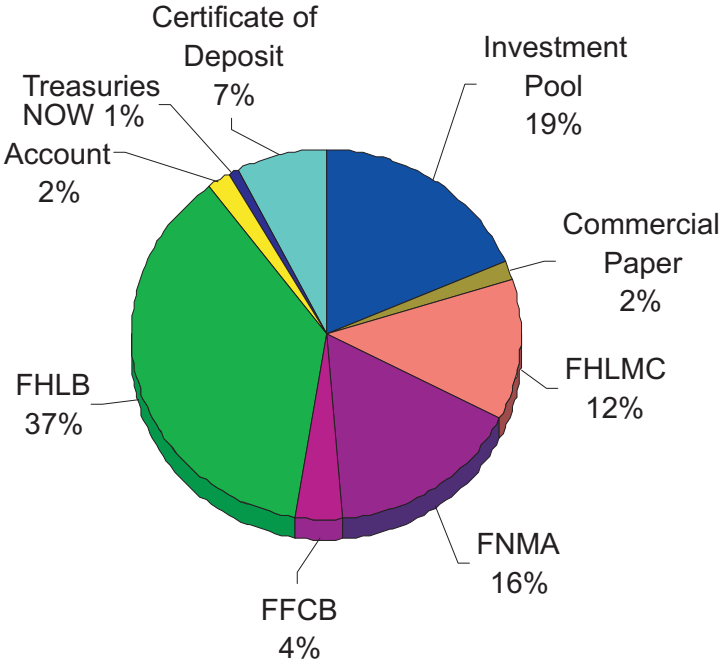
Years to Maturity*	Face Value	% Total
0-1	$ 122,796,841	46.61%
1-2	100,070,000	37.98%
2-3	21,710,000	8.24%
3-4	11,300,000	4.29%
4-5	7,595,000	2.88%
Total	$ 263,471,841	100.00%

*Does not take into consideration callable issues that can, if called, significantly shorten the Weighted Average Maturity.



Portfolio Diversification
Figure II

Type	Face Value	% Total
Investment Pool	$ 49,289,432	18.71%
Commercial Paper	4,418,000	1.68%
FHLMC	31,665,000	12.02%
FNMA	43,045,000	16.34%
FFCB	10,195,000	3.87%
FHLB	97,965,000	37.18%
NOW Account	5,294,410	2.01%
Treasuries	2,000,000	0.76%
Certificate of Deposit	19,600,000	7.44%
Total	$ 263,471,841	100.00%



INVESTMENT REPORT

Allocated Interest/Fund Balances
September 2006

Fund	Allocated Interest Current Month	Fiscal Y-T-D	Fund Balance End of Month	% of Total
General	462,632.91	1,963,601.55	$ 43,482,703.34	17.45%
G.O. Debt Service	158,611.78	898,531.83	2,006,830.56	0.81%
Street & Drainage Improvements	7,083.37	9,188.15	976,561.30	0.39%
Sewer CIP	42,849.74	175,258.12	4,449,209.51	1.79%
Capital Reserve	333,821.05	1,268,878.69	32,916,108.00	13.21%
Water & Sewer Operating	69,416.07	202,407.31	7,682,767.10	3.08%
Water & Sewer Debt Service	30,282.82	125,624.51	2,020,423.50	0.81%
W & S Impact Fees Clearing	27,296.46	91,020.40	2,419,593.28	0.97%
Park Service Area Fees	51,128.21	194,239.23	5,112,953.73	2.05%
Property / Liability Loss	54,060.12	227,036.60	5,311,516.86	2.13%
Information Services	102,467.97	406,748.03	9,857,042.68	3.96%
Equipment Replacement	96,922.31	401,075.18	9,426,359.87	3.78%
Developers' Escrow	38,882.52	211,496.12	3,827,558.50	1.54%
G.O. Bond Funds	651,826.35	2,564,022.65	62,356,122.61	25.03%
Municipal Drainage Bond Clearing	42,335.43	168,694.91	3,810,980.47	1.53%
Other	555,741.69	2,201,815.00	53,367,680.81	21.42%
Total	$ 2,722,918.88	$ 11,082,799.16	$ 249,121,556.22	100.00%

Footnote: All City funds not restricted or held in trust are included in the Treasury Pool. As of September 30, 2006, allocated interest to these funds may include an adjustment to fair value as required by GASB 31.

Portfolio Statistics

Month	Total Invested (End of Month)	Portfolio Yield	# Securities Purchased*	Maturities/ Sold/Called	Weighted Avg Maturity (Days)	# Securities
Apr-05	234,335,664	2.92%	2	5	628	139
May-05	222,340,943	2.93%	8	4	643	143
Jun-05	253,295,488	3.04%	4	4	544	143
Jul-05	248,309,619	3.08%	7	3	534	147
Aug-05	256,490,797	3.16%	4	12	491	139
Sep-05	220,697,804	3.15%	3	6	550	136
Oct-05	213,238,232	3.18%	3	4	549	135
Nov-05	206,838,872	3.22%	8	4	571	139
Dec-05	231,473,520	3.40%	13	3	507	149
Jan-06	259,337,641	3.57%	5	5	437	149
Feb-06	282,073,077	3.70%	6	3	429	152
Mar-06	318,399,324	3.89%	13	4	383	161
Apr-06	311,430,085	3.91%	9	5	374	165
May-06	303,581,868	3.98%	4	7	363	162
Jun-06	294,605,647	4.12%	5	15	352	152
Jul-06	289,698,938	4.14%	4	5	350	151
Aug-06	299,366,214	4.34%	12	19	370	144
Sep-06	263,471,841	4.27%	4	11	416	137

* Does not include investment pool purchases or changes in NOW account balances.

Investment Report

Equity in Treasure Pool By Major Category
Figure IV

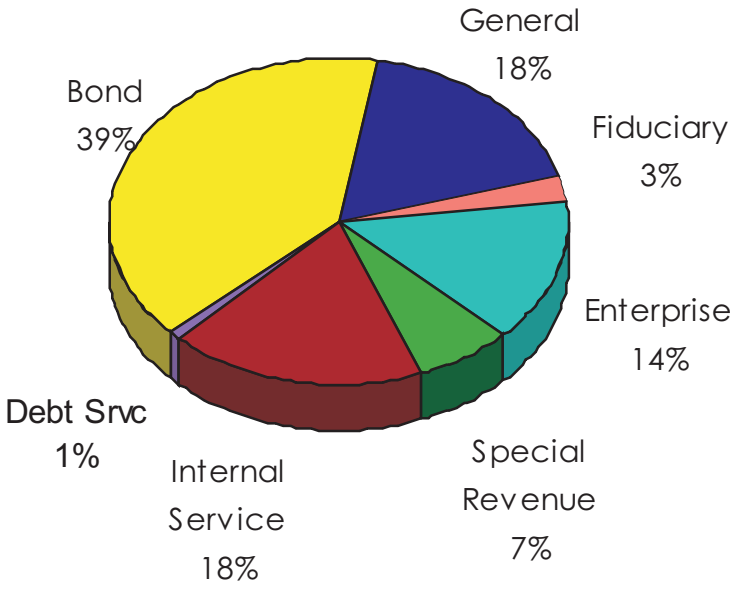
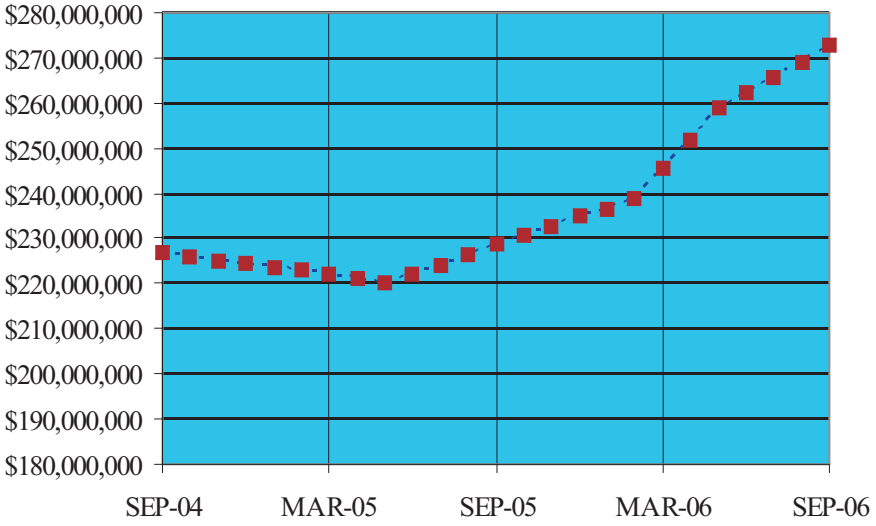


Figure IV shows a breakdown of the various sources of funds for the City's Treasury Pool as of September 30, 2006. The largest category are the Bond Funds in the amount of $103.0 million. Closest behind are the Internal Service Funds with a total of $47.3 million, and the General Fund with $46.4 million.

Annualized Average Portfolio
Figure V

The annualized average portfolio for September 30, 2006 was $272,792,938. This is an increase of $44,109,748 when compared to the September 2005 average of $228,683,190.



SECTION-4

QUARTERLY INVESTMENT REPORT

City of Plano

Comprehensive Monthly Finance Report

Investment Report
City of Plano
07/01/2006 - 09/30/2006

This report summarizes the investment position of the City of Plano for the period **07/01/2006 to 09/30/2006.**

		07/01/06		***09/30/06***
Book Value	$	294,150,547.79	$	262,996,496.90
Market Value	$	289,293,837.27	$	259,969,041.54
Par Value	$	294,605,646.60	$	263,471,841.48
Change in Market Value			$	2,118,422.51
Weighted Average Maturity (in Days)		352		416
Weighted Average Yield-to-Maturity of Portfolio		4.1172%		4.2718%
Yield-to-Maturity of 2-Year T-Note		5.1700%		4.6900%
Accrued Interest in Period			$	1,542,077.48

This report is presented in accordance with Texas Government Code, Title 10, Section 2256.023. The undersigned hereby certify that, to the best of their knowledge on the date this report was created, this report is in compliance with provisions of Texas Government Code, Section 2256 and with the stated policies and strategies of the City of Plano, Texas .

Director of Finance

Treasurer

Portfolio Position

City of Plano - Treasury

Effective Interest - Actual Life

Receipts in Period

07/01/06 - 09/30/06

	CUSIP	Invest Number	Security Description	Purchase Date	Par Value On 07/01/06	Par Value On 09/30/06	Market Val On 07/01/06	Market Val On 09/30/06	Amor Value On 07/01/06	Amor Value On 09/30/06
Combined Port	LegacyTexas Bank NOW Acct.	AR-0005	Cash	12/05/05	7,608,051.24	5,294,409.52	7,608,051.24	5,294,409.52	7,608,051.24	5,294,409.52
	Cash Total				**7,608,051.24**	**5,294,409.52**	**7,608,051.24**	**5,294,409.52**	**7,608,051.24**	**5,294,409.52**
		06-0105	Certificate of Deposit 5.45 11/30/06	09/11/06	0.00	3,000,000.00	0.00	3,000,000.00	0.00	3,000,000.00
		06-0087	Certificate of Deposit 5.35 11/16/06	07/07/06	0.00	1,500,000.00	0.00	1,500,000.00	0.00	1,500,000.00
		06-0081	Certificate of Deposit 5.35 11/02/06	06/05/06	2,500,000.00	2,500,000.00	2,500,000.00	2,500,000.00	2,500,000.00	2,500,000.00
		06-0086	Certificate of Deposit 5.42 11/16/06	07/11/06	0.00	1,400,000.00	0.00	1,400,000.00	0.00	1,400,000.00
		06-0068-01	Certificate of Deposit 4.62 07/13/06	01/10/06	3,000,000.00	0.00	3,000,000.00	0.00	3,000,000.00	0.00
		06-0073-01	Certificate of Deposit 5.00 09/07/06	04/11/06	2,000,000.00	0.00	2,000,000.00	0.00	2,000,000.00	0.00
		06-0069-01	Certificate of Deposit 5.026 09/07/06	04/12/06	1,000,000.00	0.00	1,000,000.00	0.00	1,000,000.00	0.00
		06-0104	Certificate of Deposit 5.45 11/20/06	09/08/06	0.00	4,200,000.00	0.00	4,200,000.00	0.00	4,200,000.00
		06-0100	Certificate of Deposit 5.36 11/20/06	07/21/06	0.00	1,500,000.00	0.00	1,500,000.00	0.00	1,500,000.00
		06-0071-01	Certificate of Deposit 5.15 09/21/06	04/21/06	2,000,000.00	0.00	2,000,000.00	0.00	2,000,000.00	0.00
		06-0074-01	Certificate of Deposit 5.07 09/21/06	04/20/06	1,000,000.00	0.00	1,000,000.00	0.00	1,000,000.00	0.00
		06-0070-01	Certificate of Deposit 5.026 09/15/06	04/12/06	1,500,000.00	0.00	1,500,000.00	0.00	1,500,000.00	0.00
		06-0080	Certificate of Deposit 5.30 10/19/06	06/05/06	2,500,000.00	2,500,000.00	2,500,000.00	2,500,000.00	2,500,000.00	2,500,000.00
		06-0072	Certificate of Deposit 5.15 10/05/06	04/25/06	2,000,000.00	2,000,000.00	2,000,000.00	2,000,000.00	2,000,000.00	2,000,000.00
		06-0075	Certificate of Deposit 5.07 10/05/06	04/20/06	1,000,000.00	1,000,000.00	1,000,000.00	1,000,000.00	1,000,000.00	1,000,000.00
	Certificate of Deposit Total				**18,500,000.00**	**19,600,000.00**	**18,500,000.00**	**19,600,000.00**	**18,500,000.00**	**19,600,000.00**
	21684FJ14	06-0044-01	Commercial Paper 0.00 09/01/06	03/07/06	3,000,000.00	0.00	2,975,970.21	0.00	2,974,139.28	0.00
	21684FL29	06-0082	Commercial Paper 0.00 11/02/06	06/15/06	1,218,000.00	1,218,000.00	1,197,571.86	1,213,118.10	1,195,322.99	1,212,065.90
	21684FMF9	06-0085	Commercial Paper 0.00 12/15/06	06/27/06	2,000,000.00	2,000,000.00	1,953,880.20	1,980,431.12	1,948,156.10	1,976,379.50
	24228KHW4	06-0045-01	Commercial Paper 0.00 08/30/06	03/07/06	1,454,000.00	0.00	1,442,574.09	0.00	1,441,845.09	0.00
	36959JHQ9	06-0046-01	Commercial Paper 0.00 08/24/06	03/14/06	3,000,000.00	0.00	2,978,939.58	0.00	2,977,581.98	0.00
	36959JJ12	06-0051-01	Commercial Paper 0.00 09/01/06	03/29/06	4,000,000.00	0.00	3,967,960.28	0.00	3,965,372.00	0.00
	53974UHX5	06-0049-01	Commercial Paper 0.00 08/31/06	03/23/06	5,000,000.00	0.00	4,960,655.20	0.00	4,957,510.24	0.00
	53974UKK9	06-0083	Commercial Paper 0.00 10/19/06	06/21/06	1,200,000.00	1,200,000.00	1,182,119.90	1,196,962.04	1,180,197.61	1,196,714.26
	88736UJ18	06-0048-01	Commercial Paper 0.00 09/01/06	03/22/06	5,000,000.00	0.00	4,959,950.35	0.00	4,956,807.83	0.00
	Commercial Paper Total				**25,872,000.00**	**4,418,000.00**	**25,619,621.67**	**4,390,511.26**	**25,596,933.12**	**4,385,159.66**
	31331Q2W6	03-0216	FFCB 2.60 10/02/07	07/02/03	1,195,000.00	1,195,000.00	1,153,545.45	1,165,877.85	1,195,000.00	1,195,000.00
	31331QT98	03-0188	FFCB 2.95 06/12/08	06/12/03	2,000,000.00	2,000,000.00	1,907,500.00	1,933,760.00	2,000,000.00	2,000,000.00
	31331QV79	03-0207	FFCB 2.80 03/25/08	06/25/03	2,000,000.00	2,000,000.00	1,912,500.00	1,937,500.00	2,000,000.00	2,000,000.00
	31331TPU9	04-0051	FFCB 3.06 01/30/07	01/30/04	1,000,000.00	1,000,000.00	985,940.00	992,810.00	1,000,000.00	1,000,000.00
	31331VHS8	06-0013	FFCB 4.625 11/28/06	11/28/05	1,000,000.00	1,000,000.00	996,880.00	998,750.00	1,000,000.00	1,000,000.00
	31331VML7	06-0033	FFCB 5.40 07/06/10	02/02/06	3,000,000.00	3,000,000.00	2,962,500.00	2,986,890.00	2,993,676.24	2,994,037.76
	FFCB Total				**10,195,000.00**	**10,195,000.00**	**9,918,865.45**	**10,015,587.85**	**10,188,676.24**	**10,189,037.76**
	31315LZL5	06-0032-01	FFCB Discount Note 0.00 07/17/06	01/24/06	2,000,000.00	0.00	1,996,000.00	0.00	1,995,909.73	0.00
	FFCB Discount Note Total				**2,000,000.00**	**0.00**	**1,996,000.00**	**0.00**	**1,995,909.73**	**0.00**
	31339X3E2	03-0170-01	FHLB 2.60 12/12/06	06/12/03	1,000,000.00	0.00	987,190.00	0.00	1,000,000.00	0.00
	31339X5E0	03-0158	FHLB 3.00 12/12/07	06/12/03	2,000,000.00	2,000,000.00	1,931,260.00	1,951,880.00	2,000,000.00	2,000,000.00
	31339X5W0	03-0156	FHLB 3.10 06/04/08	06/04/03	1,000,000.00	1,000,000.00	957,190.00	969,690.00	1,000,000.00	1,000,000.00
	31339X5W0	03-0159	FHLB 3.10 06/04/08	06/04/03	1,000,000.00	1,000,000.00	957,190.00	969,690.00	1,000,000.00	1,000,000.00
	31339X6Q2	03-0179	FHLB 3.05 06/12/08	06/12/03	2,000,000.00	2,000,000.00	1,911,260.00	1,936,880.00	2,000,000.00	2,000,000.00
	31339X6Q2	03-0164	FHLB 3.05 06/12/08	06/12/03	2,000,000.00	2,000,000.00	1,911,260.00	1,936,880.00	2,000,000.00	2,000,000.00
	31339XBS2	03-0172	FHLB 3.00 03/18/08	06/18/03	2,000,000.00	2,000,000.00	1,920,000.00	1,943,760.00	2,000,000.00	2,000,000.00
	31339XBW3	03-0173-01	FHLB 2.50 12/19/06	06/19/03	2,260,000.00	0.00	2,228,925.00	0.00	2,260,000.00	0.00
	31339XCR3	03-0178-01	FHLB 2.22 09/12/06	06/12/03	1,000,000.00	0.00	993,750.00	0.00	1,000,000.00	0.00
	31339XDR2	03-0163	FHLB 3.04 05/28/08	05/28/03	1,000,000.00	1,000,000.00	956,250.00	969,060.00	1,000,000.00	1,000,000.00
	31339XFB5	03-0174	FHLB 2.59 03/19/07	06/19/03	1,000,000.00	1,000,000.00	979,380.00	987,810.00	1,000,000.00	1,000,000.00
	31339XFF6	03-0165	FHLB 3.02 03/19/08	06/19/03	2,000,000.00	2,000,000.00	1,920,620.00	1,943,760.00	2,000,000.00	2,000,000.00
	31339XHM9	03-0177	FHLB 3.00 12/26/07	06/26/03	1,675,000.00	1,675,000.00	1,615,855.75	1,633,644.25	1,675,000.00	1,675,000.00
	31339XHN7	03-0176	FHLB 3.25 06/26/08	06/26/03	1,000,000.00	1,000,000.00	958,440.00	971,250.00	1,000,000.00	1,000,000.00
	31339XPH1	03-0180	FHLB 2.95 06/23/08	06/23/03	2,000,000.00	2,000,000.00	1,906,260.00	1,932,500.00	2,000,000.00	2,000,000.00
	31339XPL2	03-0208	FHLB 2.45 09/26/07	06/26/03	2,000,000.00	2,000,000.00	1,928,120.00	1,948,760.00	2,000,000.00	2,000,000.00
	31339XPR9	03-0181	FHLB 3.04 06/30/08	06/30/03	2,000,000.00	2,000,000.00	1,908,760.00	1,935,000.00	2,000,000.00	2,000,000.00
	31339XQE7	03-0209	FHLB 2.50 06/26/07	06/26/03	1,000,000.00	1,000,000.00	971,250.00	980,630.00	1,000,000.00	1,000,000.00
	31339XQF4	03-0212	FHLB 2.40 03/30/07	06/30/03	1,000,000.00	1,000,000.00	977,190.00	985,940.00	1,000,000.00	1,000,000.00
	31339XRP1	03-0185	FHLB 2.85 03/28/08	06/30/03	2,000,000.00	2,000,000.00	1,913,120.00	1,938,760.00	2,000,000.00	2,000,000.00
	31339XRZ9	03-0187	FHLB 3.05 06/30/08	06/30/03	2,000,000.00	2,000,000.00	1,909,380.00	1,935,000.00	2,000,000.00	2,000,000.00
	31339XSE5	03-0186	FHLB 3.00 06/30/08	06/30/03	1,000,000.00	1,000,000.00	953,750.00	966,880.00	1,000,000.00	1,000,000.00
	31339XTK0	03-0190-01	FHLB 2.25 12/26/06	06/26/03	1,000,000.00	0.00	984,380.00	0.00	1,000,000.00	0.00
	31339XTP9	03-0220	FHLB 2.75 01/09/08	07/09/03	1,670,000.00	1,670,000.00	1,604,252.10	1,623,039.60	1,670,000.00	1,670,000.00
	31339XTP9	03-0192	FHLB 2.75 01/09/08	07/09/03	1,000,000.00	1,000,000.00	960,630.00	971,880.00	1,000,000.00	1,000,000.00
	31339XU28	03-0219	FHLB 2.87 07/02/08	07/02/03	1,500,000.00	1,500,000.00	1,426,875.00	1,447,035.00	1,500,000.00	1,500,000.00
	31339XU36	03-0204	FHLB 2.75 06/24/08	06/24/03	1,045,000.00	1,045,000.00	992,102.10	1,006,470.85	1,045,000.00	1,045,000.00
	31339XVD3	03-0230-01	FHLB 2.03 12/29/06	06/30/03	1,000,000.00	0.00	983,130.00	0.00	1,000,000.00	0.00
	31339XWS9	03-0223	FHLB 2.375 04/10/07	07/10/03	1,000,000.00	1,000,000.00	976,560.00	985,000.00	1,000,000.00	1,000,000.00
	31339XWX8	03-0193	FHLB 3.00 07/11/08	07/11/03	2,000,000.00	2,000,000.00	1,906,880.00	1,932,500.00	2,000,000.00	2,000,000.00
	31339XZE7	03-0218	FHLB 2.25 07/02/07	07/02/03	1,000,000.00	1,000,000.00	968,440.00	978,440.00	1,000,000.00	1,000,000.00
	31339XZG2	03-0198	FHLB 2.75 06/30/08	06/30/03	1,000,000.00	1,000,000.00	949,060.00	962,810.00	1,000,000.00	1,000,000.00
	31339XZG2	03-0197	FHLB 2.75 06/30/08	06/30/03	2,000,000.00	2,000,000.00	1,898,120.00	1,925,620.00	2,000,000.00	2,000,000.00
	31339Y2X9	03-0199	FHLB 3.00 07/14/08	07/14/03	2,000,000.00	2,000,000.00	1,906,260.00	1,932,500.00	2,000,000.00	2,000,000.00
	31339Y5C2	03-0200	FHLB 3.03 06/30/08	06/30/03	2,000,000.00	2,000,000.00	1,908,760.00	1,934,380.00	2,000,000.00	2,000,000.00
	31339YA51	03-0201	FHLB 3.10 07/16/08	07/16/03	2,000,000.00	2,000,000.00	1,910,000.00	1,935,620.00	2,000,000.00	2,000,000.00
	31339YA51	03-0225	FHLB 3.10 07/16/08	07/16/03	1,680,000.00	1,680,000.00	1,604,400.00	1,625,920.80	1,680,000.00	1,680,000.00
	31339YBB7	03-0221	FHLB 2.125 01/09/07	07/09/03	1,000,000.00	1,000,000.00	982,810.00	991,560.00	1,000,000.00	1,000,000.00
	31339YBN1	03-0203	FHLB 3.125 07/16/08	07/16/03	2,000,000.00	2,000,000.00	1,910,620.00	1,936,260.00	2,000,000.00	2,000,000.00
	31339YBN1	03-0202	FHLB 3.125 07/16/08	07/16/03	2,000,000.00	2,000,000.00	1,910,620.00	1,936,260.00	2,000,000.00	2,000,000.00
	31339YDK5	03-0224	FHLB 2.90 07/15/08	07/15/03	1,000,000.00	1,000,000.00	951,250.00	964,380.00	1,000,000.00	1,000,000.00
	31339YEB4	03-0228	FHLB 3.03 07/22/08	07/22/03	1,000,000.00	1,000,000.00	953,130.00	966,250.00	1,000,000.00	1,000,000.00
	31339YEJ7	03-0222	FHLB 3.00 07/09/08	07/09/03	1,000,000.00	1,000,000.00	953,440.00	966,250.00	1,000,000.00	1,000,000.00
	31339YFF4	03-0213	FHLB 3.20 07/23/08	07/23/03	3,000,000.00	3,000,000.00	2,869,680.00	2,907,180.00	3,000,000.00	3,000,000.00
	31339YFR8	03-0214	FHLB 3.25 07/25/08	07/25/03	1,000,000.00	1,000,000.00	957,190.00	969,690.00	1,000,000.00	1,000,000.00
	31339YH21	03-0215	FHLB 3.27 07/24/08	07/24/03	2,000,000.00	2,000,000.00	1,915,620.00	1,940,620.00	2,000,000.00	2,000,000.00
	3133MGVA1	06-0079-01	FHLB 5.25 08/15/06	05/19/06	2,500,000.00	0.00	2,499,225.00	0.00	2,500,000.00	0.00
	3133MX2J7	03-0108	FHLB 3.45 03/24/08	03/24/03	1,000,000.00	1,000,000.00	966,880.00	977,810.00	1,000,000.00	1,000,000.00
	3133MY4F1	03-0134	FHLB 3.75 04/24/08	04/24/03	500,000.00	500,000.00	485,155.00	490,625.00	500,000.00	500,000.00
	3133MYM87	03-0140	FHLB 3.50 11/19/07	05/19/03	2,000,000.00	2,000,000.00	1,946,880.00	1,965,000.00	2,000,000.00	2,000,000.00
	3133MYN52	03-0141	FHLB 3.65 05/22/08	05/22/03	1,000,000.00	1,000,000.00	967,500.00	978,750.00	1,000,000.00	1,000,000.00
	3133MYUS4	03-0147	FHLB 3.50 05/27/08	05/27/03	1,000,000.00	1,000,000.00	964,690.00	976,250.00	1,000,000.00	1,000,000.00
	3133MYZJ9	03-0160-01	FHLB 2.50 09/11/06	06/11/03	1,000,000.00	0.00	994,380.00	0.00	1,000,000.00	0.00
	3133MYZJ9	03-0157-01	FHLB 2.50 09/11/06	06/11/03	1,000,000.00	0.00	994,380.00	0.00	1,000,000.00	0.00
	3133MYZQ3	03-0168	FHLB 3.33 06/10/08	06/10/03	2,000,000.00	2,000,000.00	1,921,880.00	1,946,260.00	2,000,000.00	2,000,000.00
	3133X2H81	06-0092	FHLB 4.00 11/25/08	08/14/06	0.00	1,000,000.00	0.00	979,380.00	0.00	972,836.97

Portfolio Position

City of Plano - Treasury

Effective Interest - Actual Life

Receipts in Period

07/01/06 - 09/30/06

CUSIP	Invest Number	Security Description	Purchase Date	Par Value On 07/01/06	Par Value On 09/30/06	Market Val On 07/01/06	Market Val On 09/30/06	Amor Value On 07/01/06	Amor Value On 09/30/06
3133X3AE3	04-0050	FHLB 3.625 01/28/08	01/28/04	1,000,000.00	1,000,000.00	972,190.00	981,880.00	1,000,000.00	1,000,000.00
3133X56G8	06-0090	FHLB 4.25 04/07/11	08/11/06	0.00	2,580,000.00	0.00	2,496,150.00	0.00	2,466,709.73
3133X5TB4	04-0080	FHLB 2.29 10/27/06	04/27/04	1,000,000.00	1,000,000.00	990,000.00	997,810.00	1,000,000.00	1,000,000.00
3133X5TL2	04-0079	FHLB 2.00 04/27/07	04/27/04	1,000,000.00	1,000,000.00	981,880.00	988,750.00	1,000,000.00	1,000,000.00
3133X5WS3	04-0081	FHLB 3.02 07/27/07	04/27/04	1,000,000.00	1,000,000.00	974,380.00	982,500.00	1,000,000.00	1,000,000.00
3133X5Y36	04-0082	FHLB 3.01 01/30/08	04/30/04	1,000,000.00	1,000,000.00	963,130.00	974,060.00	1,000,000.00	1,000,000.00
3133X6JA5	04-0086	FHLB 3.00 05/10/07	05/10/04	1,000,000.00	1,000,000.00	979,060.00	986,560.00	1,000,000.00	1,000,000.00
3133X6YH3	04-0089	FHLB 3.36 05/24/07	05/24/04	1,000,000.00	1,000,000.00	981,250.00	988,130.00	1,000,000.00	1,000,000.00
3133X6YL4	04-0091-01	FHLB 3.10 11/28/06	05/28/04	1,000,000.00	0.00	990,630.00	0.00	1,000,000.00	0.00
3133X8VL3	05-0001	FHLB 3.625 10/26/07	10/26/04	1,000,000.00	1,000,000.00	976,250.00	984,690.00	999,547.10	999,631.16
3133X9C32	06-0095	FHLB 4.25 11/24/09	08/17/06	0.00	2,300,000.00	0.00	2,248,250.00	0.00	2,233,449.41
3133XABU0	05-0018	FHLB 3.00 07/27/07	01/27/05	1,000,000.00	1,000,000.00	984,380.00	990,310.00	1,000,000.00	1,000,000.00
3133XASZ1	06-0094	FHLB 4.75 03/07/11	08/17/06	0.00	1,015,000.00	0.00	996,608.20	0.00	991,638.45
3133XCQR7	06-0093	FHLB 4.50 08/08/08	08/14/06	0.00	1,000,000.00	0.00	991,250.00	0.00	986,756.81
3133XDBY6	06-0098	FHLB 4.375 10/03/08	08/22/06	0.00	1,000,000.00	0.00	987,190.00	0.00	984,882.67
3133XDDT5	06-0096	FHLB 4.50 07/18/08	08/17/06	0.00	1,000,000.00	0.00	991,560.00	0.00	988,495.64
3133XDHS3	06-0001	FHLB 5.00 10/27/08	10/27/05	1,000,000.00	1,000,000.00	985,940.00	993,440.00	1,000,000.00	1,000,000.00
3133XDKV2	06-0003	FHLB 5.00 05/09/08	11/09/05	1,000,000.00	1,000,000.00	990,310.00	996,250.00	1,000,000.00	1,000,000.00
3133XDKV2	06-0004	FHLB 5.00 05/09/08	11/09/05	2,000,000.00	2,000,000.00	1,980,620.00	1,992,500.00	2,000,000.00	2,000,000.00
3133XDQ46	06-0005	FHLB 5.00 05/23/08	11/23/05	2,000,000.00	2,000,000.00	1,980,000.00	1,992,500.00	2,000,000.00	2,000,000.00
3133XEV71	06-0042	FHLB 5.125 03/06/08	03/06/06	1,000,000.00	1,000,000.00	993,440.00	998,440.00	999,069.01	999,202.23
3133XFXM3	06-0089	FHLB 5.60 01/03/08	08/02/06	0.00	1,000,000.00	0.00	1,000,940.00	0.00	1,000,000.00
FHLB Total				**98,830,000.00**	**97,965,000.00**	**95,545,039.95**	**95,551,283.70**	**98,828,616.11**	**97,693,603.07**
3128X0A33	06-0091	FHLMC 4.125 02/24/09	08/14/06	0.00	1,000,000.00	0.00	980,260.00	0.00	972,755.73
3128X1DD6	04-0075	FHLMC 3.20 05/21/08	03/19/04	1,000,000.00	1,000,000.00	959,750.00	972,100.00	1,001,331.17	1,001,159.30
3128X1DK0	03-0155	FHLMC 3.10 11/28/07	05/28/03	2,000,000.00	2,000,000.00	1,935,500.00	1,955,740.00	1,999,672.11	1,999,729.36
3128X1EB9	03-0166	FHLMC 3.25 06/04/08	06/04/03	1,000,000.00	1,000,000.00	960,000.00	972,190.00	1,000,000.00	1,000,000.00
3128X1FB8	03-0161	FHLMC 3.10 05/27/08	05/27/03	1,000,000.00	1,000,000.00	957,650.00	970,270.00	1,000,000.00	1,000,000.00
3128X1LC9	03-0189	FHLMC 2.70 12/17/07	06/17/03	1,000,000.00	1,000,000.00	961,070.00	972,410.00	1,000,000.00	1,000,000.00
3128X1LC9	03-0182	FHLMC 2.70 12/17/07	06/17/03	3,000,000.00	3,000,000.00	2,883,210.00	2,917,230.00	3,000,000.00	3,000,000.00
3128X1LJ4	03-0184	FHLMC 2.50 12/24/07	06/24/03	1,000,000.00	1,000,000.00	958,030.00	969,690.00	1,000,000.00	1,000,000.00
3128X1LJ4	03-0205	FHLMC 2.50 12/24/07	06/24/03	1,000,000.00	1,000,000.00	958,030.00	969,690.00	1,000,000.00	1,000,000.00
3128X1MK0	03-0191-01	FHLMC 2.05 12/29/06	06/30/03	1,000,000.00	0.00	983,260.00	0.00	1,000,000.00	0.00
3128X1NC7	03-0194-01	FHLMC 2.10 12/19/06	06/19/03	1,000,000.00	0.00	984,360.00	0.00	1,000,000.00	0.00
3128X1ND5	03-0195	FHLMC 2.40 12/28/07	06/27/03	1,000,000.00	1,000,000.00	956,330.00	968,270.00	1,000,000.00	1,000,000.00
3128X1QF7	03-0217	FHLMC 2.35 07/02/07	07/02/03	1,000,000.00	1,000,000.00	969,560.00	979,060.00	1,000,000.00	1,000,000.00
3128X2GL3	04-0034	FHLMC 4.15 12/18/08	12/26/03	1,665,000.00	1,665,000.00	1,613,118.60	1,633,215.15	1,665,000.00	1,665,000.00
3128X2JL0	04-0027-01	FHLMC 2.875 12/29/06	12/29/03	1,000,000.00	0.00	986,240.00	0.00	1,000,000.00	0.00
3128X2JM8	04-0030	FHLMC 3.25 06/29/07	12/29/03	1,000,000.00	1,000,000.00	978,340.00	985,720.00	1,000,000.00	1,000,000.00
3128X2JW6	04-0033	FHLMC 4.00 01/14/09	01/14/04	1,000,000.00	1,000,000.00	965,070.00	977,610.00	1,000,000.00	1,000,000.00
3128X2KR5	04-0039	FHLMC 3.05 01/02/07	01/02/04	1,000,000.00	1,000,000.00	987,530.00	994,350.00	1,000,000.00	1,000,000.00
3128X2KR5	04-0040	FHLMC 3.05 01/02/07	01/02/04	2,000,000.00	2,000,000.00	1,975,060.00	1,988,700.00	2,000,000.00	2,000,000.00
3128X2PA7	04-0058	FHLMC 3.00 07/27/07	01/27/04	1,000,000.00	1,000,000.00	971,060.00	980,080.00	1,000,000.00	1,000,000.00
3128X2PC3	04-0057-01	FHLMC 2.35 07/27/06	01/27/04	1,000,000.00	0.00	997,920.00	0.00	1,000,000.00	0.00
3128X4AK7	06-0078	FHLMC 3.75 11/15/06	05/19/06	2,000,000.00	2,000,000.00	1,987,720.00	1,996,140.00	1,989,168.99	1,996,443.55
3128X4GX3	05-0065	FHLMC 4.40 08/22/07	08/26/05	1,000,000.00	1,000,000.00	986,980.00	992,680.00	999,775.25	999,823.53
3128X4R94	06-0050	FHLMC 5.20 11/03/08	03/24/06	1,000,000.00	1,000,000.00	993,120.00	999,930.00	1,000,000.00	1,000,000.00
3128X4ST9	06-0006	FHLMC 4.90 11/03/08	11/03/05	1,000,000.00	1,000,000.00	984,380.00	995,330.00	997,814.78	998,036.22
312924R96	02-0074	FHLMC 5.13 01/25/07	01/25/02	2,000,000.00	2,000,000.00	1,995,120.00	1,998,640.00	2,000,000.00	2,000,000.00
3134A4UB8	06-0043-01	FHLMC 2.75 08/15/06	03/07/06	2,750,000.00	0.00	2,741,420.00	0.00	2,742,700.75	0.00
3134A4UV4	06-0058	FHLMC 2.75 10/15/06	04/27/06	3,000,000.00	3,000,000.00	2,977,500.00	2,997,180.00	2,979,328.14	2,997,217.25
FHLMC Total				**37,415,000.00**	**31,665,000.00**	**36,607,328.60**	**31,166,485.15**	**37,374,791.19**	**31,630,164.94**
31359MA60	06-0076	FNMA 4.00 10/16/06	05/05/06	3,000,000.00	3,000,000.00	2,986,890.00	2,998,140.00	2,990,028.41	2,998,575.49
31359MF81	06-0037	FNMA 5.05 02/07/11	02/07/06	1,000,000.00	1,000,000.00	982,500.00	1,005,630.00	994,775.02	995,028.91
31359MH63	06-0101	FNMA 5.375 02/16/11	09/08/06	0.00	2,000,000.00	0.00	1,999,380.00	0.00	1,995,864.39
31359MJ46	06-0047	FNMA 5.15 09/21/07	03/21/06	2,000,000.00	2,000,000.00	1,990,000.00	1,997,500.00	2,000,000.00	2,000,000.00
31359MLH4	06-0077	FNMA 4.375 10/15/06	05/17/06	3,000,000.00	3,000,000.00	2,991,570.00	2,999,070.00	2,993,295.08	2,999,097.41
31359MP31	06-0088	FNMA 5.80 06/07/11	08/01/06	0.00	1,000,000.00	0.00	1,002,500.00	0.00	999,534.48
31359MSC8	04-0071	FNMA 2.00 06/04/08	03/09/04	1,000,000.00	1,000,000.00	960,000.00	972,190.00	1,000,000.00	1,000,000.00
31359MWY5	05-0016-01	FNMA 3.25 12/21/06	12/30/04	1,000,000.00	0.00	989,690.00	0.00	999,057.71	0.00
31359MZN6	06-0030	FNMA 5.00 12/13/07	01/12/06	3,000,000.00	3,000,000.00	2,976,570.00	2,992,500.00	3,000,000.00	3,000,000.00
31359MZY2	06-0102	FNMA 5.05 01/12/09	09/08/06	0.00	1,000,000.00	0.00	998,130.00	0.00	997,575.69
3136F3A97	03-0196	FNMA 2.60 06/30/08	06/30/03	1,000,000.00	1,000,000.00	946,560.00	959,690.00	1,000,000.00	1,000,000.00
3136F3C87	03-0211	FNMA 2.75 06/30/08	06/30/03	1,000,000.00	1,000,000.00	949,060.00	962,500.00	1,000,000.00	1,000,000.00
3136F3YY6	03-0183	FNMA 2.50 12/24/07	06/24/03	1,000,000.00	1,000,000.00	958,130.00	969,690.00	1,000,000.00	1,000,000.00
3136F42C7	04-0060	FNMA 3.80 02/03/09	02/03/04	1,000,000.00	1,000,000.00	960,630.00	974,380.00	1,000,000.00	1,000,000.00
3136F4J54	04-0028	FNMA 3.00 12/29/06	12/29/03	1,000,000.00	1,000,000.00	987,500.00	994,380.00	999,931.58	999,966.18
3136F4SK1	04-0014	FNMA 3.42 05/10/07	11/10/03	1,000,000.00	1,000,000.00	982,500.00	989,060.00	999,923.17	999,945.33
3136F4U51	04-0052	FNMA 3.00 01/30/07	01/30/04	1,000,000.00	1,000,000.00	985,630.00	992,500.00	1,000,000.00	1,000,000.00
3136F4Z98	04-0056	FNMA 4.05 01/16/09	01/16/04	2,000,000.00	2,000,000.00	1,933,760.00	1,959,380.00	2,000,000.00	2,000,000.00
3136F5EN7	06-0099	FNMA 4.30 03/02/10	08/29/06	0.00	2,000,000.00	0.00	1,955,000.00	0.00	1,942,938.63
3136F6JK6	05-0009-01	FNMA 2.875 11/09/06	11/23/04	2,500,000.00	0.00	2,478,125.00	0.00	2,497,220.99	0.00
3136F6KZ1	05-0008	FNMA 3.30 11/24/08	11/24/04	1,000,000.00	1,000,000.00	975,630.00	987,500.00	999,385.09	999,447.03
3136F6MT3	05-0007	FNMA 3.60 11/17/09	11/17/04	1,000,000.00	1,000,000.00	990,000.00	997,810.00	1,000,000.00	1,000,000.00
3136F6SU4	06-0097	FNMA 4.00 12/16/08	08/21/06	0.00	2,045,000.00	0.00	2,002,832.10	0.00	1,994,089.47
3136F6UH0	05-0024	FNMA 4.00 02/01/08	02/01/05	1,000,000.00	1,000,000.00	977,500.00	986,560.00	1,000,000.00	1,000,000.00
3136F7KE6	06-0103	FNMA 8.00 08/25/10	07/03/06	0.00	3,000,000.00	0.00	3,001,890.00	0.00	3,001,598.36
3136F7PM3	06-0034	FNMA 5.25 12/15/08	02/06/06	3,000,000.00	3,000,000.00	2,974,680.00	2,992,500.00	3,000,000.00	3,000,000.00
3136F7PM3	06-0035	FNMA 5.25 12/15/08	02/08/06	3,000,000.00	3,000,000.00	2,974,680.00	2,992,500.00	2,997,665.77	2,997,890.98
3136F7UU9	06-0039	FNMA 5.375 02/17/09	03/03/06	1,000,000.00	1,000,000.00	992,810.00	998,440.00	999,928.09	999,941.86
FNMA Total				**35,500,000.00**	**43,045,000.00**	**34,944,415.00**	**42,681,652.10**	**35,471,210.91**	**42,921,494.21**
313589B36	06-0040-01	FNMA Discount Note 0.00 08/09/06	03/03/06	3,000,000.00	0.00	2,984,100.00	0.00	2,984,318.49	0.00
313589E25	06-0036-01	FNMA Discount Note 0.00 09/01/06	02/07/06	5,000,000.00	0.00	4,956,500.00	0.00	4,960,077.56	0.00
313589G56	06-0054-01	FNMA Discount Note 0.00 09/20/06	04/19/06	2,000,000.00	0.00	1,977,000.00	0.00	1,977,376.35	0.00
313589ZH9	06-0041-01	FNMA Discount Note 0.00 07/14/06	03/02/06	1,000,000.00	0.00	998,400.00	0.00	998,278.08	0.00
313589ZV8	06-0031-01	FNMA Discount Note 0.00 07/26/06	01/25/06	2,000,000.00	0.00	1,993,400.00	0.00	1,993,663.93	0.00
FNMA Discount Note Total				**13,000,000.00**	**0.00**	**12,909,400.00**	**0.00**	**12,913,714.41**	**0.00**
TexPool	AR-0003	State Pool	10/01/99	41,685,595.36	49,289,431.96	41,685,595.36	49,289,431.96	41,685,595.36	49,289,431.96
State Pool Total				**41,685,595.36**	**49,289,431.96**	**41,685,595.36**	**49,289,431.96**	**41,685,595.36**	**49,289,431.96**
912828CU2	05-0044-01	Treasury Note 2.375 08/31/06	05/11/05	2,000,000.00	0.00	1,991,480.00	0.00	1,996,099.28	0.00
912828DY3	05-0068	Treasury Note 3.625 06/30/07	09/28/05	2,000,000.00	2,000,000.00	1,968,040.00	1,979,680.00	1,990,950.20	1,993,195.78
Treasury Note Total				**4,000,000.00**	**2,000,000.00**	**3,959,520.00**	**1,979,680.00**	**3,987,049.48**	**1,993,195.78**
Combined Port Total				**294,605,646.60**	**263,471,841.48**	**289,293,837.27**	**259,969,041.54**	**294,150,547.79**	**262,996,496.90**

Portfolio Position

City of Plano - Treasury

Effective Interest - Actual Life

Receipts in Period

07/01/06 - 09/30/06

CUSIP	Invest Number	Security Description	Purchase Date	Par Value On 07/01/06	Par Value On 09/30/06	Market Val On 07/01/06	Market Val On 09/30/06	Amor Value On 07/01/06	Amor Value On 09/30/06

Preliminary Open Meeting Agenda Item VII

Presentation re Updated City Logo (Insertion)

Helt

VII a

Proposed New Logo/Flag

City Council Meeting

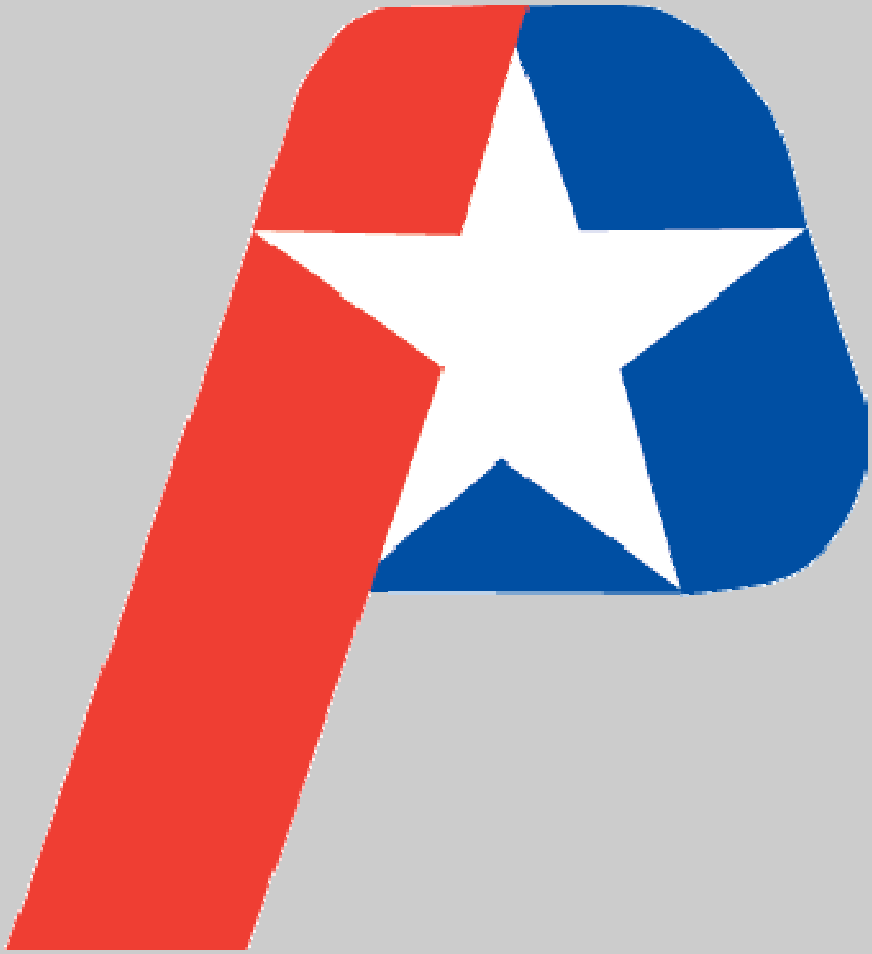
October 23, 2006

Plano CVB Logo

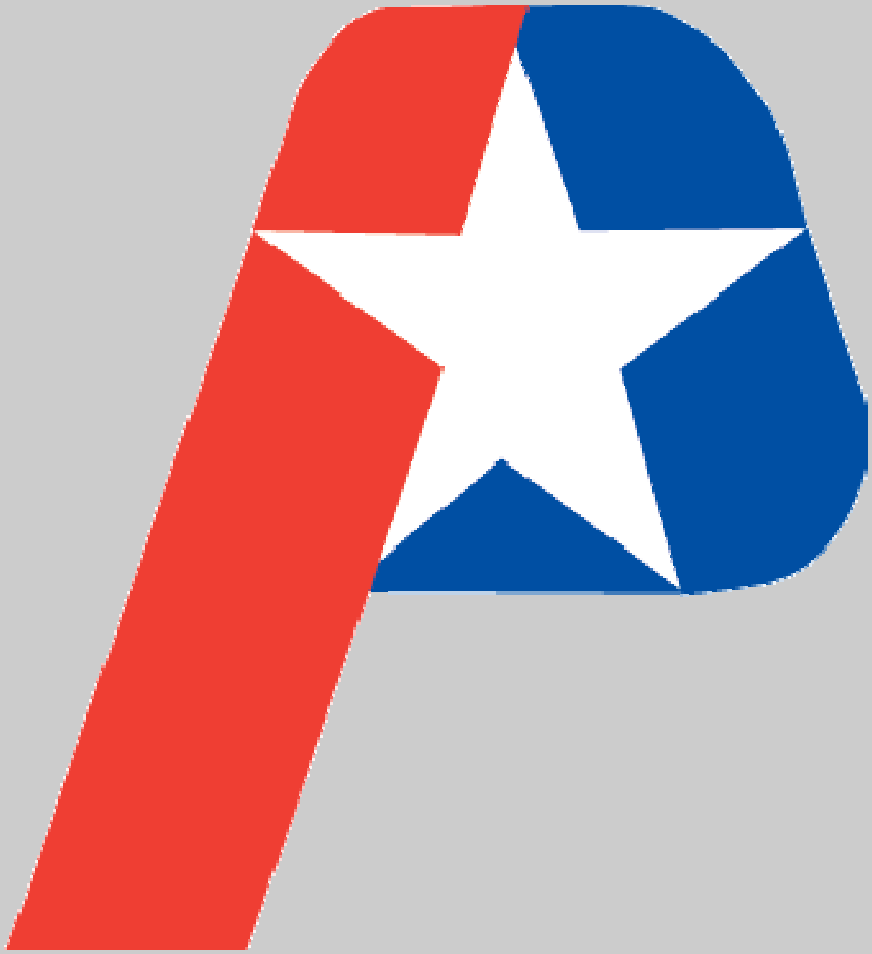
PLANO

convention & visitors bureau

Current City Logo

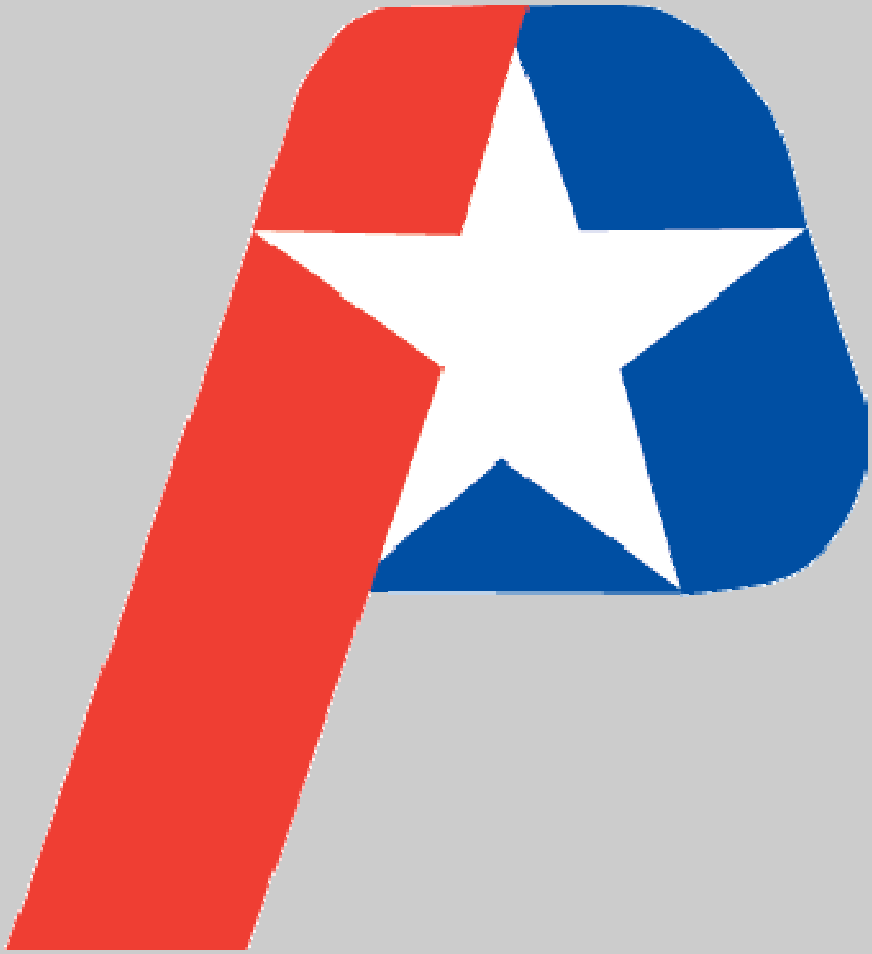


Current City Logo



Created 27 years ago in September 1979 as part of a city sponsored Flag Design contest.

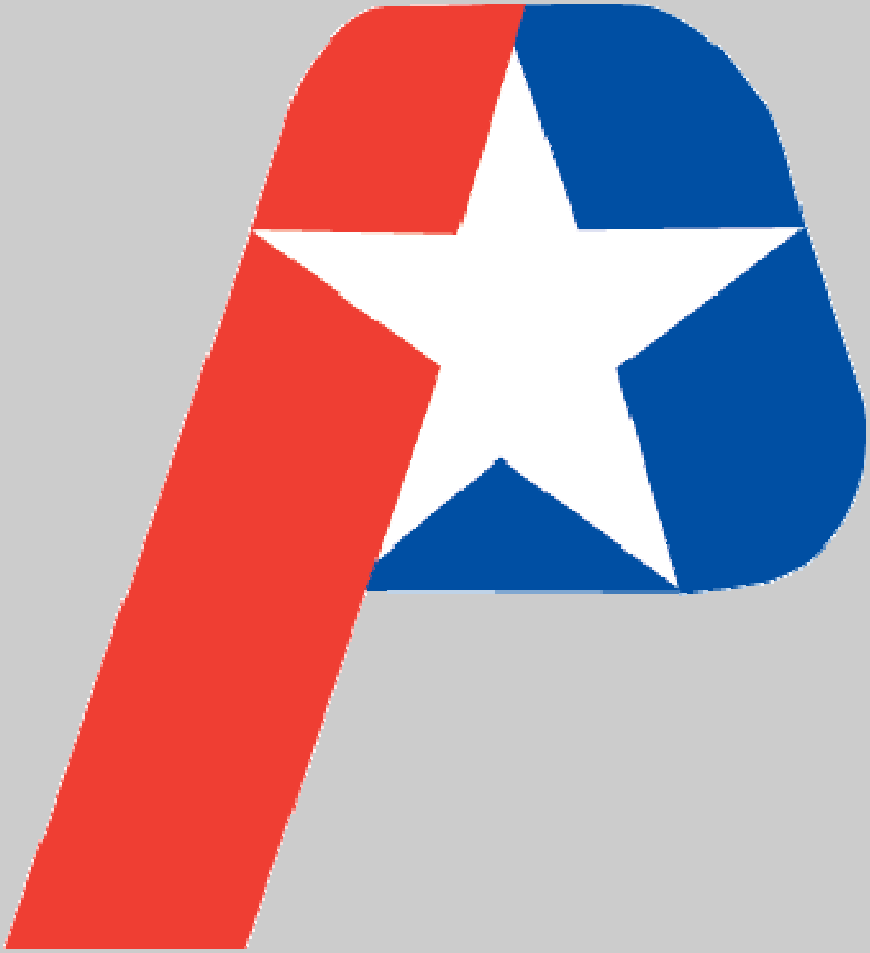
Current City Logo



Created 27 years ago in September 1979 as part of a city sponsored Flag Design contest.

Officially adopted in January of 1980.

Current Logo Uses



Current Logo Uses

Department logo; All America City logo inside City Logo

Current Logo Uses

Plano added to Left of Logo

Current Logo Uses

Water Towers

Current Logo Uses

Fleet

Current Logo Uses

Signage

Current Logo Uses

Flag

Flag

- With a new logo will come a new flag. Here is a little information about flags…

Principles of Flag Design

1. Keep It Simple
   Should be so simple a child can draw it from memory.

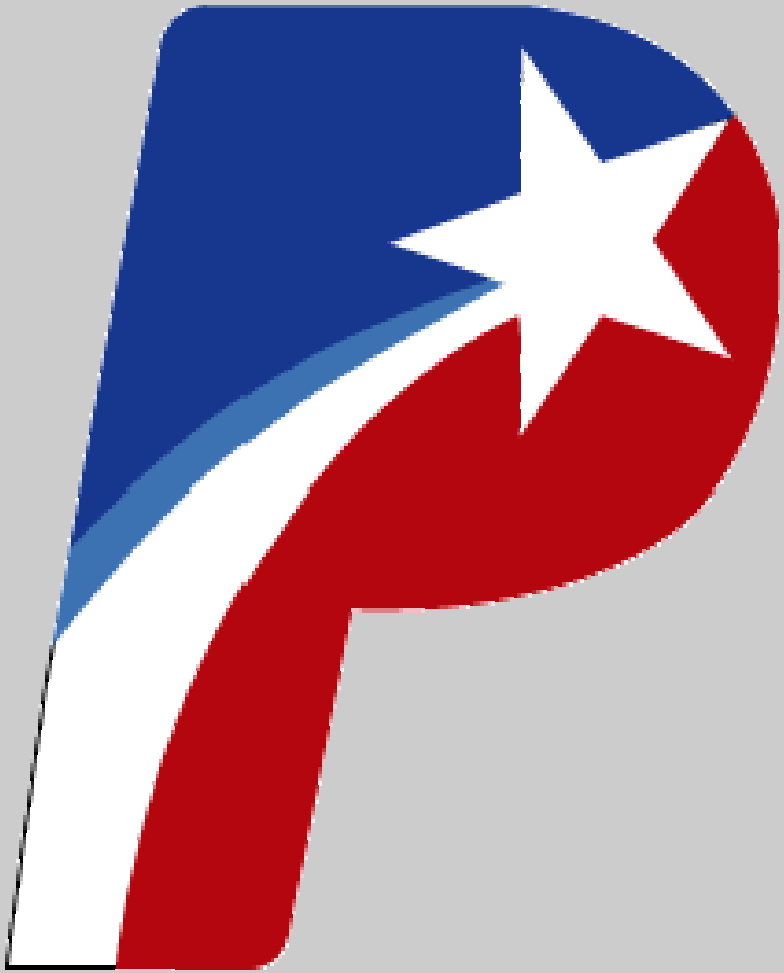
2. Use Meaningful Symbolism
   The flag’s images, colors, or patterns should relate to what it symbolizes.

3. Use 2–3 Basic Colors
   Limit the number of colors on the flag to three.

Source: North American Vexillogical Association

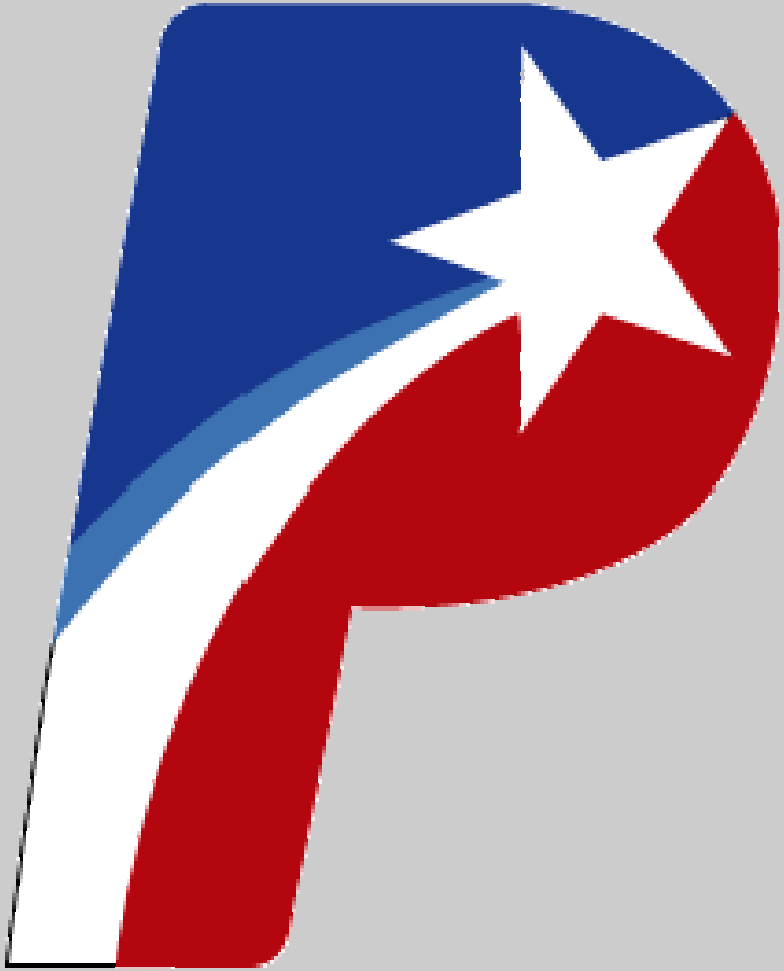
New City Logo

New City Logo



New City Logo

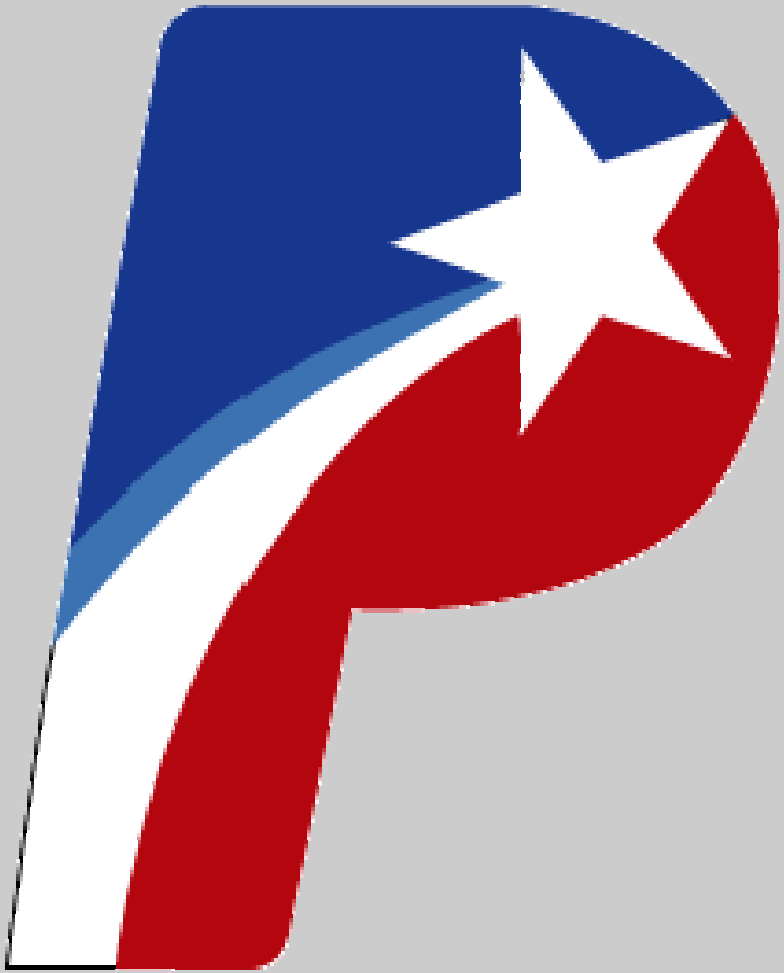
Modernized and updated. Same elements preserved.



New City Logo

Modernized and updated. Same elements preserved.

Star and trail show city still on the rise.

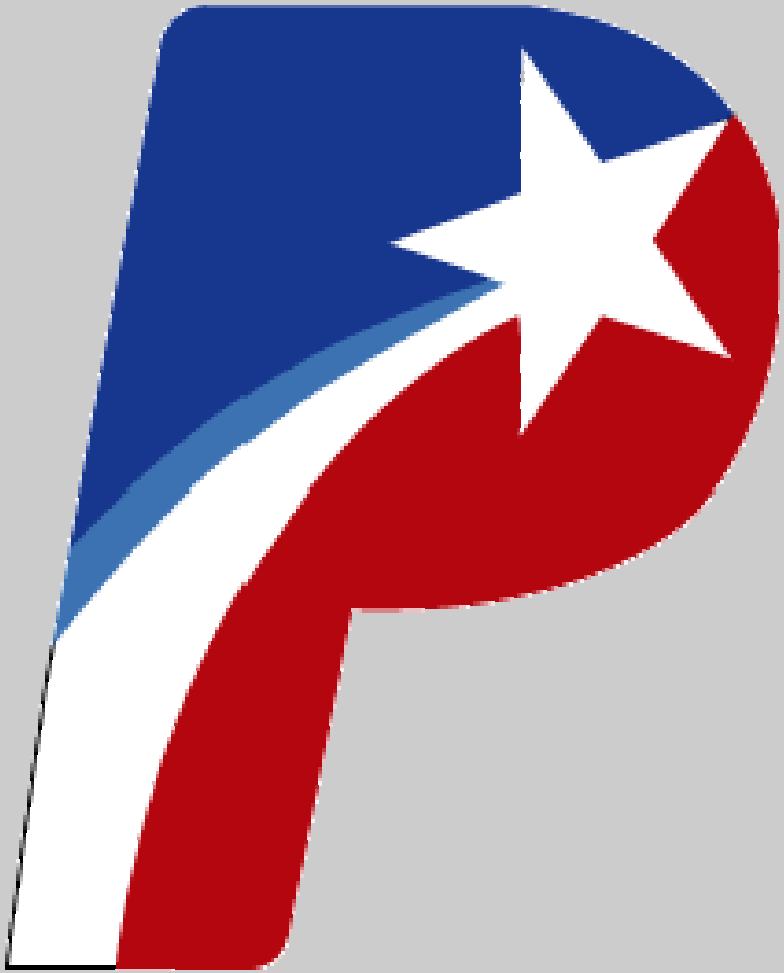


New City Logo

Modernized and updated. Same elements preserved.

Star and trail show city still on the rise.

Slightly darker colors.



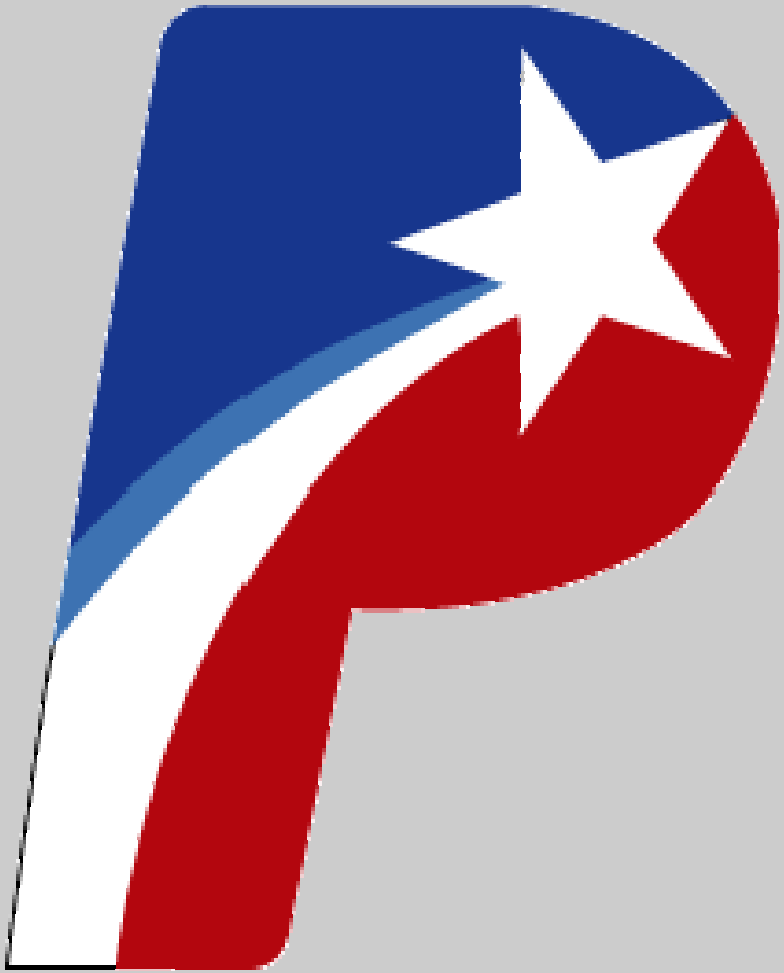
New City Logo

Modernized and updated. Same elements preserved.

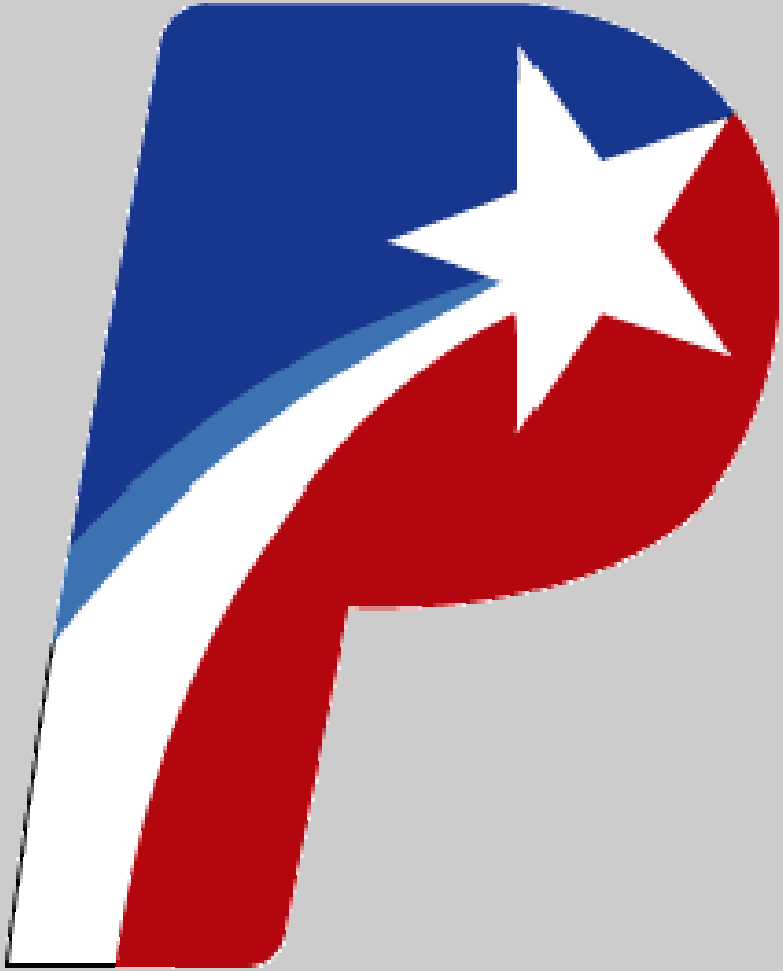
Star and trail show city still on the rise.

Slightly darker colors.

Introduced light blue in star trail.



New Logo Uses



New Logo Uses

Plano

New Logo Uses

Water Towers

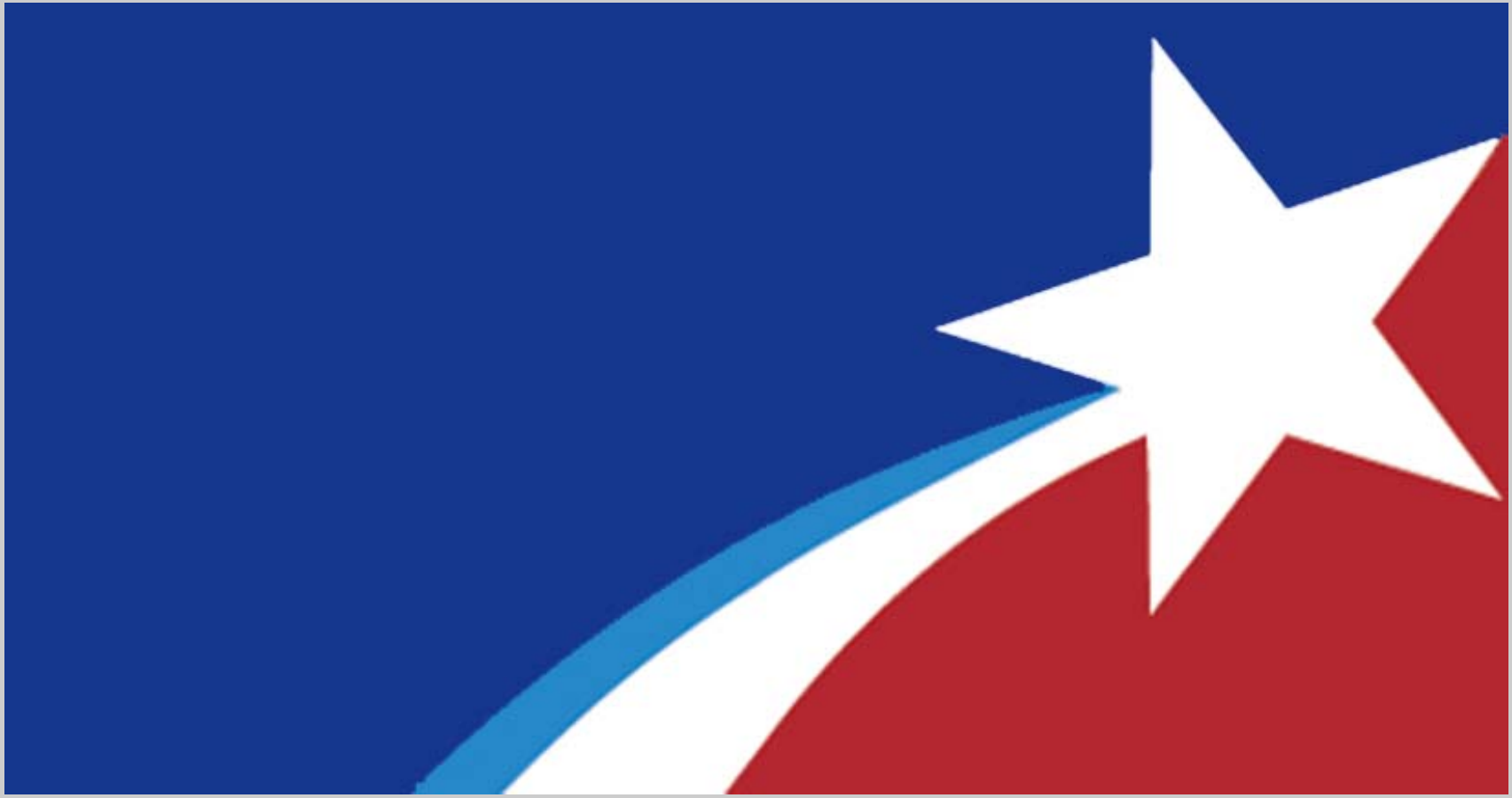
New Logo Uses

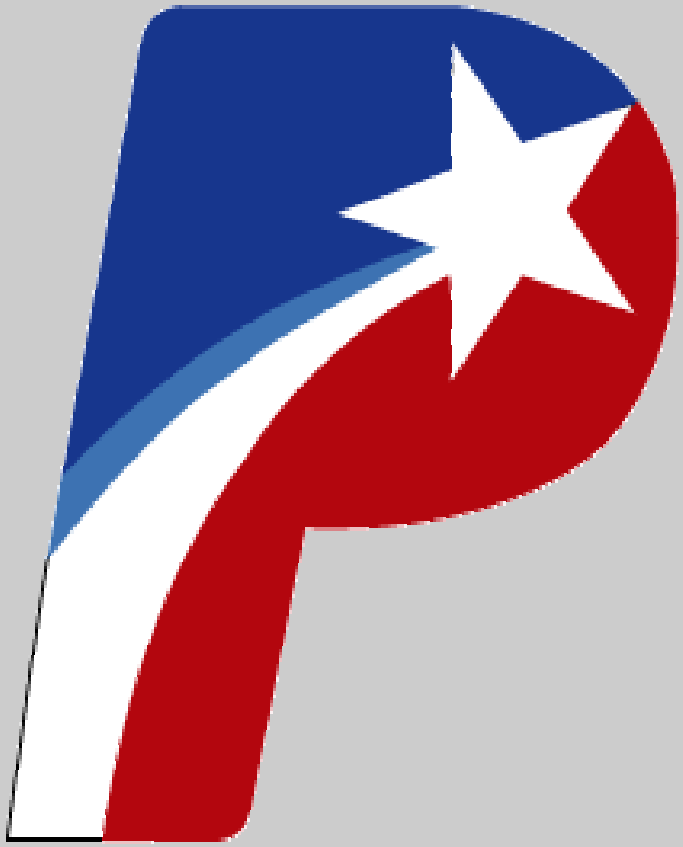
Fleet

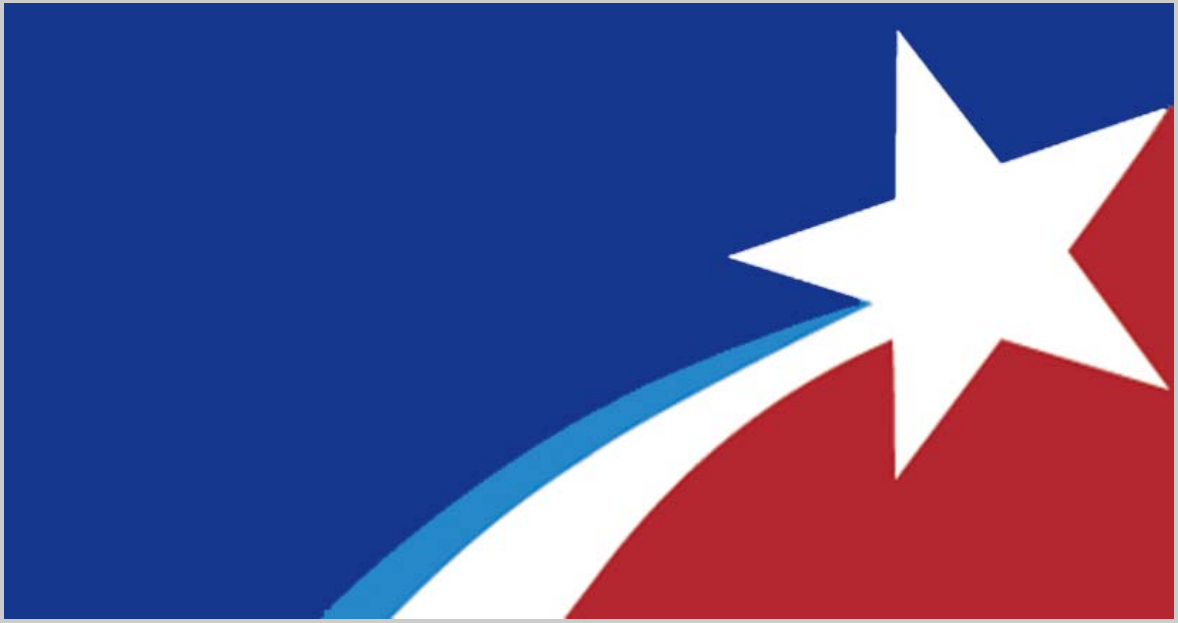
New Logo Uses

Signage

Proposed New Flag







General Comments

- Logo and Flag designed in-house by the Public Information team; no outside consultants used; no monies expended
- Currently being viewed on the website since early August with many positive comments; we put it up just to check the pulse of people’s reviews

General Comments

- We believe it is a positive reflection of Plano, preserving our history, by preserving the elements of the current logo, yet progressing Plano forward as a city with a future for all generations to come. It basically updates Plano from a small city of 72,331 in 1980 to a more cosmopolitan city of 252,000 in 2006.

Implementation

- The new logo will be phased in over time. It will probably take several years for the new logo to be phased in.
- Initially, all electronic files would be changed over; website has already been converted.
- As printed materials come up for reprint, they would be converted.

Implementation

- Same is true for vehicles; as they come up for repaint or new purchases, the new logo would be applied.
- When the vehicle decals are reordered, the new design would be used.
- When water towers are due for repaint, the new logo would be used.
- And so forth.

City Survey

- City of Plano belongs to the Texas Association of Municipal Information Officers and Advisors. We asked a few cities how a phased in implementation approach worked.

City of Arlington

- "Everything else is being phased in as the old logo is replaced. We have also recognized that some old logos will never be replaced because they are sandblasted into rock or poured into concrete. We have set a goal of having as many logos as possible switched by the end of 2007."

Arlington Public Library
Arlington, Texas Public Library Online

City of Coppell

- “We depleted our letterhead and envelopes throwing nothing away; that took about 6 months. We alerted all the departments and Purchasing about the change and an anticipated start date..
- Next, was our fleet. Our fleet manager had new vehicles coming in and just decided to do all of them at once so as not to confuse people.
- We have two water towers and are just now painting the first one after 6 years.”

Area City Logos

CITY OF MESQUITE
MESQUITE TEXAS

THE CITY OF COPPELL
TEXAS · 1890

plano

Plano

MESQUITE
TEXAS
Real. Texas. Service.

GARLAND

CARROLLTON

FORT WORTH

CITY OF ALLEN

Arlington Public Library
Arlington, Texas Public Library Online

Area City Logos

Dallas
Serving you!

City of DENTON

CITY OF DENTON, TEXAS

FRISCO

CITY OF FRISCO

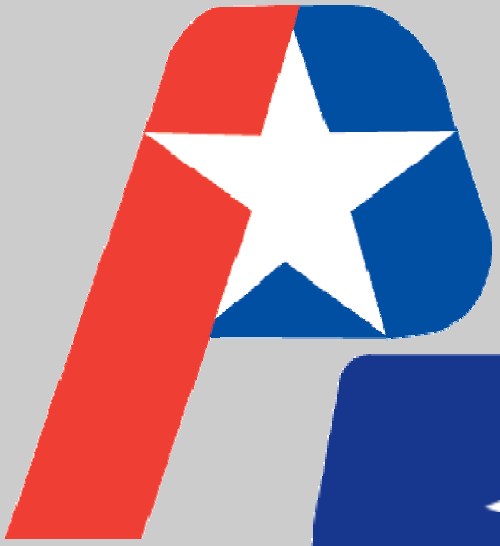
plano

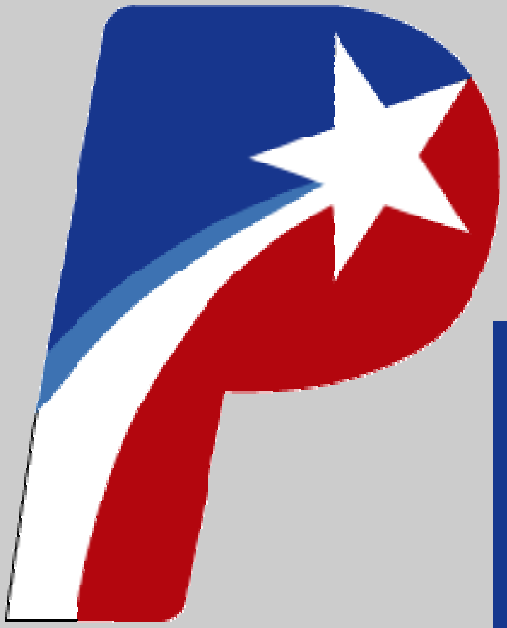
McKINNEY
TEXAS
Unique by nature.

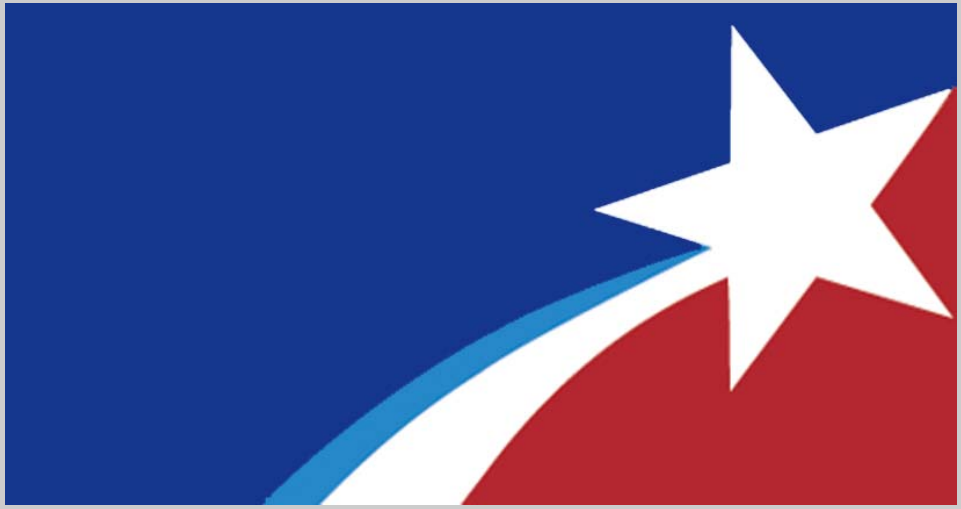
Southlake

Plano

Questions?







Discussion/Action Items for Future Council Agendas

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

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

November 18 & 19 - Police Re-accreditation Conference/Ceremony, Reno, NV

November 13
Technology Commission Report
Discussion re Water Conservation Ordinance

November 23, 24 – Thanksgiving Holidays

November 27
Mobility Report
DART Report
Comprehensive Monthly Financial Report

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

December 11

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

December 19
Mobility Report
DART Report
Comprehensive Monthly Financial Report

December 22, 25 Christmas Holidays

January 1, 2007 – New Year Holiday

CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	☐ Yes	☒ Not Applicable
☐ Consent ☐ Regular ☐ Statutory		Reviewed by Budget	☐ Yes	☒ Not Applicable
Council Meeting Date:	**10/23/06**	Reviewed by Legal	☐ Yes	☒ Not Applicable
Department:	City Manager's Office		Initials	Date
Department Head	Tom Muehlenbeck	Executive Director		
Dept Signature:		City Manager		10/17/06
Agenda Coordinator (include phone #):	**Sharon Wright ext. 7107**			

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

CAPTION

November 4

Proclamation: Arbor Day, 2006

FINANCIAL SUMMARY

☐ NOT APPLICABLE ☐ OPERATING EXPENSE ☐ REVENUE ☐ CIP

FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	**0**
Encumbered/Expended Amount	0	0	0	**0**
This Item	0	0	0	**0**
BALANCE	0	0	0	**0**

FUND(S):

COMMENTS:

SUMMARY OF ITEM

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

REV 08/98

CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	☐ Yes	☒ Not Applicable
☐ Consent ☐ Regular ☐ Statutory		Reviewed by Budget	☐ Yes	☒ Not Applicable
Council Meeting Date:	**10/23/06**	Reviewed by Legal	☐ Yes	☒ Not Applicable
Department:	City Manager's Office		Initials	Date
Department Head	Tom Muehlenbeck	Executive Director		
Dept Signature:		City Manager		10/12/06
Agenda Coordinator (include phone #):	**Sharon Wright ext. 7107**			

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

CAPTION

Presentation: To the City of Plano by the National Society of the Sons of the American Revolution

FINANCIAL SUMMARY

☒ NOT APPLICABLE ☐ OPERATING EXPENSE ☐ REVENUE ☐ CIP

FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	**0**
Encumbered/Expended Amount	0	0	0	**0**
This Item	0	0	0	**0**
BALANCE	0	0	0	**0**

FUND(S):

COMMENTS:

SUMMARY OF ITEM

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

REV 08/98

PLANO CITY COUNCIL
PRELIMINARY OPEN MEETING
October 9, 2006

COUNCIL MEMBERS

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

STAFF

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

Mayor Evans called the meeting to order at 5:07 p.m., Monday, October 9, 2006, in Training Room A of the Municipal Center, 1520 K Avenue. All Council Members were present. Council Member Callison arrived at 5:10 p.m. Mayor Evans then stated that the Council would retire into Executive Session in compliance with Chapter 551, Government Code, Vernon's Texas Codes, Annotated, in order to consult with an attorney and receive Legal Advice and discuss Litigation, Section 551.071, discuss Economic Development, Section 551.087, discuss Real Estate, Section 551.072 and to discuss Personnel, Section 551.074 for which a certified agenda will be kept in the office of the City Secretary for a period of two years as required.

Mayor Evans reconvened the meeting back into the Preliminary Open Meeting at 6:16 p.m. in the Council Chambers where the following matters were discussed:

Consideration and Action Resulting From Executive Session Discussion

Personnel

Plano Housing Authority

This item was deferred.

Presentation Regarding Assessment of Zoning Ordinance

Director of Planning Jarrell spoke to a consultant taking an assessment of the City's Zoning Ordinance in order to provide a technical review and advice on how to move forward with the next state of development in the City She spoke to updating definitions and use charts to reflect changing technologies and new categories; integrating graphics and illustrations to assist with understanding the regulations; clarifying regulations for non-conforming uses and buildings and determining procedures for amortizing; addressing needed changes in regulations to accommodate infill and redevelopment projects; and reorganizing and reformatting to ensure that the ordinance regulations are written clearly and easy to use.

Ms. Jarrell stated that unlike the 1986 ordinance revision, this assessment will not affect the zoning on individual properties, and that changes in current zoning district classifications and basic framework of regulations is not anticipated. She stated that the assessment will only suggest amendments that might be made at a later date in a combined effort with the Planning and Zoning Commission and the City Council. Ms. Jarrell stated that the Plano Homeowners Council and the Plano Developers Council has been informed of the upcoming assessment and that a preliminary report to the Planning and Zoning Commission and City Council will come forward in about five months with final completion of the process in nine to ten months.

Council Items for Discussion/Action on Future Agendas

No items were brought forward.

Consent Agenda

Staff responded to Council Member Dunlap regarding summary language of Consent Agenda Items "H," Approval of a professional services contract with Crossroads Family Services; "M," Resolution to expend funds to Poly-triplex Lining Systems for a vinyl/fiberglass liner; and "O," Resolution to approve a public right of way use agreement with Terra-Max Engineering, Inc.

Council Reports

Mayor Evans spoke to "Movies in the Park" at the Amphitheater in Oak Point Park.

Nothing further was discussed. Mayor Evans recessed the meeting at 6:34 p.m.

_____

Pat Evans, **MAYOR**

ATTEST:

_____

Elaine Bealke, City Secretary

PLANO CITY COUNCIL
October 9, 2006

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

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

Mayor Evans convened the Council into the Regular Session on Monday, October 9, 2006, at 7:04 p.m. in the Council Chamber of the Plano Municipal Center, 1520 K Avenue. All Council members were present.

The invocation was led by Dr. Leon Aduddell of First Baptist Church in Plano.

The Pledge of Allegiance was led by Jr. Girl Scout Troop 1708.

Mayor Evans recognized the City of Plano Purchasing Department for their receipt of the Achievement of Excellence in Procurement Award.

Mayor Evans administered oaths of office to incoming and reappointed members of boards and commissions.

COMMENTS OF PUBLIC INTEREST

Sonja Hammar, citizen of the City, spoke regarding the efforts of the Public Information Department in providing information to citizens and requested the minutes of all boards/commissions be included on the web.

Jack Lagos, citizen of the City, spoke regarding the dates included in the certificate of incorporation for the Arts of Collin County Commission, Inc. (ACC) and an ACC resolution approving amendments to the Articles of Incorporation. He spoke to the original articles not being used and stated that the Board of Directors did not amend the correct ones. Mr. Lagos requested the Council look into the matter.

Mayor Evans advised the audience that *Comments of Public Interest* is a section of the agenda where citizens may bring items to the Council's attention that are not on the agenda. She further stated that the Council cannot respond or discuss the items because they are not posted, but that they may referred to Staff or placed on a future agenda.

Madan Goyal, citizen of the City, requested the City recognize Plano citizen Anousheh Ansari for her travel into space. Mayor Evans spoke regarding upcoming events and advised that Staff will look into a Plano celebration.

BOARD/COMMISSION REPORTS

Director of Finance McGrane spoke regarding Tax Increment Financing Reinvestment Zones (TIF) No. 1 and No. 2 Boards, advising that tax increment financing zones are boundaries set up by the various governing bodies within a jurisdiction that set a tax base year. He stated that the values are frozen at that tax base year with any incremental values which would result in increased taxes being put into the reinvestment zone for development and public improvement. Mr. McGrane stated that TIF #1 was created for improvements at the Willow Bend Mall including the parking garage and assistance with the Sockwell Learning Center and that TIF #2 is for the east side of the City and includes the Cox Theater and assistance to the Plano Independent School District's Multipurpose Building. He spoke to the economic development growth in both areas. Mr. McGrane spoke to the contributions through September 30, 2006 by the City, Plano Independent School District, Collin County and Collin County Community College which total $16.5 million for TIF #1 and $12 million for TIF #2 and advised regarding the outstanding balances on projects in each of the zones.

Mr. McGrane spoke regarding the composition of the boards for each zone, stated that they are advisory in nature and that they make recommendations to the Council for future enactment. He responded to the Council that both TIF's were set up for a fifteen year repayment and stated that TIF #1 should be paid off in three to four years. Mr. McGrane spoke to public improvements where assistance might be provided for TIF #2.

CONSENT AGENDA

Upon the request of citizen Jack Lagos, Consent Agenda Item "A" was removed for individual consideration.

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

Approval of Expenditures

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

Bid No. 2006-226-C for Biodegradable Paper Bags to Altivity Packaging in the estimated annual amount of $75,000. This will establish an annual fixed-price contract, with three optional one-year renewals. [Consent Agenda Item (B)] (See Exhibit "A")

Bid No. 2006-224-G for Draeger brand SCBA units to Dantack Corporation in the amount of $32,990 for the Homeland Security Department. [Consent Agenda Item (C)] (See Exhibit "B")

Purchase from Existing Contract/Agreement: (Purchase of products/services through Cooperative Purchasing Interlocal Contract with another governmental/quasi-governmental agency or an additional purchase from current City of Plano annual purchase agreement).

To approve the purchase of five (5) Toyota Prius Hybrid Sedans in the amount of $102,690 from Philpott Motors through an existing contract/agreement with the Texas Building and Procurement Commission, and authorizing the City Manager to execute all necessary documents. (070-A1) [Consent Agenda Item (D)]

To approve the purchase of seven (7) Ford Escape Hybrid vehicles in the amount of $168,868 from Philpott Motors through an existing contract/agreement with the Texas Building and Procurement Commission, and authorizing the City Manager to execute all necessary documents. (070-A1) [Consent Agenda Item (E)]

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

To approve and authorize for the selection of Brockette/Davis/Drake, Inc. to provide Professional Engineering Services for an amount not to exceed $232,400 for the design of Spring Creek Parkway at Coit Road Intersection Improvements (TxDOT) and authorizing the City Manager to execute all necessary documents to effectuate this contract. Bid No. B113-04 [Consent Agenda Item (F)]

To approve a Professional Services Contract by and between the City and James Duncan and Associates, Inc. (d/b/a Duncan Associates), in the amount of $85,310 for Technical and Legal Review of the City's Zoning and Development Regulations and authorizing the City Manager to execute all necessary documents. Request for Qualifications Number 2006-147-B. [Consent Agenda Item (G)]

To approve the terms and conditions of a Professional Services Contract between the City of Plano and Crossroads Family Services in the amount of $115,000 wherein Crossroads Family Services will provide services to the Police Department to combat juvenile delinquency and authorizing execution of such agreement by the City Manager, and providing an effective date. [Consent Agenda Item (H)]

Reimbursement of Oversize Participation

To approve and authorize reimbursement to Pasquinelli Portrait Homes-McDermott LP for oversize participation for paving improvements and park land cost in the amount of $44,445 [Consent Agenda Item (I)]

Public Improvement Agreement

To approve the terms and conditions of a Public Improvement Agreement by and between the City of Plano, Texas, and EDS Information Services, L.L.C., for participation in Dominion Parkway between Parkwood Boulevard and Headquarters Drive in the amount of $250,000. [Consent Agenda Item (J)]

Adoption of Resolutions

Resolution No. 2006-10-1(R): To find Thomas H. Muehlenbeck, Cynthia O'Banner, Roxanne Luna and Macklin Wright are entitled to defense representation pursuant to City Code of Ordinances in connection with the lawsuit entitled Jay Sandon Cooper v. City of Plano, Texas; Thomas H. Muehlenbeck, City Manager; City of Plano Planning and Zoning Commission; City of Plano City Council; Cynthia O'Banner, Roxanne Luna, and Macklin Wright, City of Plano Property Standards Department; and providing an effective date. [Consent Agenda Item (K)]

Resolution No. 2006-10-2(R): To approve the hiring of a Fire Chief by the City Manager; and providing an effective date. [Consent Agenda Item (L)]

Resolution No. 2006-10-3(R): To authorize an expenditure of funds not to exceed two hundred and eight thousand fifty and no/100 dollars ($208,050) to Poly-Triplex of Texas, Inc., the sole source provider and licensee of the Poly-Triplex Lining System®, a cured-in-place, felt epoxy impregnated vinyl/fiberglass liner, a patented product and system of Poly-Triplex Technologies, Inc.; authorizing the City Manager to take such action and execute such documents as necessary to effectuate this expenditure; and providing an effective date. [Consent Agenda Item (M)]

Resolution No. 2006-10-4(R): To approve the appointment of the Health Authority for the City of Plano in accordance with Section 121.033 of the Texas Health and Safety Code; and providing an effective date. [Consent Agenda Item (N)]

Resolution No. 2006-10-5(R): To approve the terms and conditions of a Public Right-of Way Use Agreement by and between the City of Plano, Texas and Terra-Max Engineering, Inc., a Florida S Corporation, to locate, place, attach, install, operate, and maintain monitoring wells in certain specific portions of the public rights-of-way in the City of Plano; authorizing its execution by the City Manager; and providing an effective date. [Consent Agenda Item (O)]

Resolution No. 2006-10-6(R): To authorize the purchase of library materials for the Plano Public Library System (PPLS) in the amount of $300,000 from the Brodart Company through the Northeast Texas Library System (NETLS) contract; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the purchase approved herein and providing an effective date. [Consent Agenda Item (P)]

Resolution No. 2006-10-7(R): To authorize the purchase of various library materials, including books, compact disks, books-on-CD, and DVDs for Plano Public Library System (PPLS), from Baker & Taylor under Texas State Contract 715-N1, Section IV (715-10-50), Section V (715-10-60), Section VIII (715-90-10), Section IX (715-05-10) and Section X (715-05-11); and for non-print materials only under the annual Northeast Texas Library System (NETLS) contract in the amount of $400,000; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the purchase approved herein; and providing an effective date. [Consent Agenda Item (Q)]

Resolution No. 2006-10-8(R): To authorize the purchase of specific library reference materials for the Plano Public Library System in the total amount of $35,401.33 from Standard & Poor's, the sole source supplier of such specific library reference materials; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the purchase approved herein; and providing an effective date. [Consent Agenda Item (R)]

Resolution No. 2006-10-9(R): To approve the terms and conditions of an Interlocal Cooperation Agreement for Library Services by and between the City of Plano and Collin County, Texas providing the terms and conditions for receipt of funding in the amount of $77,729.29 from Collin County; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the agreement herein; and providing an effective date. [Consent Agenda Item (S)]

Resolution No. 2006-10-10(R): To authorize the purchase of specialized online database library services for Plano Public Library System from Amigos Library Services in the amount of $35,500 through Plano Public Library System's membership with OCLC, the sole source supplier of comprehensive interlibrary loan and bibliographic record purchases; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the purchase approved herein; and providing an effective date. [Consent Agenda Item (T)]

Adoption of Ordinances

Ordinance No. 2006-10-11: To amend Section 12-102(e) of Article V, Stopping, Standing, and Parking of Chapter 12, Motor Vehicles and Traffic of the Plano Code of Ordinances to include no stopping, standing, or parking prohibition along the west side of Gillespie Drive from National Drive south to 100' south of the south drive for Taylor Elementary School between the hours of 7:30 a.m. to 8:15 a.m. and 2:45 p.m. to 3:30 p.m. on school days; declaring the parking of motor vehicles in said section of Gillespie Drive within the defined time limits as unlawful and a misdemeanor; and providing a severability clause, a penalty clause, and an effective date. [Consent Agenda Item (U)]

END OF CONSENT

Approval of Minutes [Consent Agenda Item (A)] - September 25, 2006

Jack Lagos, citizen of the City, spoke to a statement made by City Attorney Wetherbee on September 25, 2006 in response to his concerns regarding the filings of the Articles of Incorporation by the Arts of Collin County Commission (ACC) with the Secretary of State (SOS) that the attorney for the ACC has found everything in order. He spoke to receipt of a copy of the letter referenced and to statements made by the ACC attorney regarding filing the wrong document, the reason being that the paperwork provided by City Attorney Wetherbee lacked a May 24, 2004 document along with a letter to the SOS filing the articles of incorporation. Mr. Lagos spoke to the ACC attorney being misled by the documents he was given and going on to correct documents through a document entitled *Articles of Correction.* He spoke to the ACC attorney's statement that this will correct the files of the SOS so that the official filing is what was intended to be filed. Mr. Lagos stated that the *Articles of Correction* is for amending, deleting or adding to the original articles and not for summarily taking away a document and throwing in another one.

City Attorney Wetherbee spoke to a repeated effort to bring the issue back and cast in a light chosen by Mr. Lagos. She spoke to his receipt of more than one complete set of her files and stated that he has not correctly characterized this evening what was in her letter to the Secretary of State. Ms. Wetherbee spoke to omission of the fact that complete text articles were filed with the Secretary of State and that this is stated in the cover letter along with Form 202 which is an important aspect. She stated that her representations to Mr. Brant as to what occurred and the follow up documentation speaks for itself and that what has been heard publicly are portions of and not a complete set of information. Ms. Wetherbee requested that complete information be given in the future.

Upon a motion made by Deputy Mayor Pro Tem Magnuson and seconded by Council Member Callison, the Council voted 8-0 to approve the minutes of the September 25, 2006 Council Meeting.

Public Hearing and adoption of Ordinance No. 2006-10-12 to designate a certain area within the City of Plano as Reinvestment Zone No. 100 for a tax abatement consisting of a 4.351 acre tract of land located at 1500 Plano Parkway in the City of Plano, Texas; establishing the boundaries of such zone; ordaining other matters relating thereto; and providing an effective date.

Director of Finance McGrane advised the Council that this request would establish a tax abatement agreement with DCI Plano Venture, Dataside Plano, LLC and Capital One Services Inc for ten years at fifty percent of both real and business personal property. He stated that the site will be utilized as a data center and that improvements are anticipated to be $23 million with 25 full-time employees. Mr. McGrane responded to the Council that the average wages for employees will be $60,000.

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

Upon a motion made by Council Member LaRosiliere and seconded by Council Member Ellerbe, the Council voted 8-0 to designate a certain area within the City of Plano as Reinvestment Zone No. 100 for a tax abatement consisting of a 4.351 acre tract of land located at 1500 Plano Parkway in the City of Plano, Texas; establishing the boundaries of such zone; ordaining other matters relating thereto; and providing an effective date; and further to adopt Ordinance No. 2006-10-12.

Resolution No. 2006-10-13(R): To approve the terms and conditions of an agreement by and between the City of Plano, Texas, the County of Collin, Texas, the Collin County Community College District, DCI Plano Venture, LP, a Delaware Limited Partnership, Dataside Plano, LLC, a Texas Liability Company, and Capital One Services, Inc., a Texas Corporation, and providing for a business personal property and real property tax abatement, and authorizing its execution by the City Manager; and providing an effective date.

Upon a motion made by Mayor Pro Tem Johnson and seconded by Council Member LaRosiliere, the Council voted 8-0 to approve the terms and conditions of an agreement by and between the City of Plano, Texas, the County of Collin, Texas, the Collin County Community College District, DCI Plano Venture, LP, a Delaware Limited Partnership, Dataside Plano, LLC, a Texas Liability Company, and Capital One Services, Inc., a Texas Corporation, and providing for a business personal property and real property tax abatement, and authorizing its execution by the City Manager; and providing an effective date; and further to adopt Resolution No. 2006-10-13(R).

Mayor Evans congratulated the Plano Economic Development Board for their efforts.

Ordinance No. 2006-10-14: To amend Chapter 19 "Streets and Sidewalks," Article IV "Right-of-Way Management Regulations" at Section 19-72(b)(3) "General Rights-of-Way Use and Construction" by adding a new subparagraph to prohibit the use of nonwashable substances in the public right-of-way to mark the location of existing underground utilities; providing a severability clause; a repealer clause, a savings clause, and an effective date. Item pulled on 9-25-06

Director of Customer and Utility Services Israelson advised that this request is an amendment to the right-of-way management ordinance and spoke to meetings held with utility companies. He advised that the revision would require all markings of existing underground utilities be made with a washable substance that would disappear in 45-60 days. Mr. Israelson responded to the Council that this would mirror regulations in other cities and there is currently no restriction in place.

Upon a motion made by Council Member LaRosiliere and seconded by Deputy Mayor Pro Tem Magnuson, the Council voted 8-0 to amend Chapter 19 "Streets and Sidewalks," Article IV "Right-of-Way Management Regulations" at Section 19-72(b)(3) "General Rights-of-Way Use and Construction" by adding a new subparagraph to prohibit the use of nonwashable substances in the public right-of-way to mark the location of existing underground utilities; providing a severability clause; a repealer clause, a savings clause, and an effective date; and further to adopt Ordinance No. 2006-10-14.

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

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, City Secretary

PLANO CITY COUNCIL
PLANNING AND ZONING COMMISSION
PLANO TRANSITION AND REVITALIZATION COMMISSION
RETREAT
October 10, 2006

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

PLANNING & ZONING COMMISSION MEMBERS
Carolyn Kalchthaler, Chair
Maggie Armstrong
Joyce Beach
Lisette Briley
James Duggan
Joy Flick
Jim Norton

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

PLANO TRANSITION AND REVITALIZATION COMMISSION MEMBERS
Russell Kissick, Chair
Stan Adler
Robert Masengill
Larry May
Pat Miner
Craig Perry
Matt Shaheen
Tino Trujillo

Mayor Pro Tem Johnson called the meeting to order following lunch on Tuesday, October 10, 2006 at 12:54 p.m. at Plano Station, 1012 E. 16th Street, Suite 105. All Council Members were present. Mayor Evans arrived at 1:05 p.m. All Planning and Zoning Commissioners were present. All Plano Transition and Revitalization Commission members were present with the exception of Larry May, Matt Shaheen, and Tino Trujillo. Marty McGee attended as an in-coming member of the Commission.

Planning Director Jarrell advised the members that the focus of the retreat is on change and issues facing First Tier Suburbs.

Presentation and Discussion on "Maturing Suburbs: Dealing with Transition in the 21st Century"

Mr. Robert Puentes of The Brookings Institution spoke to addressing ideas and solutions to deal with suburban transition in the 21st Century, and stated that the City of Plano is often noted and identified as a city bearing recognition. He stated that transitioning suburbs in the nation must deal with the demographics of economic, social and cultural forces which bring forward complex and conflicting challenges. Mr. Puentes spoke to First Suburbs as being older communities located in the inner-ring outside central cities, stated that they are situated in close proximity to center cities which were developed before suburbanization, and that a substantial portion of the nation's population who is represented by those living in a First Suburb or a primary city of a First Suburb.

Mr. Puentes stated that First Suburbs are becoming more diverse and the home of foreign-born residents and the elderly and where households remain large without a growth in children under the age of 15 such as there was 30 years ago. He stated that they have retained the position as home to some of the most highly educated and wealthy residents with white collar jobs and highest housing values while at the same time have recognized a steady rise in high poverty neighborhoods at an alarming and increasing rate. Mr. Puentes spoke to assets being a sense of community and central convenience but with the challenges of age, fiscal stress, declining real estate, and fragmented governance. He stated that Boomburbs are large, rapidly growing suburban cities in metropolitan areas which are very diverse with low poverty rates, and include homeownership with high household incomes. Mr. Puentes stated that Boomburbs can be so large that parts of the city decline while other parts still develop, many are approaching build-out, and further are often known to be inventive and entrepreneurial places.

Mr. Puentes spoke to Plano as reflecting these trends by being a medium sized city with triple digit rapid growth and highly educated and wealthy residents with white collar jobs and high housing values. He stated that Plano is racially diverse with a large foreign-born population and has an extremely low poverty rate. Mr. Puentes spoke to mature suburbs in transition as being Exurban and stated that they include features of density, urbanity, and diversity, all of which are key issues for Plano to plan for. He spoke to looking at new political coalitions and working alliances to focus on new and unique issues and challenges.

Mr. Puentes responded to questions of the group on how to make connections and spoke to making Plano an attractive and “walkable” place to live; creative solutions to address the end of the rail line problem where users on the fringe don’t pay into the transportation system as being a major and tough issue with no workable ideas coming to mind and most likely needing voluntary cooperation; comparing suburbs and the issue of the bedroom communities being sustainable as a key to success and addressing existing competition; issues of partnerships with universities by leveling the playing fields within the communities between the older and newer areas; opportunities and challenges with being a mid-sized community and the importance of recognizing that places are different and unique and just talking about the differences; and density and compact development issues being too much or not enough and looking at economics and attitudes. Mr. Puentes responded regarding transitioning over time the practice of building large houses and stated that market pressures will self correct with a dramatic decrease in very large housing with consideration given to energy costs. He further responded regarding lite rail attraction and stated that bus transit has not been embraced as an alternative to this, moving forward with infill housing, and stated that patterns indicate that housing near transit is high and where mixed uses are promoted. Mr. Puentes responded that Plano’s weaknesses involve development to the north of the City and spoke to the importance of establishing coalitions and opening lines of communication.

Group Activity and Discussion on Additional Population and Employment Growth in Plano and the Region

The group took a brief recess at 2:10 p.m. and reconvened at 2:25 p.m. to break into groups and discuss topics of Transportation, Infill and Redevelopment, Transportation Corridors, and Urban Centers.

Senior Planner Sims spoke to anticipated growth in the City and introduced an exercise to determine where and how an additional 30,000 in population and 30,000 employees might be accommodated. He stated that groups would determine the appropriate locations for new residents and employees based on four scenarios including: where the transportation infrastructure can support growth; the best way to maximize the benefits of mass transit; areas of urban centers appropriate for high density; and areas that would be more appropriate for infill and redevelopment.

On the topic of Transportation, Council Member LaRosiliere spoke to residents and employment challenges in bringing anchor stores to the downtown area, and to an urban setting working well for younger families. He spoke to the Legacy Park area and keeping economic development opportunities in tact and keeping the commercial stock in place, Park Boulevard and Preston Road area, the Uptown area, mass transportation being the main topic, and taking advantage of existing transportation. Mayor Evans spoke to long range planning and the Cottonbelt rail line and to a possible rail station in the Research/Technology (R/T) District.

On the topic of Infill and Redevelopment, Mayor Pro Tem Johnson spoke to issues of transit and housing being a big factor, and identified the Legacy Business Park, HWY 121 and the Dallas North Tollway, the inner part of the City, Collin Creek Mall possibly becoming a mixed use property, K Avenue being a big draw for the R/T District, and stated that the Transportation Corridor will dictate where activities will be.

On the topic of the Transportation Corridors, Plano Transition and Revitalization Commission Member Craig Perry spoke to HWY 75, lite rail, future Cottonbelt rail line, and to the great potential for growth particularly at the Parker Road Station. He spoke to redevelopment at Collin Creek Mall to include the area south of Plano Parkway, areas of mixed use, Tollway area, HWY 121 and highrise residential and commercial business opportunities, south of the Parker Road Station, and further spoke to mixed uses as the trend.

On the topic of Urban Centers, Council Member Callison spoke to Collin Creek Mall and to the north, the Cottonbelt rail line and the DART rail intersecting, housing units, HWY 121, Preston Road and Park Boulevard area housing, and housing and employment at the Tollway.

The group took a brief recess at 3:35 p.m. and reconvened at 3:45 p.m.

Group Discussion on Issues Impacting Plano as a First Tier Suburban Community

Director of Planning Jarrell introduced topics for discussion by the groups related to issues impacting Plano as a first tier suburb including: how the City can best accommodate additional population growth and increasing diversity; what the City can do to preserve and enhance assets; what issues and challenges could be best approached through regional cooperation and programs; and what the increasing role of sustainability would be in the City's future.

On the topic of preserving and enhancing assets, Planning and Zoning Commission Member Briley stated that it is important to focus on the individual needs of citizens and their neighborhoods, spoke to the role of schools in attracting citizens and the need for an improved relationship with the school district, and the importance of considering open space in discussions of urban centers and higher density housing. She spoke to keeping individuality in mind and creating an atmosphere of higher culture, learning and intellectualism and to citizens aspiring to something higher and taking pride in their neighborhoods.

On the topic of the increasing role of sustainability in the City's future, Deputy Mayor Pro Tem Magnuson spoke to the leveling out of revenues and the possible use of incentives related to reuse, recycling and reinvestment. She spoke to offering incentives to those who are purchasing and remodeling older homes, attracting younger families, keeping schools viable and providing education regarding incentives available to upgrade or adapt homes. Ms. Magnuson spoke to maintaining the City's low crime level, staying on top of code enforcement and to the formation of associations encouraging concern for neighborhoods as a whole.

On the topic of issues and challenges that can be best accomplished through regional cooperation and programs, Future Plano Transition and Revitalization Commission Member McGee spoke to including development of the hike and bike trails, recreational opportunities and the cultural arts programs. She spoke to the area of communication including possible internet access to other cities' council and zoning meetings to increase awareness and using a collaborative approach to attracting businesses. Ms. McGee spoke to utilizing a regional approach to address affordable housing including loans and grants for purchase as well as repair.

On the topic of accommodating additional population growth and increasing diversity, Planning and Zoning Commission Chair Kalchthaler spoke to looking at retirement housing in order to retain the City's population, encouraging political involvement as a way to address cultural diversity and to maintaining the City's infrastructure during population growth including addressing traffic concerns.

Ms. Jarrell thanked Staff for their efforts and the group for their time and attention.

Nothing further was discussed. Mayor Evans adjourned the meeting at 4:40 p.m.

_____
Pat Evans, **MAYOR**

_____
Scott Johnson, **Mayor Pro Tem**

_____
Elaine Bealke, CITY SECRETARY

CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	☒ Yes	☐ Not Applicable
☐ Consent ☐ Regular ☐ Statutory		Reviewed by Budget	☒ Yes	☐ Not Applicable
Council Meeting Date:	**10/23/06**	Reviewed by Legal	☐ Yes	☒ Not Applicable
Department:	Parks and Recreation		Initials	Date
Department Head	Don Wendell	Executive Director	[signature]	10/13/06
Dept Signature:	Amy Fitzenberg for DW	City Manager	[signature]	10/13/06
Agenda Coordinator (include phone #):	**Linda Benoit (7255)**			

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

CAPTION

Authorizing the purchase of sports field lighting equipment for Enfield Park Ball Field Lighting Improvements, including installation, fixtures, wiring, switch gear, and controls in the amount of $748,136.25 from Techline Sports, L.P., through the Texas Association of School Board Purchasing Cooperative Program, Contract #204-04, and authorizing the City Manager or his designee to execute any and all documents necessary to effectuate this purchase.

FINANCIAL SUMMARY

☐ NOT APPLICABLE ☐ OPERATING EXPENSE ☐ REVENUE ☒ CIP

FISCAL YEAR: **2006-07**	**Prior Year (CIP Only)**	**Current Year**	**Future Years**	**TOTALS**
Budget	449,292	1,050,708	750,000	**2,250,000**
Encumbered/Expended Amount	-449,292	-83,369	0	**-532,661**
This Item	0	-748,136	0	**-748,136**
BALANCE	0	219,203	750,000	**969,203**

FUND(S): **CAPITAL RESERVE**

COMMENTS: Funds are included in the 2006-07 Capital Reserve. This item, in the amount of $748,136, will leave a current year balance of $219,203 for Athletic Field Renovation project.

STRATEGIC PLAN GOAL: Field lighting equipment & installation relates to the City's Goal of "Premier City for Families."

SUMMARY OF ITEM

Staff recommends the purchase of sports field lighting equipment from Techline Sports Lighting L.P., through the Texas Association of School Board Purchasing Cooperative Program (contract #204-04).

This project will provide for the purchase and installation of new fixtures, wires, switch gear, weather-proof enclosures, and controls for all eight (8) baseball fields at Enfield Park. Lighting in this park was originally installed in 1985. The existing lighting no longer meets our current lighting standards.

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

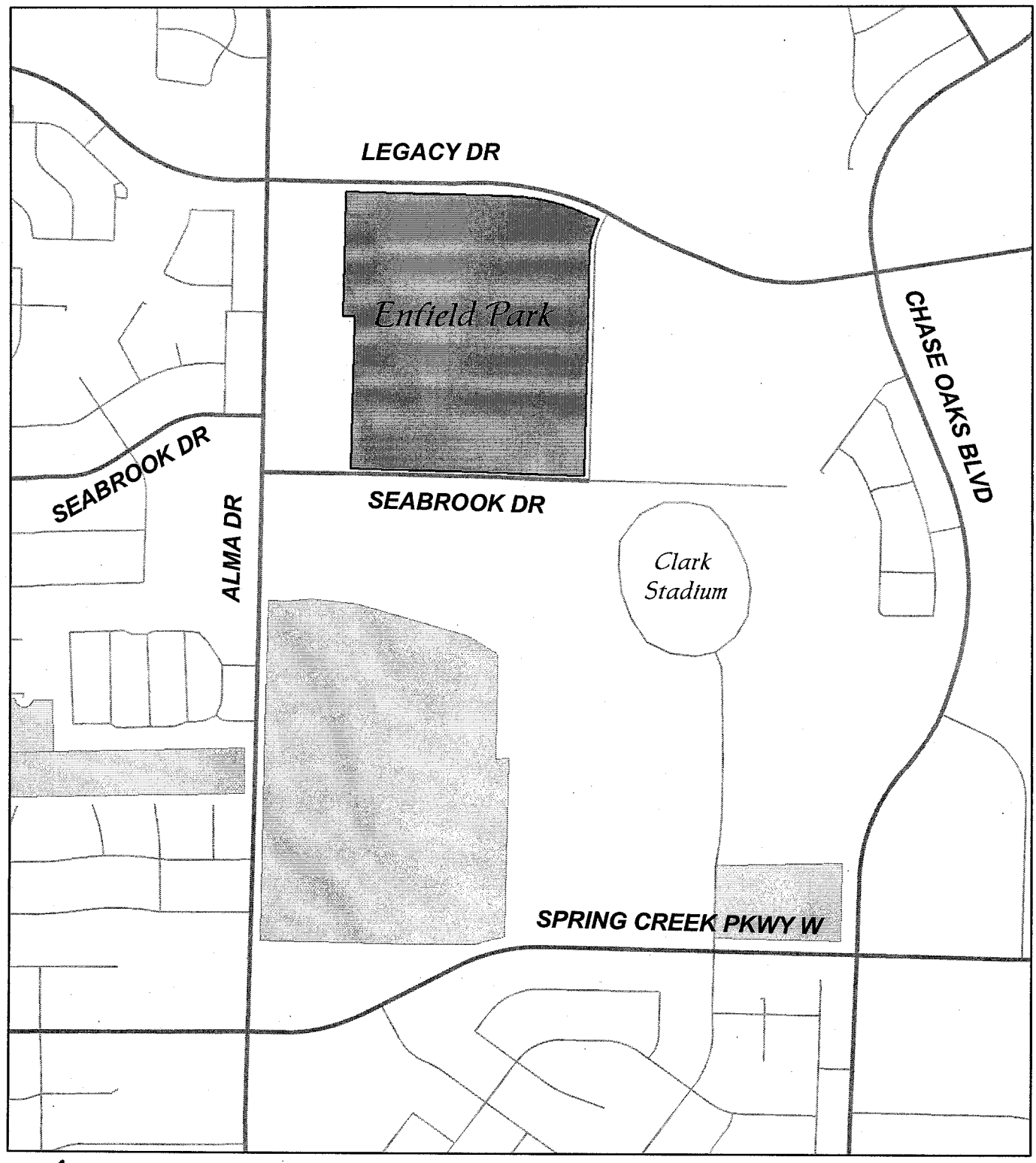
B-1

REV 08/98

Park Planning Division
City of Plano, Texas

Location Map

Enfield Park



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b-2

CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	☒ Yes	☐ Not Applicable
☐ Consent ☐ Regular ☐ Statutory		Reviewed by Budget	☒ Yes	☐ Not Applicable
Council Meeting Date:	10/23/06	Reviewed by Legal	☒ Yes	☐ Not Applicable
Department:	Technology Services		Initials	Date
Department Head	David Stephens	Executive Director	BM	10.16.06
Dept Signature:		City Manager		10/16/06
Agenda Coordinator (include phone #):	Lisa Prunty Ext 7342			

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

CAPTION

Purchase from Existing Contract/Agreement to authorize the purchase of maintenance and support of HP printers and servers in the amount of $31,371.07 from Hewlett-Packard Company through a Department of Information Resources (DIR) contract, and authorizing the City Manager or his designee to execute all necessary documents. (DIR-BUSOP-178)

FINANCIAL SUMMARY

☐ NOT APPLICABLE ☒ OPERATING EXPENSE ☐ REVENUE ☐ CIP

FISCAL YEAR: 2006-07	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	2,510,000	0	**2,510,000**
Encumbered/Expended Amount	0	0	0	**0**
This Item	0	-31,371	0	**-31,371**
BALANCE	0	2,478,629	0	**2,478,629**

FUND(S): TECHNOLOGY SERVICES FUND (066)

COMMENTS: Funds are included in the 2006-07 Technology Services budget. The remaining balance will be used throughout the year for other maintenance agreements.

STRATEGIC PLAN GOAL: Maintenance support contracts relate to the City's Goal of "Service Excellence".

SUMMARY OF ITEM

Technology Services recommends Council approve an expenditure of $31,371.07 to Hewlett-Packard Company through the Department of Information Resources (DIR) for the maintenance and support of HP printers and servers. The city is authorized to purchase from the State Contract List pursuant to Section 271 Subchapter D of the Local Government Code, and by doing so satisfies any State Law requiring the local government to seek competitive bids for the items. (DIR-BUSOP-178)

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

C-1

REV 08/98

Memorandum

To: David Stephens, Director of Information Services

From: Chester M. Helt, Infrastructure Manager

Date: 10/11/2006

Re: Annual HP Maintenance Contract

Technology Services recommends renewing with Hewlett-Packard Company through the Department of Information Resources (DIR) for a Service Agreement on Hewlett Packard equipment. The agreement covers support on HP Net Servers and various models of HP printers located throughout the City.

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 the applicable State Laws requiring local government to seek competitive bids for the maintenance items.

C-2

Dennis Woo
HEWLETT-PACKARD COMPANY
8000 Foothills Blvd
Roseville CA 95747

10/12/2006

KATHY KARGOL
CITY OF PLANO
DATA PROCESSING
1117 E 15TH ST
PLANO TX 75074-6223

Support Account Reference: 191548_DLO_07VY2
HP Reference Number: 41103035

Dear KATHY KARGOL:

Enclosed you will find a Hewlett-Packard support service quote for your products. Review the services, support items, coverage dates, addresses, and company contacts for accuracy. Please advise HP of any changes prior to submitting your purchase order. Prices will remain valid for 90-days.

To order support services detailed in this package, please return billing authorization by choosing one of the following convenient options. Subject to HP Single Order Terms for Support or purchase agreement with HP and if applicable, Exhibit E24.

Option 1: Provide an open-ended purchase order. An open-ended purchase order allows HP to add products to your agreement as necessary, as well as renew your support from year to year. Cancellation of the support service agreement requires a 30-day written notice.

Option 2: Provide a purchase order for the coverage dates specified in the enclosed referenced proposal.

Option 3: Sign and return the attached Signature Authorization Method (SAM) form.

Purchase orders must reference the HP Reference Number and the Support Account Reference. Applicable tax will be added to all products. If your organization is tax-exempt, please send a copy of the tax exemption certificate.

Hewlett-Packard values your business and looks forward to providing you with continued support. If you have any questions or require further assistance, please contact your Contract Admin. at 1-800-386-1115 X56168 FAX 1-800-307-0361

Sincerely,

Dennis Woo
Contract Admin.

C-3

SIGNATURE AUTHORIZATION METHOD (SAM)

The Signature Authorization Method (SAM) may be used to order Hewlett-Packard Company (HP) Support Services **ONLY IF A PURCHASE ORDER IS NOT REQUIRED TO AUTHORIZE SERVICE DELIVERY AND REMIT PAYMENT.**

(1) Customer Information

Company Name
CITY OF PLANO DATA PROCESSING

Equipment Location Address
1117 E 15TH ST
PLANO TX 75074-6223

(2) Contract Information - Check the HP Reference number to accept one quote, or the AMP ID to accept all quotes attached:

[ ] HP Reference Number: 41103035 **[ ]** AMP ID:** 05067251D

Support Account Reference: 191548_DLO_07VY2 **Coverage Period:** 10/01/2006 - 09/30/2007

**The enclosed Support Account Overview dated on 10/12/2006 summarizes the quotes contained within the above AMP ID.

Please check if applicable:

[ ] This contract is accepted with no revisions. If revisions are required, please contact your Contract Admin. A quote will be re-issued to reflect your changes and associated pricing, if any. A new SAM form will be provided for your authorization.

[ ] Check here if your authorization is open-ended. This Support Agreement is for the period stated on HP's quote. It will be extended without modification by consecutive terms of 12 months unless one of the parties gives written notice in accordance with the underlying business terms prior to the end of the respective 12 months.

If modifications of the Support Agreement are necessary, HP will notify Customer in writing 60 days before the modifications are effective. Customer may terminate this Support Agreement within 30 days from receipt of notice. If Customer does not exercise this right of termination, this Support Agreement will be continued to the end of the current term with the modifications, and extended by consecutive 12-month term. Re-pricing will occur automatically without further authorization.***

(3) Tax Information

[ ] Taxable [ ] Tax Exempt Exemption # _____ (Attach copy of certificate)

(4) Payment Method *Do not enclose Payment.* Please select one of the following:

[ ] Bill me: [ ] Annually [ ] Quarterly(must exceed $2400 annually)
[ ] Semi-Annually(must exceed $2400 annually) [ ] Monthly(must exceed $2400 annually)

[ ] Charge my credit card. Check one: [ ] Visa [ ] Mastercard [ ] American Express

Credit Card Number	Exp.Date	Cardholder Name(Print)	Cardholder's Signature
_____	_____	_____	_____

(5) Service Authorization and Terms and Conditions

Customer's signature on this form constitutes authorization for HP to invoice Customer for the service represented in the document(s) referenced in Section (2) above. Subject to HP Single Order Terms for Support or purchase agreement with HP and if applicable, Exhibit E24. Cancellation requires 30 days written notice. Payment is due 30 days from HP's invoice date.

Authorized Signature _____ Date _____ Invoice-To Address (if different from Equipment Location)

Printed Name _____ Title _____ E-mail Address _____ Phone/Fax

(6) Completed form should be returned to:

Hewlett-Packard Company
8000 Foothills Blvd
Roseville, CA 95747

Dennis Woo
1-800-386-1115 X56168
1-800-307-0361 (FAX)

C-4

Support Account Overview

AMP ID: 05067251D
Special Terms and Conditions No: DIRBUS0P

Customer Address:
CITY OF PLANO
DATA PROCESSING
1117 E 15TH ST
PLANO TX 75074-6223

Hewlett-Packard Address:
HEWLETT-PACKARD COMPANY
8000 Foothills Blvd
Roseville CA 95747

Customer Contact:
KATHY KARGOL
Tel: 972-941-7342
Fax:

HP Contact:
Dennis Woo
Tel: 1-800-386-1115 X56168
Fax: 1-800-307-0361
E-mail dennis.woo@hp.com

The quoted prices are valid for 90 days from: 09/01/2006

For more information on the format of this document visit www.hp.com/go/hpsdocs
Subject to HP Single Order Terms for Support or purchase agreement with HP and if applicable, Exhibit E24.

Your Support Access Options:

- Visit our web site at < www.itrc.hp.com> for IT Professionals or < www.hp.com/go/bizsupport> for Business Professionals
- Visit < www.esca.hp.com> to manage service agreement online or register to use Support Contract Assistant (SCA)
- For Support, please call: 800-633-3600

Please have your Service Agreement ID and Product#/Serial# available to expedite your support experience.

Support Account Reference	Service Agreement ID	Coverage Period From:	To:	Description	Contract Total/USD
191548_DLO_07VY2	1032 6157 7649	10/01/2006	09/30/2007	191548_DLO_07VY2	31,371.07
				Total Excluding Taxes	**31,371.07**
				Summary of Charges	
				Hardware Support	31,371.07
				Total Excluding Taxes	**31,371.07**

Total excludes all taxes. If applicable, taxes will be added at the time of invoicing at the current tax rate.
Total price includes all additions, deletions, warranties, discounts and adjustments if applicable.
Refer to the detail document for any applicable state & local tax

Please refer to the payment schedule for prices to be invoiced yearly in advance.

C-5

Support Account Detail

Special Terms and Conditions No: DIRBUS0P
Your PO Reference:
CCRN Number: 0326157760

Support Account Reference:
191548_DLO_07VY2

HP Reference Number: 41103035

Equipment Address:
CITY OF PLANO
DATA PROCESSING
1117 E 15TH ST
PLANO TX 75074-6223

Software Update Address:
CITY OF PLANO
DATA PROCESSING
1117 E 15TH ST
PLANO TX 75074-6223

Hardware Contact:
KATHY KARGOL
Tel: 972-941-7342
Fax:

Software Contact:
KATHY KARGOL
Tel: 972-941-7342
Fax:

The quoted prices are valid for 90 days from: 09/01/2006
Coverage from: 10/01/2006 to: 09/30/2007

Service Agreement ID: 1032 6157 7649 **For Support, please call: 800-633-3600**

Product No.	Description	Serial No.	Coverage Period from: to:	Qty	Price/USD

Comment: Master Agreement # DIR-BUSOP-178 terms and conditions apply. DIR-BUSOP-178 must included on PO

HA101AC **HP Next Day HW Support**
***** Hardware Support *****

HP Hardware Maintenance Onsite Support
Hardware Problem Diagnosis
Onsite Support
Parts and Material provided
Next Cov Day Onsite Response
Std Office Hrs Std Office Days
Travel Zone 1

C3984A	HP Color LaserJet 8500 N Printer	JPCB003982	**10/31/2006**	1	34.91
	Please note HP can no longer support this item from: 10/31/2006				
C2685B	HP2500CM Pro Series Color Printer w/PCL5	SG9AU1308H	**01/31/2007**	1	26.64
	Please note HP can no longer support this item from: 01/31/2007				
C2685B	HP2500CM Pro Series Color Printer w/PCL5	SG9B113022	**01/31/2007**	1	26.64
	Please note HP can no longer support this item from: 01/31/2007				
C4110A	HP LaserJet 5000 16ppm printer	USD3004588		1	6.43
C4112A	HP LaserJet 5000gn 16ppm 1200d printer	USB3052620		1	6.43
C4139A	HP LaserJet 2100 xi Printer	USCD071899		1	4.59
C4139A	HP LaserJet 2100 xi Printer	USDD002661		1	4.59
C4139A	HP LaserJet 2100 xi Printer	USGZ058151		1	4.59
C4139A	HP LaserJet 2100 xi Printer	USGZ233271		1	4.59
C4172A	HP LaserJet 2100TN Printer	USBB015277		1	4.59
C4172A	HP LaserJet 2100TN Printer	USCB028824		1	4.59
C4172A	HP LaserJet 2100TN Printer	USCB055290		1	4.59
C4172A	HP LaserJet 2100TN Printer	USCB056488		1	4.59
C4172A	HP LaserJet 2100TN Printer	USGR026530		1	4.59

Please refer to the payment schedule for prices to be invoiced yearly in advance.

C-6

Special Terms and Conditions No: DIRBUS0P
Your PO Reference:
CCRN Number: 0326157760

Product No.	Description	Serial No.	Coverage Period from: to:	Qty	Price/USD
C4172A	HP LaserJet 2100TN Printer	USGR058022		1	4.59
C4172A	HP LaserJet 2100TN Printer	USGR111096		1	4.59
C4172A	HP LaserJet 2100TN Printer	USGW122438		1	4.59
C4215A	HP LaserJet 8100 N Printer	USCC005449		1	16.99
	Please note HP can no longer support this item from: 12/31/2007				
C4215A	HP LaserJet 8100 N Printer	USCC013746		1	16.99
	Please note HP can no longer support this item from: 12/31/2007				
C4215A	HP LaserJet 8100 N Printer	USDG016685		1	16.99
	Please note HP can no longer support this item from: 12/31/2007				
C4216A	HP LaserJet 8100 DN Printer	USDC003715		1	16.99
	Please note HP can no longer support this item from: 12/31/2007				
C4251A	HP LaserJet 4050 Printer	USBB073141		1	5.97
C4251A	HP LaserJet 4050 Printer	USBB160191		1	5.97
C4251A	HP LaserJet 4050 Printer	USBC025010		1	5.97
C4251A	HP LaserJet 4050 Printer	USBC026903		1	5.97
C4253A	HP LaserJet 4050 N Printer	USBB191010		1	5.97
C4253A	HP LaserJet 4050 N Printer	USBB191015		1	5.97
C4253A	HP LaserJet 4050 N Printer	USBB191917		1	5.97
C4253A	HP LaserJet 4050 N Printer	USBB341530		1	5.97
C4253A	HP LaserJet 4050 N Printer	USBC160357		1	5.97
C4253A	HP LaserJet 4050 N Printer	USBD011057		1	5.97
C4253A	HP LaserJet 4050 N Printer	USBD012476		1	5.97
C4253A	HP LaserJet 4050 N Printer	USQC067546		1	5.97
C4253A	HP LaserJet 4050 N Printer	USQF090963		1	5.97
C4253A	HP LaserJet 4050 N Printer	USQU000498		1	5.97
C4253A	HP LaserJet 4050 N Printer	USQX070108		1	5.97
C4254A	HP LaserJet 4050 TN Printer	USQF077496		1	5.97
C4266A	HP LaserJet 8150N Printer	JPBLL13625		1	16.99
C4266A	HP LaserJet 8150N Printer	JPBLM20298		1	16.99
C4266A	HP LaserJet 8150N Printer	JPBLM29893		1	16.99
C4266A	HP LaserJet 8150N Printer	JPBTM03593		1	16.99
C4266A	HP LaserJet 8150N Printer	JPBTM21846		1	16.99
C4266A	HP LaserJet 8150N Printer	USBC010864		1	16.99
C4266A	HP LaserJet 8150N Printer	USBC012021		1	16.99
C4266A	HP LaserJet 8150N Printer	USBC012023		1	16.99
C4266A	HP LaserJet 8150N Printer	USBC012024		1	16.99
C4266A	HP LaserJet 8150N Printer	USBD019435		1	16.99
C4266A	HP LaserJet 8150N Printer	USBD019441		1	16.99
C4266A	HP LaserJet 8150N Printer	USBD023225		1	16.99
C4266A	HP LaserJet 8150N Printer	USBD023254		1	16.99
C4266A	HP LaserJet 8150N Printer	USBD19515		1	16.99
C4266A	HP LaserJet 8150N Printer	USBLL00926		1	16.99
C4266A	HP LaserJet 8150N Printer	USBLM01937		1	16.99
C4266A	HP LaserJet 8150N Printer	USBLM01938		1	16.99
C4266A	HP LaserJet 8150N Printer	USBLM01961		1	16.99
C4266A	HP LaserJet 8150N Printer	USBLM01976		1	16.99
C4266A	HP LaserJet 8150N Printer	USBLM01982		1	16.99

Please refer to the payment schedule for prices to be invoiced yearly in advance.

For more information on the format of this document visit www.hp.com/go/hpsdocs

C-7

Special Terms and Conditions No: DIRBUS0P
Your PO Reference:
CCRN Number: 0326157760

Product No.	Description	Serial No.	Coverage Period from:	to:	Qty	Price/USD
C4267A	HP LaserJet 8150DN Printer	USBD008207			1	16.99
C7058A	HP Laserjet 2200D Printer	CNDRH03632			1	4.59
C7058A	HP Laserjet 2200D Printer	JPGGB56217			1	4.59
C7058A	HP Laserjet 2200D Printer	USBGH00024			1	4.59
C7061A	HP Laserjet 2200dtn Printer	USBGJ94304			1	4.59
C7063A	HP Laserjet 2200DN Printer	JPBGC23283			1	4.59
C7063A	HP Laserjet 2200DN Printer	JPBGG16950			1	4.59
C7063A	HP Laserjet 2200DN Printer	USBGB08749			1	4.59
C7063A	HP Laserjet 2200DN Printer	USBGC16711			1	4.59
C7085A	HP Color Laserjet 4550 Printer	JPPC100293			1	18.83
C7086A	HP Color Laserjet 4550N Printer	SUPMAF01321			1	18.83
C7086A	HP Color Laserjet 4550N Printer	JPNAC15491			1	18.83
C7097A	HP Color Laserjet 8550N Printer	JPMB018743			1	34.91
C7097A	HP Color Laserjet 8550N Printer	JPMB023666			1	34.91
C8050A	HP LaserJet 4100N Printer	USLGD00217			1	5.97
C8050A	HP LaserJet 4100N Printer	SUSBDC10855			1	5.97
C8050A	HP LaserJet 4100N Printer	SUSBDU12008			1	5.97
C8050A	HP LaserJet 4100N Printer	USBGB02546			1	5.97
C8050A	HP LaserJet 4100N Printer	USBNJ38033			1	5.97
C8050A	HP LaserJet 4100N Printer	USGNK08899			1	5.97
C8050A	HP LaserJet 4100N Printer	USJNF13588			1	5.97
C8050A	HP LaserJet 4100N Printer	USJNG02463			1	5.97
C8050A	HP LaserJet 4100N Printer	USJNJ02637			1	5.97
C8050A	HP LaserJet 4100N Printer	USJNK31832			1	5.97
C8050A	HP LaserJet 4100N Printer	USLND19534			1	5.97
C8050A	HP LaserJet 4100N Printer	USLNH25342			1	5.97
C8050A	HP LaserJet 4100N Printer	USLNK04626			1	5.97
C4111A	HP LaserJet 5000n printer	USB3050122			1	6.43
C4094A	HP Color LaserJet 4500DN Printer	JPAKB04610		**11/30/2006**	1	18.83
	Please note HP can no longer support this item from: 11/30/2006					
C4094A	HP Color LaserJet 4500DN Printer	JPAKD00893		**11/30/2006**	1	18.83
	Please note HP can no longer support this item from: 11/30/2006					
C4094A	HP Color LaserJet 4500DN Printer	JPAKF03495		**11/30/2006**	1	18.83
	Please note HP can no longer support this item from: 11/30/2006					
C4267A	HP LaserJet 8150DN Printer	JPBLM60356			1	16.99
C4267A	HP LaserJet 8150DN Printer	JPBLM64479			1	16.99
C4267A	HP LaserJet 8150DN Printer	JPBLM68772			1	16.99
C9692A	HP color LaserJet 4600n printer	JPDKF34456			1	18.83
C9692A	HP color LaserJet 4600n printer	JPDKB35735			1	18.83
Q1252A	HP DesignJet 5500 printer 42" PS Dye	SG33L14030			1	50.52
Q5991A	**HP Color LaserJet 3550n Printer**	**CNBR204329**		**10/17/2006**	**1**	0.00
Q5991A	**HP Color LaserJet 3550n Printer**	**CNBR204329**	**10/18/2006**		**1**	3.68
Q5401A	**HP LaserJet 4250n Printer**	**CNGXD52550**		**04/24/2007**	**1**	3.22
Q5401A	**HP LaserJet 4250n Printer**	**CNGXD52550**	**04/25/2007**		**1**	6.43

C-8

Please refer to the payment schedule for prices to be invoiced yearly in advance.

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Special Terms and Conditions No: DIRBUS0P
Your PO Reference:
CCRN Number: 0326157760

Product No.	Description	Serial No.	Coverage Period from: to:	Qty	Price/USD

Discounts

Multi-Year Hdr Disc% -8%	*197.28-*
HW Spec Neg DiscHdr% -48%	*1089.08-*
Pre Payment HdrDisc% -4%	*47.20-*

HA101AC **HP Next Day HW Support**
***** Hardware Support *****

HP Hardware Maintenance Onsite Support
Hardware Problem Diagnosis
Onsite Support
Parts and Material provided
Next Cov Day Onsite Response
Std Office Hrs Std Office Days
Travel Zone 1

C8050A	HP LaserJet 4100n printer	USLNJ27866	1	5.97
C9661A	HP Color Laserjet 4600DN Printer	JPAKB03196	1	18.83
C9661A	HP Color Laserjet 4600DN Printer	JPBKF11616	1	18.83
C4266A	HP LaserJet 8150N Printer	JPBLL64542	1	16.99
C4266A	HP LaserJet 8150N Printer	JPBLL70134	1	16.99
C4266A	HP LaserJet 8150N Printer	JPBLL64384	1	16.99
C4266A	HP LaserJet 8150N Printer	JPBLL79909	1	16.99
C7131A	HP color LaserJet 5500n printer	JPFK00786	1	34.91
Q1254V	HP DesignJet 5500 printer 60" PS UV	SG2841401C	1	58.79
C7061A	HP Laserjet 2200dtn Printer	CNGRH23875	1	4.59
C7061A	HP Laserjet 2200dtn Printer	JPGGR08647	1	4.59
C7061A	HP Laserjet 2200dtn Printer		1	4.59
Q2426A	HP LaserJet 4200n printer	SCNBX311069	1	5.97
Q2426A	HP LaserJet 4200n printer	USBNS03726	1	5.97
Q2426A	HP LaserJet 4200n printer	USBNP05373	1	5.97
Q2473A	HP LaserJet 2300n	CNBGH44450	1	4.59
Q2432A	HP LaserJet 4300n printer	SCNGY438242	1	6.43
Q2473A	HP LaserJet 2300n	SCN450130ZT	1	4.59
C7779B	HP DesignJet 800 Printer (24 inch)	SG4507104X	1	25.26
Q3670A	HP Color LaserJet 4650 DN	JPDAC06689	1	18.83
C4266A	HP LaserJet 8150N Printer	JPDLR28765	1	16.99
Q2425A	HP LaserJet 4200 printer	USGNP35662	1	5.97
Q2473A	HP LaserJet 2300n	CN45Q130Y4	1	4.59
Q2473A	HP LaserJet 2300n	CNBGH96564	1	4.59
C7131A	HP color LaserJet 5500n printer	JPLR000427	1	34.91
C4266A	HP LaserJet 8150N Printer	JPDLR39048	1	16.99
Q2474A	HP LaserJet 2300d	CNBGH91569	1	4.59
Q1322A	HP LaserJet 3700n Color Printer	CNFBB17510	1	7.80
C8547A	HP Color Laserjet 9500hdn	JPLJB02957	1	59.70
C4266A	HP LaserJet 8150N Printer	JPDLR42254	1	16.99

Please refer to the payment schedule for prices to be invoiced yearly in advance.

C-9

Special Terms and Conditions No: DIRBUS0P
Your PO Reference:
CCRN Number: 0326157760

Product No.	Description	Serial No.	Coverage Period from: to:	Qty	Price/USD
C4266A	HP LaserJet 8150N Printer	JPDLR42011		1	16.99
Q2473A	HP LaserJet 2300n	JPBGG42187		1	4.59
C4266A	HP LaserJet 8150N Printer	JPDLR25802		1	16.99

Discounts

Multi-Year Hdr Disc% -8%	*88.56-*
HW Spec Neg DiscHdr% -48%	*488.90-*
Pre Payment HdrDisc% -4%	*21.18-*

HA101AC **HP Next Day HW Support**
***** Hardware Support *****

HP Hardware Maintenance Onsite Support
Hardware Problem Diagnosis
Onsite Support
Parts and Material provided
Next Cov Day Onsite Response
Std Office Hrs Std Office Days
Travel Zone 1

Q2434A	**HP LaserJet 4300dtn printer**	**CNBY815564**		**1**	6.43
Q2474A	**HP LaserJet 2300d**	**JPBDG05505**		**1**	4.59
Q2474A	**HP LaserJet 2300d**	**JPDG05513**		**1**	4.59
Q2434A	**HP LaserJet 4300dtn printer**	**CNBY878228**		**1**	6.43
C8126A	**HP Business Inkjet 2300N**	**CNBDC90196**		**1**	5.05
C9706A	**HP Color LaserJet 2500**	**CNDFC01554**		**1**	3.68
C9662A	**HP color LaserJet 4600dtn printer**	**JPGMC48565**		**1**	18.83
C9661A	**HP Color Laserjet 4600DN Printer**	**JPFMC26472**		**1**	18.83
C9661A	**HP Color Laserjet 4600DN Printer**	**JPFMB44690**		**1**	18.83
C9661A	**HP Color Laserjet 4600DN Printer**	**JPFMC48009**		**1**	18.83
Q2434A	**HP LaserJet 4300dtn printer**	**CNGY400244**		**1**	6.43
Q2434A	**HP LaserJet 4300dtn printer**	**CNGY500375**		**1**	6.43
Q2434A	**HP LaserJet 4300dtn printer**	**CNGY400259**		**1**	6.43
Q2434A	**HP LaserJet 4300dtn printer**	**CNGY502741**		**1**	6.43
Q2426A	**HP LaserJet 4200n printer**	**USGNX03200**		**1**	5.97
C9707A	**HP Color LaserJet 2500n**	**CNGHC30357**		**1**	3.68
Q2474A	**HP LaserJet 2300d**	**CNBFC82646**		**1**	4.59
Q2434A	**HP LaserJet 4300dtn printer**	**CNGY412842**		**1**	6.43
Q2426A	**HP LaserJet 4200n printer**	**USGNX33328**		**1**	5.97
Q1321A	**HP LaserJet 3700 Color Printer**	**CNCBF00779**		**1**	7.80
Q2426A	**HP LaserJet 4200n printer**	**USGNS38477**		**1**	5.97
Q2426A	**HP LaserJet 4200n printer**	**USGNX39899**		**1**	5.97
C8547A	**HP Color Laserjet 9500hdn**	**JPFJB00098**		**1**	59.70
Q2426A	**HP LaserJet 4200n printer**	**USGNS39584**		**1**	5.97
C8126A	**HP Business Inkjet 2300N**	**CNBGH44450**		**1**	5.05

C-10

Please refer to the payment schedule for prices to be invoiced yearly in advance.

Special Terms and Conditions No: DIRBUS0P
Your PO Reference:
CCRN Number: 0326157760

Product No.	Description	Serial No.	Coverage Period from: to:	Qty	Price/USD
Discounts					
Multi-Year Hdr Disc% -8%					*43.36-*
HW Spec Neg DiscHdr% -48%					*239.36-*
Pre Payment HdrDisc% -4%					*10.37-*
***** Hardware Support *****					
HA151AC	**HP Hardware Maintenance Onsite Support** Hardware Problem Diagnosis Onsite Support Parts and Material provided Named HW Engineer Onsite 4 Hr Onsite Response 24 Hrs Std Office Days 24 hrs, Day 6 24 hrs, Day 7 Holidays Covered Travel Zone 1				
P2481AV	HP NetServer LC2000r PIII-1000 133FSB SE	US13239206		1	30.77
P2481AV	HP NetServer LC2000r PIII-1000 133FSB SE	US13239207		1	30.77
P2481AV	HP NetServer LC2000r PIII-1000 133FSB SE	US13239208		1	30.77
P2481AV	HP NetServer LC2000r PIII-1000 133FSB SE	US13239209		1	30.77
P2481AV	HP NetServer LC2000r PIII-1000 133FSB SE	US13239210		1	16.07
P2481AV	HP NetServer LC2000r PIII-1000 133FSB SE	US13239211		1	16.07
P2481AV	HP NetServer LC2000r PIII-1000 133FSB SE	US13239212		1	16.07
P2481AV	HP NetServer LC2000r PIII-1000 133FSB SE	US13239213		1	16.07
P2481AV	HP NetServer LC2000r PIII-1000 133FSB SE	US11336651		1	16.07
HA151AC	**HP Hardware Maintenance Onsite Support** Hardware Problem Diagnosis Onsite Support Parts and Material provided Named HW Engineer Onsite 4 Hr Onsite Response Std Office Hrs Std Office Days Travel Zone 1				
C4267A	HP LaserJet 8150DN Printer	USCC057850		1	25.72
P2479A	HP NetServer LC2000r PIII-1000 133FSB M1	US11131564		1	16.07
P2481AV	HP NetServer LC2000r PIII-1000 133FSB SE	US1029760		1	16.07
HA151AC	**HP Hardware Maintenance Onsite Support** Hardware Problem Diagnosis Onsite Support Parts and Material provided Named HW Engineer Onsite 4 Hr Onsite Response				

C-11

Please refer to the payment schedule for prices to be invoiced yearly in advance.

For more information on the format of this document visit www.hp.com/go/hpsdocs

Special Terms and Conditions No: DIRBUS0P
Your PO Reference:
CCRN Number: 0326157760

Product No.	Description	Serial No.	Coverage Period from:	to:	Qty	Price/USD
	24 Hrs Std Office Days					
	24 hrs, Day 6					
	24 hrs, Day 7					
	Holidays Covered					
	Travel Zone 1					
161061-421	**ML370R01 P866-256 128 EURO**	**D224KF52D352**		**01/31/2007**	**1**	58.33
	Please note HP can no longer support this item from: 01/31/2007					
105739-021	**DL580/PL64R HP RPS EURO**	**D224DYV1D134**			**1**	0.00
157829-001	**DL380R01 P733-256 128 US**	**D213JZG1L748**		**01/31/2007**	**1**	58.33
	Please note HP can no longer support this item from: 01/31/2007					
157829-001	**DL380R01 P733-256 128 US**	**D241JZG2H526**		**01/31/2007**	**1**	58.33
	Please note HP can no longer support this item from: 01/31/2007					
157829-001	**DL380R01 P733-256 128 US**	**D241JZG2H396**		**01/31/2007**	**1**	58.33
	Please note HP can no longer support this item from: 01/31/2007					
157829-001	**DL380R01 P733-256 128 US**	**D241JZG2H403**		**01/31/2007**	**1**	58.33
	Please note HP can no longer support this item from: 01/31/2007					
157829-001	**DL380R01 P733-256 128 US**	**D241JZG2H717**		**01/31/2007**	**1**	58.33
	Please note HP can no longer support this item from: 01/31/2007					
157829-001	**DL380R01 P733-256 128 US**	**D241JZG2H327**		**01/31/2007**	**1**	58.33
	Please note HP can no longer support this item from: 01/31/2007					
157829-001	**DL380R01 P733-256 128 US**	**D241JZG2H440**		**01/31/2007**	**1**	58.33
	Please note HP can no longer support this item from: 01/31/2007					
HA151AC	**HP Hardware Maintenance Onsite Support**					
	Hardware Problem Diagnosis					
	Onsite Support					
	Parts and Material provided					
	Named HW Engineer Onsite					
	4 Hr Onsite Response					
	24 Hrs Std Office Days					
	24 hrs, Day 6					
	24 hrs, Day 7					
	Holidays Covered					
	Travel Zone 1					
157829-001	**DL380R01 P733-256 128 US**	**D241JZG2H358**		**01/31/2007**	**1**	58.33
	Please note HP can no longer support this item from: 01/31/2007					
157829-001	**DL380R01 P733-256 128 US**	**D241JZG2H543**		**01/31/2007**	**1**	58.33
	Please note HP can no longer support this item from: 01/31/2007					
HA151AC	**HP Hardware Maintenance Onsite Support**					
	Hardware Problem Diagnosis					
	Onsite Support					
	Parts and Material provided					
	Next Cov Day Onsite Response					
	Std Office Hrs Std Office Days					
Q5407A	**HP LaserJet 4350n printer**	**USBXN02206**			**1**	7.34

Please refer to the payment schedule for prices to be invoiced yearly in advance.

C-12

Special Terms and Conditions No: DIRBUS0P
Your PO Reference:
CCRN Number: 0326157760

Product No.	Description	Serial No.	Coverage Period from:	to:	Qty	Price/USD
Q5407A	HP LaserJet 4350n printer	USBXP04777			1	7.34
Q5400A	HP LaserJet 4250 printer	USBXS10214			1	6.43
Q5400A	HP LaserJet 4250 printer	CNBXB21086			1	6.43
Q2473A	HP LaserJet 2300n	CNBGG85110			1	4.59
Q1322A	HP LaserJet 3700n Color Printer	CNGBX00159			1	3.68
C8110A	HP Business Inkjet 2600DN	SC4B277851			1	23.42
Q5407A	HP LaserJet 4350n printer	CNBXF10223			1	7.34
Q5407A	HP LaserJet 4350n printer	USBXP23637			1	7.34
Q5957A	HP LaserJet 2420d printer	CNDJC30959			1	5.97
Q5401A	HP LaserJet 4250n Printer	USBXM08254			1	6.43
Q5400A	HP LaserJet 4250 printer	CNBXC45304			1	6.43
Q3704A	HP LaserJet 2550n color printer	CNGHG10409			1	1.83
Q3669A	HP Color LaserJet 4650 N	JPKAB24412			1	21.58
Q5957A	HP LaserJet 2420d printer	CNGJB94182			1	5.97
Q3669A	HP Color LaserJet 4650 N	JPKAC35301			1	21.58
Q5401A	HP LaserJet 4250n Printer	CNDXD07851			1	6.43
Q3669A	HP Color LaserJet 4650 N	JPKAC35942			1	21.58
Q3669A	HP Color LaserJet 4650 N	JPKAC43340			1	21.58
Q3722A	HP LaserJet 9050n Printer	JPCL51V01M			1	5.97
Q3670A	HP Color LaserJet 4650 DN	JPKAD41816			1	21.58
Q3669A	HP Color LaserJet 4650 N	JPKAD52839			1	21.58
Q3669A	HP Color LaserJet 4650 N	JPKAD48924		10/06/2006	1	0.00
Q3669A	HP Color LaserJet 4650 N	JPKAD48924	10/07/2006		1	21.58
Q3670A	HP Color LaserJet 4650 DN	JPKAD45500		10/07/2006	1	0.00
Q3670A	HP Color LaserJet 4650 DN	JPKAD45500	10/08/2006		1	21.58
Q5991A	HP Color LaserJet 3550n Printer	CNBR204329		10/17/2006	1	0.00
Q5991A	HP Color LaserJet 3550n Printer	CNBR204329	10/18/2006		1	3.68
Q3670A	HP Color LaserJet 4650 DN	JPKAD42246		10/07/2006	1	0.00
Q3670A	HP Color LaserJet 4650 DN	JPKAD42246	10/08/2006		1	21.58
C4266A	HP LaserJet 8150n printer	JPDLR71580		10/20/2006	1	0.00
C4266A	HP LaserJet 8150n printer	JPDLR71580	10/21/2006		1	17.45
Q5959A	HP LaserJet 2420dn printer	CNGKK01377		10/17/2006	1	3.22
Q5959A	HP LaserJet 2420dn printer	CNGKK01377	10/18/2006		1	5.97
Q5987A	HP Color LaserJet 3600n Printer	CNLBB28639		04/19/2007	1	0.00
Q5987A	HP Color LaserJet 3600n Printer	CNLBB28639	04/20/2007		1	5.97
Q3670A	HP Color LaserJet 4650 DN	JPKAD54000		11/21/2006	1	0.00
Q3670A	HP Color LaserJet 4650 DN	JPKAD54000	11/22/2006		1	21.58
Q7492A	HP Color LaserJet 4700n Printer	JPLLB19139		04/17/2007	1	0.00
Q7492A	HP Color LaserJet 4700n Printer	JPLLB19139	04/18/2007		1	18.37
Q5401A	HP LaserJet 4250n Printer	CNGXD52550		04/24/2007	1	3.22
Q5401A	HP LaserJet 4250n Printer	CNGXD52550	04/25/2007		1	6.43
Q7492A	HP Color LaserJet 4700n Printer	JPLLC08506			1	18.37
Q5964A	HP LaserJet 2430n Printer	CNGKK72841		05/02/2007	1	3.22
Q5964A	HP LaserJet 2430n Printer	CNGKK72841	05/03/2007		1	5.97

C-13

Please refer to the payment schedule for prices to be invoiced yearly in advance.

For more information on the format of this document visit www.hp.com/go/hpsdocs

Special Terms and Conditions No: DIRBUS0P
Your PO Reference:
CCRN Number: 0326157760

Product No.	Description	Serial No.	Coverage Period from:	to:	Qty	Price/USD

Discounts

Multi-Year Hdr Disc% -8%	*220.40-*
HW Spec Neg DiscHdr% -48%	*1216.65-*
Pre Payment HdrDisc% -4%	*52.75-*

Summary of Charges

Hardware Support	3,154.91
Hardware Support Tax TX	0.00
TOTAL INCLUDING TAX	**3,154.91**

Taxes have been added at current rate, however, tax rates will be those in effect at the time of invoicing.
Total price includes all additions, deletions, warranties, discounts and adjustments if applicable.

Hardware products under warranty

Q3669A	HP Color LaserJet 4650 N	JPKAD48924	10/07/2005	10/06/2006	1
Q3670A	HP Color LaserJet 4650 DN	JPKAD45500	10/08/2005	10/07/2006	1
Q5991A	HP Color LaserJet 3550n Printer	CNBR204329	10/18/2005	10/17/2006	1
Q3670A	HP Color LaserJet 4650 DN	JPKAD42246	10/08/2005	10/07/2006	1
C4266A	HP LaserJet 8150n printer	JPDLR71580	10/21/2005	10/20/2006	1
Q5959A	HP LaserJet 2420dn printer	CNGKK01377	10/18/2005	10/17/2006	1
Q5987A	HP Color LaserJet 3600n Printer	CNLBB28639	04/20/2006	04/19/2007	1
Q3670A	HP Color LaserJet 4650 DN	JPKAD54000	11/22/2005	11/21/2006	1
Q7492A	HP Color LaserJet 4700n Printer	JPLLB19139	04/18/2006	04/17/2007	1
Q5401A	HP LaserJet 4250n Printer	CNGXD52550	04/25/2006	04/24/2007	1
Q5964A	HP LaserJet 2430n Printer	CNGKK72841	05/03/2006	05/02/2007	1
Q5991A	HP Color LaserJet 3550n Printer	CNBR204329	10/18/2005	10/17/2006	1
Q5401A	HP LaserJet 4250n Printer	CNGXD52550	04/25/2006	04/24/2007	1

C-14

Please refer to the payment schedule for prices to be invoiced yearly in advance.

Payment Schedule as of 10/12/2006

AMP ID: 05067251D

Settlement Period from: From: 10/01/2006 to: 09/30/2007

Support Account Reference	10/01/2006 09/30/2007
191548_DLO_07VY2	31,371.08

Applicable tax to be added to the invoice.

C-15

Print Date 10/12/2006

Please refer to the payment schedule for prices to be invoiced yearly in advance. Price in USD.

CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY			
☐ Consent ☐ Regular ☐ Statutory	Reviewed by Purchasing	☒ Yes	☐ Not Applicable
	Reviewed by Budget	☒ Yes	☐ Not Applicable
Council Meeting Date: 10/23/06	Reviewed by Legal	☒ Yes	☐ Not Applicable
Department: Technology Services		Initials	Date
Department Head: David Stephens	Executive Director		10.16.06
Dept Signature:	City Manager		10/16/06
Agenda Coordinator (include phone #): Lisa Prunty, ext. 7342			

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

CAPTION

Purchase from an Existing Contract/Agreement to authorize the purchase of IBM i550 in the amount $260,145 from Sirius Computer Solutions through TXMAS Contract, and authorizing the City Manager or his designee to execute all necessary documents. (TXMAS -4-70080)

FINANCIAL SUMMARY

☐ NOT APPLICABLE ☒ OPERATING EXPENSE ☐ REVENUE ☐ CIP

FISCAL YEAR: 2006-07	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0

FUND(S): TECHNOLOGY INFRASTRUCTURE FUND (062)

COMMENTS: Funds have already been approved by council from the Technology Fund for the replacement of various servers throughout the City's technology infrastructure. The AS400 Servers cannot be purchased through the original vendors, and this agenda item adds an additional vendor, Sirius.

STRATEGIC PLAN GOAL: Replacement of computer servers relates to the City's Goal of "Service Excellence".

SUMMARY OF ITEM

Technology Services recommends Council approve upgrading the City's IBM iSeries 825 to an IBM i550 for an amount not to exceed $260,145 to Sirius Computer Solutions. The City is continuing to increase the current database and the proposed upgrade will increase the system capacity and storage providing a cost efficient solution for the City as data continues to grow. The City is authorized to purchase from the State Contract pursuant to Section 271 Subchapter D of the Local Government Code, and by doing so satisfies any State Law requiring the local government to seek competitive bids for the items. (TXMAS-4-70080)

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

REV 08/98

d-1

d-2

Interoffice Memo

Date: 10/06/06

To: David Stephens, Director Technology Services

Cc:

From: Chester M. Helt, Infrastructure Manager

RE: IBM iSeries Upgrade to i550

We are recommending upgrading the City's IBM iSeries 825 to an IBM i550. This upgrade will include upgrading the current hardware and operating software into the new I5 series of systems. This upgrade of hardware comes with a 3 year hardware and software maintenance and installation services from Sirius. We are recommending purchasing this upgrade using Sirius' State of Texas Contract # TXMAS-4-70080 for a not to exceed price of $ 260,145.00.

The City is continuing to increase their current database on the IBM iseries 825. The new proposed upgrade will increase the system capacity and storage capability providing a cost efficient solution for the City as the data continues to grow and as we continue to provide quality services to our community.

d-2

City of Plano i825 to i550 Upgrade

SIRIUS COMPUTER SOLUTIONS
Premier
IBM Business Partner

Beau Sturm
972-725-2038

10/4/2006

Part/Feature #	Description	Qty	Sirius Sale Price
HARDWARE:			
UPGRADE FROM 9406-825	9406 Model 825	1	$ 252,145.00
Additions:	*includes all of the below equipment and main.*		
	i5/OS Version V5R3	1	
	iSeries 2m Rack	1	
	PCI-X Tower Unit in Rack	1	
	3m IEC 320 C13/14 PDU Cord	2	
	200V 12A 14-Ft TL Line Cord	1	
	3.5m HSL-2 Cable	1	
	Serial-UPS Conversion Cable, 0.14m	1	
	DVD-ROM	1	
	PCI IOP	3	
	English	1	
	35.16GB 15k rpm Disk Unit	10	
	4GB DDR2 Main Storage	2	
	30-Disk Expansion Feature	1	
	Dual Line Cords - Tower	1	
	Redundant Power and Cooling	1	
	2780 Ctlr w/Aux Write Cache	1	
	Integrated Cache - 40MB	1	
	IBM 4.7 GB IDE Slimline DVD-RAM Drive	1	
	SPCN 3m Cable	1	
	SPCN 15m Cable	1	
	Opt Front Door for 2.0m Rack	1	
	HSL-2/RIO-G Bus Adapter	2	
	14-Ft Int 250V/10A Pwr Cd	1	
	Optional Rack Security Kit	2	
	PDU to Wall Powercord 14', 200-240V/24A, UTG	1	
	550 Rack Mount	2	
	Power Dist Unit-Side Mount, Universal UTG024	1	
	1475W AC Power Supply	2	
	550 1.9GHz Proc 0/2-Way	1	
	550 Base Proc Activation	1	
	Base Enterprise Enablement	1	
	Base HSL-2/RIO-G Bus Adapter		
7310-CR3	**HMC 1:7310-CR3 Rack-mounted Hardw.Mgmt.Console**	1	
	Hardware Management Console for POWER5 Licensed Machine	1	
	Rack Indicator- Not Factory Integrated	1	
	IBM 2-Port 10/100/1000 Base-TX Ethernet PCI-X Adapter	1	
	Power Cord (14ft) 250V/14A, IEC320/C13, IEC320/C14	1	
	Ethernet Cable, 6M, Hardware Management Console to System	1	
	Language Group Specify - US English	1	
7316-TF3	**IBM 7316-TF3 Rack-Mounted Flat Panel Console Kit**	1	
	Rack Indicator- Not Factory Integrated	1	
	Space Saver 2 Keyboard, US English	1	
	Language Group Specify - US English	1	
	Power Cord (4M) All (Standard Cord)	1	
5771-RS3	**Initial Software Support 3 Year**	1	
	Per Processor Software Support 3 Year	1	
	Per Processor 24x7 Software Support 3 Year	1	
	Agreement for MCRSA	1	
MAIN:	**36 Month 24 x 7 covergae for HW Main and SW Main**	1	
	Sirius Turnkey Installation services (including travel)		$ 8,000.00
	Sirius Sale Total:		$ 260,145.00

d-3

City of Plano i825 to i550 Upgrade

SIRIUS COMPUTER SOLUTIONS

Premier
IBM Business Partner

10/4/2006

Beau Sturm
972-725-2038

Part/Feature #	Description	Qty	Sirius Sale Price

d-4

Purchase Authorization

This letter is in lieu of a company purchase order and authorizes Sirius Computer Solutions, Inc. to order and deliver the equipment and/or software listed below to

THE CITY OF PLANO TEXAS

using the terms and conditions referred to in Sirius Master Sales Agreement number 30001327 ; and using **Sirius' State of Texas Contract # TXMAS-4-70080.**

iSeries 825-i550 Upgrade

Product	Description	CoP Price $
9406-550	iSeries 550, Hardware Management Console, and Rack Mounted Flat Panel Monitor	$252,145
SW	Transferred from existing 825	included
Main.	36 Month HW and SW Main. (24 x 7) Support	included
Services	Sirius Implementation Services (includes travel and expenses)	$8,000
	Total Sirius Sale Price	$260,145

- This price includes shipping, but does not include sales tax (estimated at $21,486).
- Price includes Sirius turn key installation services.

Requested by:

CITY OF PLANO
(PURCHASER'S Name)

By

Title

Date

Accepted by:

SIRIUS COMPUTER SOLUTIONS, INC.
(SELLER'S Name)

By MUDITHA KARUNATILEKA

SENIOR VICE PRESIDENT OF SALES
Title

10/11/06
Date

d-5

CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	☒ Yes	☐ Not Applicable
☐ Consent ☐ Regular ☐ Statutory		Reviewed by Budget C.S.	☒ Yes	☐ Not Applicable
Council Meeting Date:	10/23/06	Reviewed by Legal	☒ Yes	☐ Not Applicable
Department:	Police		Initials	Date
Department Head	Gregory W. Rushin	Executive Director		10.17.06
Dept Signature:		City Manager		10/17/06
Agenda Coordinator (include phone #):	Jane Wester x2410			

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

CAPTION

One-time purchase of a Movable Shelving and Storage System for the Police Property and Evidence Unit.

FINANCIAL SUMMARY

☐ NOT APPLICABLE ☒ OPERATING EXPENSE ☐ REVENUE ☐ CIP

FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	50,000	0	**50,000**
Encumbered/Expended Amount	0	0		**0**
This Item	0	-45,256	0	**-45,256**
BALANCE	0	4,744	0	**4,744**

FUND(S): CRIMINAL INVESTIGATION FUND (012)

COMMENTS: Funds for a movable shelving and storage system for the Police Department Property and Evidence Unit are available in the 2006-07 Budget.

STRATEGIC PLAN GOAL: The purchase of shelving and storage system for the Police Department relates to the City's goal of "Service Excellence".

SUMMARY OF ITEM

The quote for this one-time purchase of a movable shelving and Storage System for the Police Property and Evidence Unit was provided by the Kardex dealer/Metroplex Office Systems (TXMAS contracts #3-7110260 and 3-360120).

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
Metroplex Office Systems Itemized Price Listing	

e-1

REV 08/98

P.O. Box 860358
Plano, Texas 75086-0358
972-941-2135

http://www.planopolice.org

MEMORANDUM

DATE: October 12, 2006

TO: Gregory W. Rushin, Chief of Police

FROM: Christi Wilson, Property Supervisor CW

SUBJECT: Movable Shelving and Storage

In 1999, the Property Evidence Unit received 6, 012 items of evidence. At the end of 2005, the unit had taken in over 13,539 items of evidence. As you can see the evidence received is over 2-1/4 times the amount of evidence in 1999. This has caused a storage problem, and it is directly related to the number of officers added to the department; as calls go up so does the property/evidence recovered and placed in the unit. The unit currently houses over 80,000 pieces of evidence, so the need for storage space is paramount.

In order to optimize space in the evidence vault, we are requesting that mobile shelving be added. We currently utilize this type of shelving in another area of the vault, as well as in our narcotics and firearms vaults. This shelving will increase our storage capacity by over 40% by decreasing useless storage space. The shelving is customized to your specifications, thus providing maximum storage. It will also allows us to store evidence in a more secure and safe environment.

If you have any questions regarding the movable shelving and storage system, please contact me at ext. 2511.

CW/kl

Attachment

cc: Glen Brashear, Administrative Manager
Ben Armstrong, Physical & Technical Services Division Manager

e-2

Metroplex Office Systems
Organizing your Offices & Warehouses since 1976

Dallas 972.242.2062
Fort Worth 817.332.4426
Toll Free 877.263.2173
Fax 972.242.0772
www.MOSsolutions.com
MOSsolutions@aol.com
2425 McIver Lane, Suite 140
Carrollton, TX 75006-6777

ITEMIZED PRICE LISTING

To: City of Plano – Police Department
909 East 14th Street
Plano, TX 75074

Date: September 26, 2006
Quotation No: CityPlan060810-01-3-Itemized

Attention: Mr. Ben F. Armstrong
Property/Supply Manager

Phone: 972.941.2485
Fax: 972.941.2488
E-Mail: bena@plano.gov

We are pleased to quote on the following, subject to terms herein:

ITEM	QTY	DESCRIPTION	UNIT PRICE	EXT PRICE
		[Kompakt Movable System]		
2079509-20	4	Movable Carriage 20' long x 48" deep	$2,500.00	$10,000.00
2079517-16	1	Fixed Carriage 16' long x 48" deep	$1,060.00	$1,060.00
2079516-20	1	Fixed Carriage 20' long x 24" deep	$1,050.00	$1,050.00
2079516-16	2	Fixed Carriage 16' long x 24" deep	$875.00	$1,750.00
2079516-28	1	Fixed Carriage 28' long x 24" deep	$1,380.00	$1,380.00
6001229-016	4	Movable End Panel 48"	$280.00	$1,120.00
6001229-004	1	Fixed End Panel 48"	$280.00	$280.00
2078499-000	52	Center Groove Guide Rail	$36.00	$1,872.00
2078499-005	52	Center Groove Load Rail	$36.00	$1,872.00
2078331-000	31	Stainless Ramp Plate	$21.00	$651.00
6001966-000	4	3-Prong Handle	$145.00	$580.00
6001224-004	4	Gear Drive 1/4000	$340.00	$1,360.00
6000560-015	5	Label Holders	$6.00	$30.00
			Subtotal	**$23,005.00**
			41.5% TXMAS Disc	**<$9,547.08>**
			TOTAL	**$13,457.92**
		[L&T Shelving]		
2488LC	26	Closed "L" Upright	$68.00	$1,768.00
2488TC	57	Closed "T" Upright	$76.00	$4,332.00
TQD2-4824	420	Slotted Shelves	$29.00	$12,180.00
T2-4824	70	Top Shelves	$29.00	$2,030.00
TS-4811	980	Shelf Support	$6.40	$6,272.00
TR-24	1,248	Shelf Reinforcement	$2.00	$2,496.00
			Subtotal	**$29,078.00**
			53.6% TXMAS Disc	**<$15,585.81>**
			TOTAL	**$13,492.19**

e-3

Dallas 972.242.2062
Fort Worth 817.332.4426
Toll Free 877.263.2173
Fax 972.242.0772
www.MOSsolutions.com
MOSsolutions@aol.com
2425 McIver Lane, Suite 140
Carrollton, TX 75006-6377

Metroplex Office Systems

Organizing your Offices & Warehouses since 1976

REVISED PRICE QUOTATION

To: City of Plano ~ Police Department
909 East 14th Street
Plano, TX 75074

Date: September 27, 2006
Quotation No: CityPlanPD060810-01-4
(Page 1 of 2)

Attention: Mr. Ben F. Armstrong
Property/Supply Manager

Phone: 972.941.2485
Fax: 972.941.2488
E-Mail: bena@plano.gov

We are pleased to quote on the following, subject to terms herein:

ITEM	QTY	DESCRIPTION	PRICE
MOBILE_L&T		**[Property Room] KARDEX Kompakt Movable Shelving System, *mechanically assisted*, with L&T Shelving** ~ provides your facility with about 21,000 linear storage inches for storing 1,260 totes. Kompakt has stainless steel ramp and all ranges are equipped with steel front and panels in your choice of standard finishes. The mobile ranges each include a 3-prong handle and 1/4000 gear drive. Each shelving section has (7) shelves and (6) shelf openings.	
FIX_RANGE	1	**This DF *Stationary* Shelving Range is configured as follows:** • Measures 16' long x 48" deep x 88-¼" high • Is comprised of (4) DF sections @ 48" wide each • Provides (8) SF filing sections	
MOB_RANGES	4	**Each of these DF *Movable* Shelving Ranges is configured as follows:** • Measures 20' long x 48" deep x 88-¼" high • Is comprised of (5) DF sections @ 48" wide each • Provides (10) SF filing sections *(4- range total of 40 SF filing sections)*	
FIX_RANGE	1	**This SF *Stationary* Shelving Range is configured as follows:** • Measures 44' long x 24" deep x 88-¼" high • Is comprised of (11) SF sections @ 48" wide	
FIX_RANGE	1	**This SF *Stationary* Shelving Range + 2 Sections are configured as follows:** • Measures 36' long x 24" deep x 88-¼" high, plus (1) range @ 8' x 24" x 88-¼" • Is comprised of (11) SF sections @ 48" wide x 24" deep	
		KARDEX L & T Shelving	$29,078.00
		Less 53.6% TXMAS Contract Discount [TXMAS-3-71110260]	<$15,585.81>
		KARDEX Kompakt Mobile System	$23,005.00
		Less 41.5% TXMAS Contract Discount [TXMAS-3-71110260]	<$9,547.08>
		Delivery and Installation by factory-certified MOS personnel	$24,342.40
		Less 24.8% Discount	<$6,036.92>
		KARDEX Kompakt Mobile Shelving System Investment ~ TOTAL	**$45,255.59**

Cancellation: Orders accepted by MOS are not subject to cancellation
Estimated Lead-time: 6-8 weeks
Installation: Installation to be performed Monday-Friday, 8 a.m. to 5 p.m., excluding holidays
F.O.B. Point: MOS Warehouse
Payment Terms (KARDEX): Net 30
Warranty: 1-Year parts and service warranty
Purchase Order should be made to: *Kardex Systems, Inc.*
c/o Metroplex Office Systems Inc. (Gordon Johnson)
2425 Molver Lane, Suite 140, Carrollton, TX 75006

The prices and terms on this quotation are not subject to verbal changes or other agreements unless approved in writing by the Office of the Seller. All quotations and agreements are contingent upon strikes, accidents, present availability of materials and all other causes beyond our control. Prices are based on the costs and conditions existing on date of quotation and are subject to change by the Seller before final acceptance. Typographical and stenographic errors subject to correction. Additional terms and conditions of sale are attached. Conditions not specifically stated herein shall be governed by established trade customs. Terms inconsistent with those stated herein which may appear on Purchaser's formal order will not be binding on the Seller.

Metroplex Office Systems

Company: _____

By: Gordon L. Johnson

By: _____ **Date:** _____

www.MOSsolutions.com MOSsolutions@aol.com

e-4

TERMS AND CONDITIONS – GSA & TXMAS CONTRACTS

Delivery:	90 DAYS ARO	**Vendor ID:**	11611128791
FOB Point:	DESTINATION	**Business Type:**	Small
Terms:	1% 20, NET 30	**DUNS #:**	093320232
Remit To:	KARDEX SYSTEMS, INC. 1189 PAYSPHERE CIRCLE CHICAGO IL 60674 USA	**Effective:**	06/24/2003
		Expires:	12/31/2006

KSI CONTACT: ALAN BARTLETT
Phone 800-313-6225
bartlett@kardex.com

Effective Date: This Texas Multiple Award Schedule (TXMAS) contract is effective beginning 6/24/2003 through 12/31/2006 and is automatically renewed on the date that the General Services Administration (GSA) exercises the renewal option. All State of Texas terms and conditions will continue and apply to all renewal periods by mutual agreement. The contractor has certified that the prices reflected in the contractor's catalog are the same as the prices contained in the most current modification to GSA Contract No. GS-28F-1004C.

Placement of Orders: Purchasing entities must use both the instructions on the contractor's web page and the terms and conditions in the federal supply schedule to place orders. Purchasing entities may use a either a departmental purchase order or the contractor's on-line ordering system to place orders. Purchasing entities may opt out of using the contractor's on-line ordering system if it is incompatible with the entity's purchasing procedures. The contractor is not required to accept orders below the minimum listed below. Orders between the minimum and maximum listed below are subject to GSA preferred customer pricing. For orders above the maximum, purchasing entities are entitled to negotiate for lower prices than those listed on the on-line federal supply schedule price list.

Order Limitation:
Minimum Order: $100.00
Maximum Order: 711-7 $200,000.00 / 711-95 $500,000.00

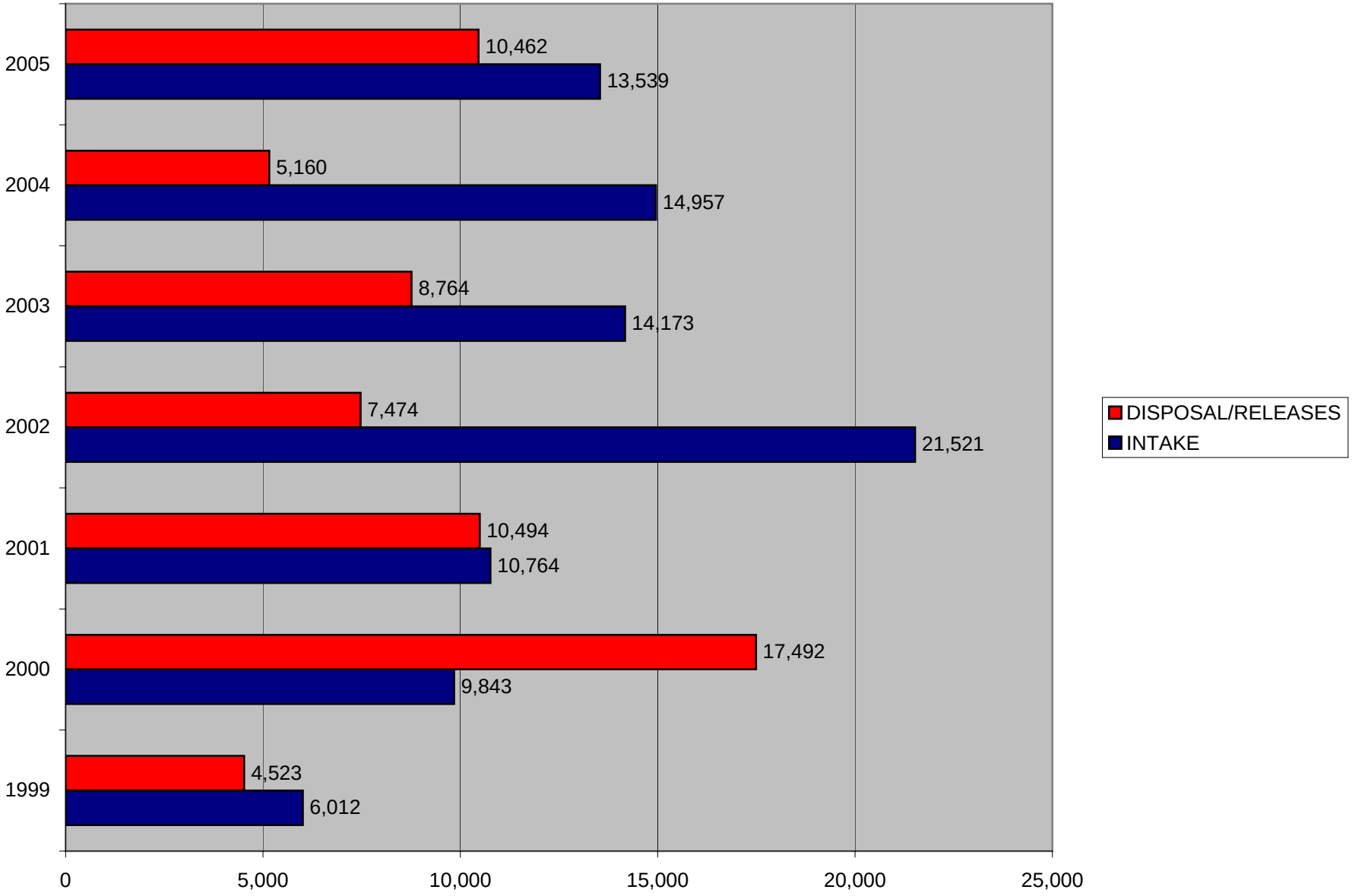
Approved Products/Services: Only products or services listed in the TBPC approved GSA contract may be purchased from this TXMAS contract, with one exception. Incidental, off-schedule items may be purchased as "best value, open market" items provided that they are necessary for product integration or product completeness. The purchasing entity is responsible for ensuring that the quoted price for such incidental items is fair and reasonable. These incidental items may be added to the TXMAS purchase order if they are clearly labeled as "open market (OM), best value" items.

State Contracts: All Texas Council for Purchasing from People with Disabilities contracts and Texas Correctional Industries (TCI) term contracts take precedence over this TXMAS contract. If similar products or services are listed on this TXMAS contract and a TBPC term contract, a determination should be made that will result in a best value purchase.

Payment Due Date: Payment will be due on the thirtieth (30) calendar day after the later of: (a) the date the State actually receives a proper invoice at the office designated in the applicable purchase order to receive it; or (b) the date the State accepts the products or services. The post mark date on the envelope for the State warrant (State's equivalent to a check) or banking information showing when a direct deposit transaction was received will be considered the date payment is made. Interest starts accruing on the first day that payment is late. The rate of interest for late payments is set at one percent per month.

Special Note: The State of Texas, including but not limited to its Agencies, cooperative purchasing members and any local governmental entity authorized by law to use the Texas Multiple Award Schedule method for purchasing is not obligated to procure any products or services from this TXMAS contract. This schedule contract shall not be construed to prevent the State from purchasing products or services using other procurement methods as authorized by law.

2005 PROPERTY UNIT STATISTICS



CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	☒ Yes	☐ Not Applicable
☐ Consent ☐ Regular ☐ Statutory		Reviewed by Budget	☒ Yes	☐ Not Applicable
Council Meeting Date:	10/23/06	Reviewed by Legal	☒ Yes	☐ Not Applicable
Department:	Engineering		Initials	Date
Department Head	Alan L. Upchurch	Executive Director		10/16/06
Dept Signature:		City Manager		10/16/06
Agenda Coordinator (include phone #):	Pegues (7198)			(Project No. 5732)

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

CAPTION

Approval of a Professional Engineering Services contract by and between the City and Wier & Associates, Inc., in the amount of $162,300.00 for the design of Communications Parkway – Parker Road to Spring Creek Parkway and authorizing the City Manager or his designee to execute all necessary documents.

FINANCIAL SUMMARY

☐ NOT APPLICABLE ☐ OPERATING EXPENSE ☐ REVENUE ☒ CIP

FISCAL YEAR: 2006-07	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	200,000	2,000,000	**2,200,000**
Encumbered/Expended Amount	0	0	0	**0**
This Item	0	-162,300	0	**-162,300**
BALANCE	**0**	**37,700**	**2,000,000**	**2,037,700**

FUND(S): STREET IMPROVEMENT CIP

COMMENTS: Funds are included in the 2006-07 Street Improvement CIP. This item, in the amount of $162,300, will leave a current year balance of $37,700 for the Communications – Parker to Spring Creek project.

STRATEGIC PLAN GOAL: Engineering design for street construction relates to the City's Goal of Safe, Efficient Travel.

SUMMARY OF ITEM

This agreement with Wier & Associates, Inc., for engineering design of Communications Parkway - Parker Road to Spring Creek Parkway will provide for widening of Communications Parkway from a four (4) lane to a six (6) lane divided thoroughfare from Parker Road to Windhaven Parkway and widening from a two (2) lane to a six (6) lane divided thoroughfare from Windhaven Parkway to Spring Creek Parkway. The project also includes landscaping, irrigation and street lighting construction.

The contract fee is for $162,300 and is detailed as follows:

Field Topographic Survey	$ 12,160
Preliminary Design Plans	$ 81,150
Final Design Plans	$ 32,460
Bid Phase Services	$ 8,115
Construction Phase Services	$ 8,115
TOTAL BASIC SERVICES	$142,000
Special Services (Survey for Right-of-Way Acquisition)	$ 20,300
TOTAL FEE ALL SERVICES	$162,300

Funding is available from the 2006-07 Street Improvement Community Investment Program. Staff feels the fee is reasonable for this project estimated to cost $2,031,000.

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
Engineering Services Agreement Location Map	N/A

1023WIER (JIM/ls/sr)

COMMUNICATIONS PARKWAY
PARKER ROAD TO SPRING CREEK PARKWAY

PROJECT NO. 5732

ENGINEERING SERVICES AGREEMENT

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

W I T N E S S E T H:

WHEREAS, the City desires to engage the services of the Engineer to prepare construction plans, specifications, details and special provisions and to perform other related engineering services in connection with the **COMMUNICATIONS PARKWAY – PARKER ROAD TO SPRING CREEK PARKWAY** project located in the City of Plano, Collin County, Texas, hereinafter referred to as the "Project"; and

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

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

I. Employment of the Engineer

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

II. Scope of Services

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

f-2

III. Schedule of Work

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

IV. Compensation and Method of Payment

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

V. Information to be Provided by the City

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

VI. Insurance

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

VII. Indemnity

Engineer shall release, defend, indemnify and hold City and its officers, agents and employees harmless from and against all damages, injuries (including death), claims, property damages (including loss of use), losses, demands, suits, judgments and costs, including reasonable attorney's fees and expenses, in any way arising out of, related to, or resulting from the services provided by Engineer and to the extent caused by the negligent act or omission or intentional wrongful act or omission of Engineer, its officers, agents, employees, subcontractors, licensees, invitees or any other third parties for whom Engineer is legally responsible (hereinafter "Claims"). Engineer is expressly required to defend City against all such Claims.

In its sole discretion, City shall have the right to approve defense counsel to be retained by Engineer in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. City reserves the right to

provide a portion or all of its own defense; however, City is under no obligation to do so. Any such action by City is not to be construed as a waiver of Engineer's obligation to defend City or as a waiver of Engineer's obligation to indemnify City pursuant to this Agreement. Engineer shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Agreement. If Engineer fails to retain counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Engineer shall be liable for all costs incurred by City.

VIII. Independent Contractor

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

IX. Assignment and Subletting

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

X. Audits and Records/Prohibited Interest

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

The Engineer agrees that it is aware of the prohibited interest requirements of the City Charter and Code of Conduct and will abide by the same. Further, a lawful

representative of Engineer shall execute the affidavit shown in Exhibit "E". Engineer understands and agrees that the existence of a prohibited interest during the term of this contract will render the contract voidable.

XI. Contract Termination

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

XII. Engineer's Opinion of Probable Construction Costs

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

XIII. Ownership of Documents

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

XIV. Complete Contract

This Agreement, including the Exhibits lettered "A" through "E", constitute the entire agreement by and between the parties regarding the subject matter hereof and supersedes all prior or contemporaneous written or oral understandings. This

Agreement may only be amended, supplemented, modified or canceled by a duly executed written instrument.

XV. Mailing of Notices

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

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

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

Wier & Associates, Inc.
4300 Beltway Place, Suite 130
Arlington, Texas 76018
Attn: Philip Graham, P.E., Associate

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

XVI. Miscellaneous

A. Paragraph Headings:

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

B. Contract Interpretation:

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

C. Venue/Governing Law:

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

D. Successors and Assigns:

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

E. Severability:

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

F. Effective Date:

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

SIGNED on the date indicated below.

WIER & ASSOCIATES, INC.
A Texas Corporation

DATE: _____ BY: _____
John P. Wier, P.E., R.P.L.S.
PRESIDENT

CITY OF PLANO, TEXAS

DATE: _____ BY: _____
Thomas H. Muehlenbeck
CITY MANAGER

APPROVED AS TO FORM:

Diane C. Wetherbee
Diane C. Wetherbee
CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS §
§
COUNTY OF TARRANT §

This instrument was acknowledged before me on the _____ day of _____, 2006, by **JOHN P. WIER, P.E., R.P.L.S., President** of **Wier & Associates, Inc.,** a **Texas** corporation, on behalf of said corporation.

_____
Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2006, by **THOMAS H. MUEHLENBECK, City Manager,** of the **City of Plano**, **Texas,** a Home-Rule Municipal Corporation, on behalf of said municipal corporation.

_____
Notary Public, State of Texas

EXHIBIT A
SCOPE OF SERVICES

COMMUNICATIONS PARKWAY
PARKER ROAD TO SPRING CREEK PARKWAY
PROJECT NUMBER 5732

PROJECT DESCRIPTION:

1. Widening of Communications Parkway from a four (4) lane to a six(6) lane (11' lanes f-f) roadway using 10" reinforced concrete paving (5,000 p.s.i.) on 6" compacted (not lime stabilized) subgrade from Parker Road to Windhaven Parkway.
2. Widening of Communications Parkway from a two (2) lane to a six(6) lane (11' lanes f-f) using 8" reinforced concrete paving (5,000 p.s.i.) on 6" lime stabilized subgrade from Windhaven Parkway to Spring Creek Parkway. Right-of-way width should be 110' (2-12' f-f parkways with a 20' median f-f width).
3. Installation of left turn lanes (10' width f-f) at appropriate locations. Coordinate with Engineering/Transportation Division in the early design stages to determine if storage length should be longer than standard detail at any specific location. At this point, it has been determined that the left turn storage on Communications at the south approach to Spring Creek will need to be lengthened by 100' from the existing.
4. Installation of right turn lanes (11' width f-f) at: (a) Southbound Communications at Parker to turn west; (b) Northbound Communications at Windhaven to turn east; (c) Southbound Communications at Windhaven to turn west; (d) Eastbound Windhaven at Communications to turn south; (e) Westbound Windhaven at Communications to turn north. Coordinate with Engineering/Transportation Division in early design stages to determine if size of curb radius or length of storage need to be larger than standard detail at any specific location. At this point, it appears that all proposed right turns will be the standard length with the standard turning radius (see Fig. 1, Page 3, Thoroughfare Standards Rules & Regulations), except for eastbound Windhaven at Communications to turn south (300' storage length).
5. Signal Design will be included in this project to provide for countdown pedestrian signals to serve the intersection near Parr Library (Windhaven). Also included will be new pole installation (poles and equipment furnished by the City of Plano/installed by contractor) at locations where signal poles must be relocated for right turn lane installation. Video equipment at Parker is existing and will need to be

relocated to the new pole. Video equipment is not existing at Windhaven and must be installed with the new poles.

6. Landscaping and Irrigation will be installed in median areas between Parker Road and 1 block north of Glenhollow Drive and between 1 block south of Windhaven Parkway and Spring Creek Parkway. This will generally include tree planting with appropriate irrigation design. Direction regarding landscaping and irrigation will be according to instructions from the City Park Department. If the consultant will supply the base plan, with street light locations, the Parks Department will provide a tree planting layout sketch on paper for the consultant to use as a basis for the landscaping design. Under the power line crossing area between Windhaven and Spring Creek, normal landscape design will need to be modified (either plant no trees or plant small trees such as Crape Myrtles as determined to allow proper safety). The plans should require that any existing irrigation systems continue to function during construction and that the existing median areas with existing trees should be protected to prevent extensive grading along the edges. The medians with existing trees can not be used for staging areas for materials, portable restrooms, equipment or vehicles and must be fenced off to prevent use by workers for breaks. The consultant shall analyze the existing irrigation system to see if it can be used and extended to provide irrigation systems in new areas.
7. Water Improvements will include extension of existing stub-outs to clear existing pavement for future water line tie-ins. In some locations, a 6" tee connection with gate valve and fire hydrant off the extension will be required. In some locations, an existing main may need to be tapped with a valve and an extension, which may need to include a fire hydrant. Existing fire hydrant locations shall be considered in determining the location of new hydrants.
8. Sanitary Sewer improvements will include extension of existing lines to clear pavement widening as necessary.
9. Street Light plans for foundation and conduit installation in the median areas will be included in the project. Where foundations, street lights and conduit are already existing, those shall be shown on the plans as existing with existing surface facilities tied in on the survey. Foundations and conduit are existing from 1 block north of Glenhollow Drive to Windhaven Parkway. Street lights with foundations and conduit are existing from Spring Creek Parkway to approximately 500' south. Existing conduit shall be shown using existing plans. However, TXU Electric has advised that these existing foundations, where street lights are not currently installed, will not be acceptable for new street light installation. So, the existing foundations must be removed and new foundations, conduit and pull boxes installed in this area. All other areas shall include plans showing location of new street light bases, conduit

8-10

and pull boxes. Special consideration will need to be given to the power line crossing area between Windhaven and Spring Creek. Depending upon power company requirements for clearance, poles may have to be positioned horizontally to clear the overhead wire area.

10. Right-of Way acquisition will be required for project construction. The consultant will be required to prepare the related instruments as part of the project. It appears that five (5) separate properties are involved.
11. Survey Work should extend from 400' south of the south curb line of Parker Road to the north side of the existing Spring Creek Parkway intersection. Survey should be coordinated with survey and proposed design for Communications Parkway north of Spring Creek Parkway currently under design for the City of Plano by Dannenbaum Engineering. Survey work for the right turn lanes on Windhaven is also required to 600' east of Communications east curb line (along the north curb line of Windhaven) and 600' west of the Communications west curb line (along the south curb of Windhaven).

BASIC SERVICES:

A. Design Standards

1. This project shall be designed in accordance with the following:

   Geodetic Monumentation Manual

   Manual for Right-of-Way Management

   Storm Drainage Design Manual

   Stream Bank Stabilization Manual

   Erosion & Sediment Control Manual

   Thoroughfare Standards Rules & Regulations

   Manual for the Design of Water & Sanitary Sewer Lines

   Standard Construction Details

   Barrier Free Ramp Details

   NCTCOG Standard Specifications for Public Works Construction

   Special Provisions to Standard Specifications for Public Works Construction

   Sample Plan Set

2. All plans submitted to the City shall be signed and sealed in accordance with state law.

B. Research and Data Collection –

f-11

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

C. Design Survey –

1. Establish a horizontal and vertical control network and project control baseline for the project areas. The network and baseline are to be tied into the existing City of Plano control network.
2. Establish horizontal and vertical project control monumentation.
3. Tie right-of-way lines and corners, property lines and corners, buildings, fence lines, trees 4-inches in diameter and larger, edges of pavements and all other visible surface features to the project control baseline. Existing utility structures shall be located and referenced by utility name (i.e. TXU Elec., Verizon Telephone, Atmos Gas, Etc.).
4. Vertical topographic information tying pavement, drives, walls, manholes (top and inverts), storm drain inlets (top and inverts), and other improvements as needed within the project areas for the design.
5. Provide roadway cross sections at a fifty-foot (50') interval relative to the project baseline and at all drives, street intersections, drainage channels or other areas of significance. Cross sections are for project design review and quantity takeoffs and must be plotted and included as part of the final construction plan set for use during construction. Cross sections will not be required for roadway widening into median areas from Parker road to Windhaven. All other areas, including new right turn lanes, will require cross sections.
6. When underground utilities are exposed, tie to project control baseline.
7. Identify the street address (if applicable) and the legal description (lot, block, addition or survey abstract information if not platted) of all adjacent properties to the proposed construction and show on drawings.

D. Right-of-way and Easement Requirements –

1. Prepare a preliminary list of right-of-way parcels and easements necessary to construct the project (if any). Submit to the City of Plano as soon as possible and prior to the preliminary plan submittal.
2. Meet with the City of Plano Staff to determine easement and right-of-way requirements for preparation of field notes and exhibits.

E. Preliminary Design –

1. Prepare preliminary construction plans. Prepare the following sheets (22" x 34" size) at the engineering scale indicated:
   - Cover sheet.

- Project layout control sheet(s). Scale 1"= 100'.
- Quantity sheet (sheet by sheet breakdown of all quantities)
- Typical sections and detail sheets.
- Construction phasing and temporary traffic control sheets, including temporary traffic signals. Scale 1"= 20'.
- Paving plan & profile sheets for street improvements. Scale 1"= 20' H: 1"=5' V. Plan view only is required for widening of roadway from Parker Road to Windhaven. All other areas, including new right turns, will require plan and profile.
- Drainage area maps (with drainage calculations) for street and drainage improvements. Scale 1"= 100'.
- Storm drain improvement plan & profile sheets are required for area from Windhaven to Spring Creek only. Scale 1"= 20'H; 1" = 5' V.
- SWPPP sheets meeting EPA and City of Plano requirements. Scale 1"= 40'. Surface curb inlet protection shall not be used for existing curb inlets on existing thoroughfare pavement areas. Use "Depressed Back of Curb Sediment Trap" instead of silt fence to prevent silt onto roadway. Use "Pavement Replacement Sediment Trap" for areas where pavement will be removed for pavement widening. Use "Organic Filter Tube" instead of silt fence to prevent silt onto private property. Use City WORD file form for "City of Plano CIP Projects - SWPPP Operator Requirements" as part of SWPPP.
- Landscape and irrigation plan sheets and details. Scale 1"= 20'.
- Final buttoning and signage plan sheets. These must show buttoning and signing as required to provide for any required changes beyond the proposed pavement project limits and to show how well proposed lane lines match with existing lane lines beyond both ends of the paving project. Scale 1"= 40'.
- Street Lighting plans. Show location of street light bases, pull boxes and conduit. Scale 1" = 40'.
- Traffic Signal Plans. Scale 1" = 20'.
- Cross-Sections. Scale 1" = 20' H; 1" = 2' V.

Information required can be combined on sheets if the information can be clearly shown and is approved by the City of Plano project manager.

3. Coordinate with affected utilities such as water, gas, telephone, cable TV and electric to obtain accurate information for the location of their facilities.
4. Prepare outline of any special technical specifications needed for the project (if any).

5. Prepare an estimate of construction quantities and develop the preliminary statement of probable construction cost.
6. Submit six (6) sets of preliminary plans and one (1) set of an outline of special technical specifications and preliminary statement of probable construction cost to the City for review. City Engineering staff will make plan distribution.
   - Engineering
   - Public Works
   - Inspectors
   - Transportation
   - Parks
   - File Set
7. Meet with City of Plano staff to discuss City comments on preliminary plans, specifications and cost estimates.
8. Distribute the preliminary plans and proposed schedule for bidding and start of construction to local utility companies to obtain information regarding impacts to their facilities.

F. Final Design –

1. Revise preliminary plans incorporating comments from the City of Plano.
2. Incorporate comments from the utility companies.
3. Finalize construction plans for proposed improvements.
4. Finalize special technical specifications and special conditions (if any).
5. Incorporate standard details (those not included in "City of Plano Standard Construction Details") into the construction plans and prepare additional details as required.
6. Take off final construction quantities and prepare final construction cost estimates.
7. Submit six (6) sets of pre-final plans (same as preliminary plan distribution), and one (1) set of special technical specifications, draft bid schedule and final statement of probable construction cost to the City for review.
8. Incorporate City final comments into the plans and bid documents.
9. Submit three (3) sets of final blue line prints, three (3) bound copies of the bid documents and one (1) unbound original bid document set to the City of Plano.
10. Attend a utility coordination meeting to start relocation process with affected franchise utilities. Distribute copy of final plans and proposed schedule for bid letting and construction to all affected franchise utilities.
11. Submit one (1) set of final blue line prints and one (1) bound copy of the bid documents to the designated Material Testing Laboratory.

G. Bid Phase Services –

1. Assist the City staff in advertising for bids.

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

H. Construction Administration –

1. Provide periodic site visits by the design engineer in response to questions during construction with a written inspection report submitted to the City for each visit.
2. Provide written responses to requests for information or clarifications.
3. Prepare plan and quantity revisions as required for change orders. The City of Plano will prepare the actual change order and get it executed by the contractor.
4. Assist the City staff in conducting the final inspection.
5. Recommend final acceptance of work when acceptable.
6. Prepare construction "Record Drawings" based upon mark-ups and information provided by the construction contractor(s). Submit one blackline set to the City and two (2) CD-ROM disks containing scanned images of the 22" x 34" final "as constructed" blackline drawings (with "record drawing stamps" bearing the signature of the Engineer and the date). The drawings shall be scanned 1 to 1 as Group 4 TIF files at a minimum resolution of 200 dots per inch and a maximum resolution of 400 dots per inch. The TIF files shall be legible and shall include any post processing that may be required to enhance image quality (e.g., de-speckling, de-shading, de-skewing, etc.). Each file shall be named in numeric order.

I. Construction Control Survey –

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

SPECIAL SERVICES:

A. Right-of-Way and Easement Surveying –

1. Prepare a metes and bounds description and an 8-1/2" x 11" exhibit for five (5) right-of-way parcels on a per tract basis. Deliver three (3) reviewed and approved originals to the City.
2. Prepare a metes and bounds description and an 8-1/2" x 11" exhibit for five (5) temporary construction easements on a per tract basis. Deliver three (3) reviewed and approved originals to the City.
3. Prepare a metes and bounds description and an 8-1/2" x 11" exhibit for two (2) permanent easements on a per tract basis. Deliver three (3) reviewed and approved originals to the City.
4. Prepared exhibits with the field notes first and drawings second. Both the field notes and the drawings shall be labeled as Exhibit "A". Each parcel shall be assigned its own separate number.
5. Set new iron pins at all new corners, PC's and PT's of new right-of-way.

8-16

EXHIBIT B
COMPLETION SCHEDULE
COMMUNICATIONS PARKWAY
PARKER ROAD TO SPRING CREEK PARKWAY
PROJECT NUMBER 5732

Activity	Completion Time
1. Notice to Proceed	0
2. Field Topographic & Boundary Check Surveys / Prepare Final Right-of-way and Easement Documents	30
3. Preliminary Paving, Drainage, Water, Sewer, Median Landscaping & Traffic Signal Plans and Draft Special Technical Specifications	60
4. City First Review	22
5. Final Design Plans, Proposal and Special Technical Specifications	25
6. City Second Review	22
7. Bid Plans, Proposal and Specifications	15
8. Receive Completed Plans & Bid Documents	0
9. Assemble Bid Documents	5
10. City Final Review	5
11. Advertise for Bids	22
12. Receive Bids	0
13. Recommendation	3
14. Prepare Council Agenda	15
15. Council Award	0
16. Prepare/Execute Contract	30
17. Schedule Preconstruction	10
18. Notice to Proceed	10
19. Construction	210

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

EXHIBIT C
PAYMENT SCHEDULE
COMMUNICATIONS PARKWAY
PARKER ROAD TO SPRING CREEK PARKWAY
PROJECT NUMBER 5732
(All fees "Not to Exceed" without prior approval)

WORK STAGE SUBMITTAL OR COMPLETION		FEE AMOUNT
BASIC SERVICES		
A. Field Topographic Survey		$ 12,160.00
B. Preliminary Design Plans		81,150.00
C. Final Design Plans		32,460.00
D. Bid Phase Services		8,115.00
E. Construction Phase Services		8,115.00
1. Construction Control Survey (Control Points and control Layout)	3,848	
2. Re-Pin ROW after Construction	914	
3. Other Construction Phase Services	3,353	
TOTAL BASIC SERVICES		$ 142,000.00
SPECIAL SERVICES		
A. Right of Way and Easement Services		
1. Permanent ROW & Monuments 5 @ $3,360.00/each		16,800.00
2. Permanent Easements 2 @ 500.00/each		1,000.00
3. Temporary Construction Easements 5 @ 500.00/each		2,500.00
TOTAL SPECIAL SERVICES		$ 20,300.00
TOTAL FEE ALL SERVICES		$ 162,300.00

EXHIBIT "D"

ENGINEERING

INSURANCE

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

1. General Insurance Requirements:

1.1 The Engineer (hereinafter called "Engineer") shall not start work under this contract until the Engineer has obtained at his own expense all of the insurance called for here under and such insurance has been approved by the City. Approval of insurance required of the Engineer will be granted only after submission to the Purchasing Agent of original, signed certificates of insurance or, alternately, at the City's request, certified copies of the required insurance policies.

1.2 All insurance policies required hereunder shall be endorsed to include the following provision: "It is agreed that this policy is not subject to cancellation, non-renewal, material change, or reduction in coverage without first providing the Risk Manager, City of Plano, at least ten (10) days prior written notice."

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

1.3 No acceptance and/or approval of any insurance by the City shall be construed as relieving or excusing the Engineer from any liability or obligation imposed upon the provisions of the Contract.

1.4 The City of Plano (including its elected and appointed officials, agents, volunteers, and employees) is to be named as an additional insured under Engineer's General Liability Policy, and the certificate of insurance, or the certified policy, if requested, must so state. Coverage afforded under this paragraph shall be primary as respects the City, its elected and appointed officials, agents and employees.

1.4.1 The following definition of the term "City" applies to all policies issued under the contract:

The City Council of the City of Plano and any affiliated or subsidiary Board, Commission Authority, Committee, or Independent Agency (including those newly constituted), provided that such affiliated or subsidiary Board Commission, Authority, Committee, or Independent Agency is either a Body Politic created by the City Council of the City of Plano, or one in which controlling interest is vested in the City of Plano; and City of Plano Constitutional Officers.

1.5 The Engineer shall provide insurance as specified in the "Insurance Checklist" (Checklist) found on the last page of the bid or proposal form. Full limits of insurance required in the

Checklist of this agreement shall be available for claims arising out of this agreement with the City of Plano.

1.6 Engineer agrees to defend and indemnify the City of Plano, its officers, agents and employees as provided in Paragraph VII. of this contract.

1.7 Insurance coverage required in these specifications shall be in force throughout the Contract Term. Should the Engineer fail to provide acceptable evidence of current insurance within seven (7) days of written notice at any time during the Contract Term, the City shall have the absolute right to terminate the Contract without any further obligation to the Engineer, and the Engineer shall be liable to the City for the entire additional cost of procuring performance and the cost of performing the incomplete portion of the Contract at time of termination.

1.8 Written requests for consideration of alternate coverages must be received by the City Purchasing Manager at least ten (10) working days prior to the date set for receipt of bids or proposals. If the City denies the request for alternative coverages, the specified coverages will be required to be submitted.

1.9 All required insurance coverages must be acquired from insurers authorized to do business in the State of Texas and acceptable to the City. The City prefers that all insurers also have a policyholder's rating of "A-" or better, and a financial size of "Class VI" or better in the latest edition of A.M. Best, or A or better by Standard and Poors, unless the City grants specific approval for an exception.

1.10 Any deductibles shall be disclosed in the Checklist and all deductibles will be assumed by the Engineer. Engineer may be required to provide proof of financial ability to cover deductibles, or may be required to post a bond to cover deductibles.

2. <u>Engineer's Insurance - "Occurrence" Basis:</u>

2.1 The Engineer shall purchase the following insurance coverages, including the terms, provisions and limits shown in the Checklist.

2.1.1 Commercial General Liability - Such Commercial General Liability policy shall include any or all of the following as indicated on the Checklist:

i. General aggregate limit is to apply per project;

ii. Premises/Operations;

iii. Actions of Independent Contractors;

iv. Contractual Liability including protection for the Engineer from claims arising out of liability assumed under this contract;

v. Personal Injury Liability including coverage for offenses related to employment;

vi. Explosion, Collapse, or Underground (XCU) hazards; if applicable. This coverage required for any and all work involving drilling, excavation, etc.

2.1.2 Business Automobile Liability including coverage for any owned, hired, or non-owned motor vehicles and automobile contractual liability.

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

2.2 Professional Errors and Omissions

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

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

ENGINEERING

City of Plano - Insurance Checklist

("X" means the coverage is required.)

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

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

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

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

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

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

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

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

_X_ 25. Other Insurance Required:

INSURANCE AGENT'S STATEMENT

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

_X_ 26. The above policy(s) carry the following deductibles:_____

Full limits of coverage available for:
General Liability_____ Professional Liability _____
Automobile Liability_____

_X_ 27. Liability policies are (indicate):

OCCURRENCE [ ] CLAIMS MADE [ ]

_____ _____
Signature Date

_____
Insurance Agent (Print)

_____
Name of Insured

_____
Date

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

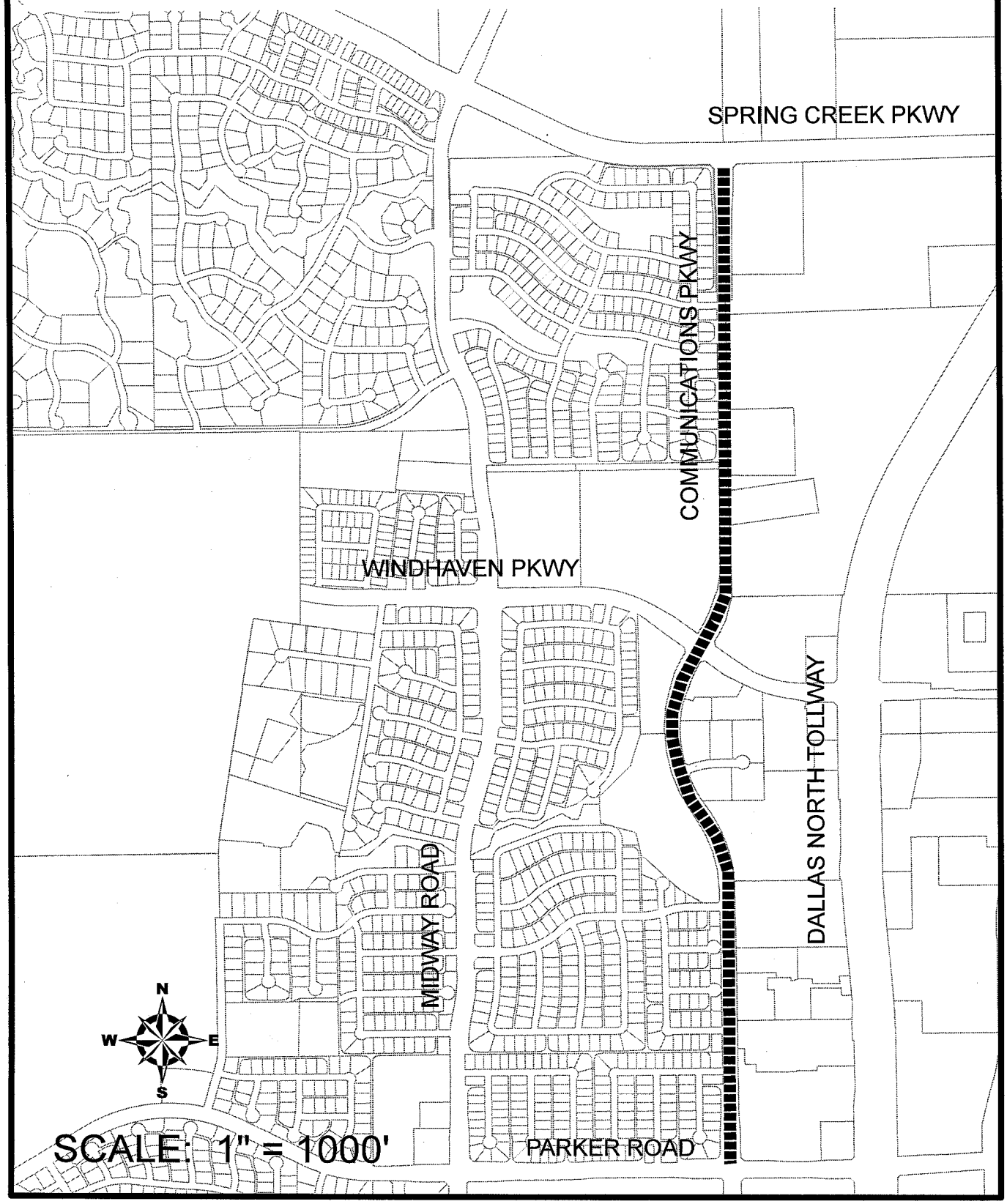
_____
Date

STATE OF TEXAS §
§
COUNTY OF _____ §

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

_____
Notary Public, State of Texas

COMMUNICATIONS PARKWAY
PARKER ROAD TO SPRING CREEK PARKWAY
PROJECT NO. 5732



8-25

CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	☒ Yes	☐ Not Applicable
☐ Consent ☐ Regular ☐ Statutory		Reviewed by Budget	☒ Yes	☐ Not Applicable
Council Meeting Date:	10/23/06	Reviewed by Legal WS	☒ Yes	☐ Not Applicable
Department:	Engineering		Initials	Date
Department Head	Alan L. Upchurch	Executive Director		10/16/06
Dept Signature:		City Manager		10/16/06
Agenda Coordinator (include phone #):	Pegues (7198)		(Project No. 5733)	

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

CAPTION

Approval of an engineering contract by and between the City and Jones & Carter, Inc. in the amount of $131,550.00 for Hayfield Drive, Thunderbird Lane, Morton Vale and Cloverhaven Reconstruction and authorizing the City Manager or his designee to execute all necessary documents.

FINANCIAL SUMMARY

☐ NOT APPLICABLE ☐ OPERATING EXPENSE ☐ REVENUE ☒ CIP

FISCAL YEAR: 2006-07	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	462,000	0	**462,000**
Encumbered/Expended Amount	0	0	0	**0**
This Item	0	-131,550	0	**-131,550**
BALANCE	0	330,450	0	**330,450**

FUND(S): STREET IMPROVEMENT CIP

COMMENTS: Funds are included in the 2006-07 Street Improvement CIP. This item, in the amount of $131,550 will leave a current year balance of $330,450, for the Hayfield, Morton, Thunderbird project.

STRATEGIC PLAN GOAL: Engineering design for street construction relates to the City's Goal of Safe, Efficient Travel.

SUMMARY OF ITEM

This agreement with Jones & Carter, Inc. is engineering design for Hayfield Drive, Thunderbird Lane and, Morton Vale and the inclusion of existing plans for Cloverhaven Way in the bid documents. The contract fee is for $131,550.00 and is detailed as follows:

Design Survey	$ 17,000.00
Preliminary Design	$ 58,325.00
Final Design	$ 37,000.00
Bid and construction Phase Services	$ 9,025.00
Printing and other reimbursables	$ 1,200.00
Special Services (legal descriptions)	$ 9,000.00
TOTAL	$131,550.00

Funding is available from the Street Improvement Community Investment Program. Staff feels the fee is reasonable for this project estimated to cost $1,000,000.00.

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
Engineering Services Agreement	N/A
Location Map	

HAYFIELD DRIVE, THUNDERBIRD LANE, MORTON VALE AND CLOVERHAVEN RECONSTRUCTION

PROJECT NO. 5733

ENGINEERING SERVICES AGREEMENT

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

W I T N E S S E T H:

WHEREAS, the City desires to engage the services of the Engineer to prepare construction plans, specifications, details and special provisions and to perform other related engineering services in connection with the **HAYFIELD DRIVE, THUNDERBIRD LANE, MORTON VALE AND CLOVERHAVEN RECONSTRUCTION** project located in the City of Plano, Collin County, Texas, hereinafter referred to as the "Project"; and

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

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

I. Employment of the Engineer

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

II. Scope of Services

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

III. Schedule of Work

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

IV. Compensation and Method of Payment

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

V. Information to be Provided by the City

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

VI. Insurance

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

VII. Indemnity

Engineer shall release, defend, indemnify and hold City and its officers, agents and employees harmless from and against all damages, injuries (including death), claims, property damages (including loss of use), losses, demands, suits, judgments and costs, including reasonable attorney's fees and expenses, in any way arising out of, related to, or resulting from the services provided by Engineer and to the extent caused by the negligent act or omission or intentional wrongful act or omission of Engineer, its officers, agents, employees, subcontractors, licensees, invitees or any other third parties for whom Engineer is legally responsible (hereinafter "Claims"). Engineer is expressly required to defend City against all such Claims.

In its sole discretion, City shall have the right to approve defense counsel to be retained by Engineer in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. City reserves the right to provide a portion or all of its own defense; however, City is under no obligation to do so. Any such action by City is not to be construed as a waiver of Engineer's obligation to

defend City or as a waiver of Engineer's obligation to indemnify City pursuant to this Agreement. Engineer shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Agreement. If Engineer fails to retain counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Engineer shall be liable for all costs incurred by City.

VIII. Independent Contractor

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

IX. Assignment and Subletting

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

X. Audits and Records/Prohibited Interest

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

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

XI. Contract Termination

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

XII. Engineer's Opinion of Probable Construction Costs

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

XIII. Ownership of Documents

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

XIV. Complete Contract

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

XV. Mailing of Notices

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

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

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

Stephen M. Jenkins, P.E.
Jones & Carter, Inc.
3030 LBJ Freeway #910
Dallas TX 75234

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

XVI. Miscellaneous

A. Paragraph Headings:

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

B. Contract Interpretation:

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

C. Venue/Governing Law:

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

D. Successors and Assigns:

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

E. Severability:

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

F. Effective Date:

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

SIGNED on the date indicated below.

JONES & CARTER, INC.
A TEXAS Corporation

DATE: _____ BY: _____
Thomas M. Stroh, P.E.
VICE PRESIDENT

CITY OF PLANO, TEXAS

DATE: _____ BY: _____
Thomas H. Muehlenbeck
CITY MANAGER

APPROVED AS TO FORM:

Diane C. Wetherbee
Diane C. Wetherbee
CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 2____, by **THOMAS M. STROH, P.E., VICE PRESIDENT,** of **JONES & CARTER, INC.**, a **TEXAS** corporation, on behalf of said corporation.

_____
Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2_____, by **THOMAS H. MUEHLENBECK, City Manager,** of the **City of Plano**, **Texas,** a Home-Rule Municipal Corporation, on behalf of said municipal corporation.

_____
Notary Public, State of Texas

8-8

SCOPE OF SERVICES

NEW PAVEMENT
HAYFIELD DRIVE, THUNDERBIRD LANE AND MORTON VALE RECONSTRUCTION
PROJECT NUMBER 5733
CIP NUMBER(S)

PROJECT DESCRIPTION:

The services to be provided for this project include preliminary design, development of construction plans and specifications, bid phase assistance, and construction phase services for the construction of the following roadway sections:

1. Hayfield Dr. from Rainier to Green Oaks – Approximately 750 LF of residential (27' B-B) street along with 8" water main and 8" wastewater main replacement.
2. Thunderbird Lane from Crossbend to Cambridge – Approximately 650 LF of residential (27' B-B) street.
3. Morton Vale from Los Rios to Los Rios – Approximately 1750 LF of 22 Ft. wide concrete street (no curb) with roadside ditches and driveway culverts.
4. Include plans and quantities provided by City for reconstruction of a section of Cloverhaven Way in the final bid documents.

BASIC SERVICES:

A. Design Standards

1. This project shall be designed in accordance with the following:

   Geodetic Monumentation Manual

   Manual for Right-of-Way Management

   Storm Drainage Design Manual

   Stream Bank Stabilization Manual

   Erosion & Sediment Control Manual

   Thorough Fare Standards Rules & Regulations

   Manual for the Design of Water & Sanitary Sewer Lines

   Standard Construction Details

   Barrier Free Ramp Details

   NCTCOG Standard Specifications for Public Works Construction

   Special Provisions to Standard Specifications for Public Works Construction

   Sample Plan Set

2. All plans submitted to the City shall be signed and sealed in accordance with state law.

B. Research and Data Collection –

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

C. Design Survey –

1. Establish a horizontal and vertical control network and project control baseline for the project areas. The network and baseline are to be tied into the existing City of Plano control network.
2. Establish horizontal and vertical project control monumentation.
3. Tie right-of-way lines and corners, property lines and corners, buildings, fence lines, trees 4-inches in diameter and larger, edges of pavements and all other visible surface features to the project control baseline. Existing utility structures shall be located and referenced by utility name (i.e. T.X.U. Elec., Verizon Telephone, Atmos Gas, Etc.).
4. Vertical topographic information tying pavement, drives, walls, manholes (top and inverts), storm drain inlets (top and inverts), and other improvements as needed within the project areas for the design.
5. Provide roadway cross sections at a fifty-foot (50') interval relative to the project baseline. Cross sections are for project design review and quantity takeoffs and may not be a part of the final construction plan set.
6. When underground utilities are exposed, tie to project control baseline.
7. Identify the street address of all adjacent properties to the proposed construction and show on drawings.

D. Right-of-way and Easement Requirements –

1. Prepare a preliminary list of right-of-way parcels and easements necessary to construct the project (if any). Submit to the City of Plano as soon as possible and prior to the preliminary plan submittal.
2. Meet with the City of Plano Staff to determine easement and right-of-way requirements for preparation of field notes and exhibits.

E. Geotechnical Report –

1. Perform geotechnical investigation for proposed design in the project area. Submit one copy of geotechnical report to the City with the preliminary design plans.
2. The geotechnical report shall include, but not be limited to the following:

- A subsurface investigation consisting of soil and rock borings drilled to depth of 10 feet to observe general site conditions, explore the subsurface materials, obtain samples for laboratory analysis and observe short-term groundwater levels as encountered during the drilling of the borings.
- Laboratory testing on selected samples to classify soil and rock types and to determine the engineering properties of the subsurface materials.
- Soil classification based on laboratory tests, estimation of subgrade support characteristics and recommended subgrade stabilization using lime for a rigid pavement.

3. Utilize existing geotechnical data available from the City of Plano for improvements.
4. Show geotechnical boring locations on the plan view of the construction drawings and cross reference to the geotechnical report. Soil horizon and vertical bore information shall (shall not) be shown on the vertical profile view of the construction plans.

F. Preliminary Design –

1. Prepare preliminary construction plans. Prepare the following sheets at the engineering scale indicated:
   - Cover sheet.
   - Project layout control sheet(s). Scale 1"= 100'.
   - Quantity sheet.
   - Typical sections and detail sheets.
   - Construction phasing and temporary traffic control sheets, including temporary traffic signals. Scale 1"= 20'.
   - Paving plan & profile sheets for street improvements. Scale 1"= 20'.
   - Drainage area maps for street improvements. Scale 1"= 100'.
   - Storm drain improvement plan & profile sheets. Scale 1"= 20'.
   - SWPPP sheets meeting EPA and City of Plano requirements. Scale 1"= 40'.

   Information required can be combined on sheets if the information can be clearly shown and is approved by the City of Plano project manager.

3. Coordinate with affected utilities such as water, gas, telephone, cable TV and electric to obtain accurate information for the location of their facilities.
4. Prepare outline of any special technical specifications needed for the project (if any).
5. Prepare an estimate of construction quantities and develop the preliminary statement of probable construction cost.

6. Submit three sets of preliminary plans, outline of special technical specifications and preliminary statement of probable construction cost to the City for review.
    - □ Engineering
    - □ Public Works
    - □ Inspectors
    - □ Transportation

7. Meet with City of Plano staff to discuss City comments on preliminary plans, specifications and cost estimates.
8. Distribute the preliminary plans and proposed schedule for bidding and start of construction to local utility companies to obtain information regarding impacts to their facilities.

G. Final Design –

1. Revise preliminary plans incorporating comments from the City of Plano.
2. Incorporate comments from the utility companies.
3. Finalize construction plans for proposed improvements.
4. Finalize special technical specifications and special conditions (if any).
5. Incorporate standard details into the construction plans and prepare additional details as required.
6. Take off final construction quantities and prepare final construction cost estimates.
7. Submit three sets of pre-final plans, special technical specifications, draft bid schedule and final statement of probable construction cost to the City for review.
8. Incorporate City final comments into the plans and bid documents.
9. Submit three sets of final blue line prints, three bound copies of the bid documents and one unbound original bid document set to the City of Plano.
10. Attend a utility coordination meeting to start relocation process with affected franchise utilities. Distribute copy of final plans and proposed schedule for bid letting and construction to all affected franchise utilities.

H. Bid Phase Services –

1. Assist the City staff in advertising for bids.
2. Furnish plans and specifications for bidding. Cost for these to be recouped by non-refundable deposit from contractors. Maintain a list of plan holders.
3. Furnish plans and bid documents for up to four plan review rooms to be determined by the City. These documents are to be furnished at no cost to the plan review rooms.
4. Assist City staff in conducting a pre-bid conference, if required.
5. Prepare and distribute addenda to bid documents as necessary.
6. Assist City staff as required in bid opening. Submit list of plan holders to the City, 48-hours prior to the bid letting.

7. Submit a CD-ROM disk of the bid set plans in a PDF format.
8. Provide bid tabulation to the City of Plano within four working days of the bid letting.
9. Evaluate the low and second low bidders. Prepare letter of recommendation to the City of Plano for awarding a contract to the lowest responsible bidder within four working days of the bid letting.
10. Assist City staff in a pre-construction conference.
11. Furnish ten full size and 4 half size (11" x 17") sets of final construction plans and three sets of the contract documents manual to the City for construction.

I. Construction Administration –

1. Provide written responses to requests for information or clarifications.
2. Prepare construction "Record Drawings" based upon mark-ups and information provided by the construction contractor(s). Submit one blackline set to the City and a CD-ROM disk containing scanned images of the 24" x 36" final "as constructed" blackline drawings (with "record drawing stamps" bearing the signature of the Engineer and the date). The drawings shall be scanned 1 to 1 as Group 4 TIF files at a minimum resolution of 200 dots per inch and a maximum resolution of 400 dots per inch. The TIF files shall be legible and shall include any post processing that may be required to enhance image quality (e.g., de-speckling, de-shading, de-skewing, etc.). Each file shall be named in numeric order.

J. Construction Control Survey –

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

SPECIAL SERVICES:

Right-of-Way and Easement Surveying –

1. Prepare a metes and bounds description and an 8-1/2" x 11" exhibit for right-of-way on a per tract basis. Deliver three (3) reviewed and approved originals to the City.
2. Prepare a metes and bounds description and an 8-1/2" x 11" exhibit for temporary construction easements on a per tract basis. Deliver three (3) reviewed and approved originals to the City.
3. Prepare a metes and bounds description and an 8-1/2" x 11" exhibit for easements on a per tract basis. Deliver three (3) reviewed and approved originals to the City.
4. Prepared exhibits with the field notes first and drawings second.
5. Set new iron pins at all new corners, PC's and PT's of new right-of-way.

Box Culverts/ Retaining Wall Design – Consideration will be given to the aesthetics of the design as well as the function. Facades for box culverts on Morton Vale will be

specified to match existing treatments on similar structures on Los Rios. Should retaining walls be required for this project, Jones & Carter, Inc. can furnish the design on an hourly basis.

Floodplain Hydraulic Analysis and Permit(s) – The City of Plano has completed hydraulic analysis of the channel for installation of box culverts downstream of Morton Vale in conjunction with the construction of Los Rios. The proposed scope of work does not include floodplain or hydraulic analysis or federal or state permitting for the proposed Morton Vale culvert crossing. Jones & Carter, Inc. also understands that the City of Plano does not intend for channel improvements to extend upstream of the existing fence. Should floodplain, hydraulic analysis, or federal or state permitting be required, it can be furnished by Jones & Carter, Inc. as a special service.

Preliminary Design – *The design of all improvements shall be based on a preliminary design approved by the City of Plano project manager. Revisions to construction plans after City of Plano project manager approval of the preliminary design shall be performed on an hourly basis.*

EXHIBIT B

Activity	Duration (working days)
Notice to Proceed	0
Project Survey	20
Morton Vale Design Schematic	7
City Review of Morton Vale Design Schematic	15
Preliminary Design	35
City First Review	30
Final Design & Preparation of Special Conditions and Technical Specifications	15
City Second Review	30
Revise Final Plans & Specifications	5
City Final Review	30
Assemble Bid Documents	5
Advertise for Bids	15
Receive Bids	1
Research Bidder(s) and Prepare Recommendation	4
Prepare City Council Agenda	20
Council Award	0
Prepare & Execute Contract	30
Schedule Preconstruction Meeting	7
Notice to Proceed	10

A working day is defined as Monday through Friday, excluding City of Plano Holidays. Right-of-way or easement acquisitions are not included in the schedule and will be in addition to the above schedule.

Exhibit C
COMPENSATION AND METHOD OF PAYMENT
New Pavement
Hayfield Drive, Thunderbird Land and Morton Vale
Project Number 5733

Jones & Carter, Inc. (J&C), in consideration for the defined scope of services outlined in Exhibit A, has prepared the following schedule of professional fees for the project. Our fee includes complete surveying and civil engineering services to perform the scope described in Exhibit A.

Item	Description	*Proposed Fee*
Basic Services		
A.	Research Data Collection and Kick-off Meeting	$ 2,860
B.	Design Survey	$ 17,000
C.	Determine Right-of-way and Easement Requirements	$ 1,350
D.	Morton Vale Design Schematic	$ 3,908
E.	Preliminary Engineering Design	$ 50,207
F.	Final Engineering design	$ 37,000
G.	Bid Phase Services	$ 4,260
H.	Construction Phase Services	$ 1,865
I.	Record Drawings	$ 2,900
J.	Reimbursable Expenses	$ 1,200
	Total Basic Services Fee:	**$ 122,550**
Special Services		
1.	Right-of-way Documents (5 parcels)	$ 7,500
2.	Easement Documents (per tract)	$ 1,500
	Total Special Services:	**$ 9,000**
	Total Project Fee:	**$ 131,550**

Basic Services - We will perform the professional engineering and surveying services listed in Exhibit A for a fee not to exceed the amount shown above. Billings for Reimbursable expenses include outside services not performed by Jones & Carter, Inc. personnel. These outside services typically include, deed research, plan sheet reproduction, and deliveries. Charges for reimbursable expenses will be based on cost plus 10 percent.

Special Services – We will perform the special services outlined in Exhibit A for a fee not to exceed the amount shown above per parcel or tract and the work completed will be billed on an hourly rate basis in accordance with our attached current Schedule of Hourly Rates. Billings for work completed by our sub-consultant will be based on their invoiced amount plus 10 percent.

Notes:

1. Should there be any change required in the scope of services for this project, then a change to the total fee will be determined and submitted to the City for approval prior to performing any of the work required by the change in scope.

EXHIBIT "D"

ENGINEERING

INSURANCE

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

1. **General Insurance Requirements:**

1.1 The Engineer (hereinafter called "Engineer") shall not start work under this contract until the Engineer has obtained at his own expense all of the insurance called for here under and such insurance has been approved by the City. Approval of insurance required of the Engineer will be granted only after submission to the Purchasing Agent of original, signed certificates of insurance or, alternately, at the City's request, certified copies of the required insurance policies.

1.2 All insurance policies required hereunder shall be endorsed to include the following provision: "It is agreed that this policy is not subject to cancellation, non-renewal, material change, or reduction in coverage without first providing the Risk Manager, City of Plano, at least ten (10) days prior written notice."

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

1.3 No acceptance and/or approval of any insurance by the City shall be construed as relieving or excusing the Engineer from any liability or obligation imposed upon the provisions of the Contract.

1.4 The City of Plano (including its elected and appointed officials, agents, volunteers, and employees) is to be named as an additional insured under Engineer's General Liability Policy, and the certificate of insurance, or the certified policy, if requested, must so state. Coverage afforded under this paragraph shall be primary as respects the City, its elected and appointed officials, agents and employees.

1.4.1 The following definition of the term "City" applies to all policies issued under the contract:

The City Council of the City of Plano and any affiliated or subsidiary Board, Commission Authority, Committee, or Independent Agency (including those newly constituted), provided that such affiliated or subsidiary Board Commission, Authority, Committee, or Independent Agency is either a Body Politic created by the City Council of the City of Plano, or one in which controlling interest is vested in the City of Plano; and City of Plano Constitutional Officers.

1.5 The Engineer shall provide insurance as specified in the "Insurance Checklist" (Checklist) found on the last page of the bid or proposal form. Full limits of insurance required in the

Checklist of this agreement shall be available for claims arising out of this agreement with the City of Plano.

1.6 Engineer agrees to defend and indemnify the City of Plano, its officers, agents and employees as provided in Paragraph VII. of this contract.

1.7 Insurance coverage required in these specifications shall be in force throughout the Contract Term. Should the Engineer fail to provide acceptable evidence of current insurance within seven (7) days of written notice at any time during the Contract Term, the City shall have the absolute right to terminate the Contract without any further obligation to the Engineer, and the Engineer shall be liable to the City for the entire additional cost of procuring performance and the cost of performing the incomplete portion of the Contract at time of termination.

1.8 Written requests for consideration of alternate coverages must be received by the City Purchasing Manager at least ten (10) working days prior to the date set for receipt of bids or proposals. If the City denies the request for alternative coverages, the specified coverages will be required to be submitted.

1.9 All required insurance coverages must be acquired from insurers authorized to do business in the State of Texas and acceptable to the City. The City prefers that all insurers also have a policyholder's rating of "A-" or better, and a financial size of "Class VI" or better in the latest edition of A.M. Best, or A or better by Standard and Poors, unless the City grants specific approval for an exception.

1.10 Any deductibles shall be disclosed in the Checklist and all deductibles will be assumed by the Engineer. Engineer may be required to provide proof of financial ability to cover deductibles, or may be required to post a bond to cover deductibles.

2. <u>Engineer's Insurance - "Occurrence" Basis:</u>

2.1 The Engineer shall purchase the following insurance coverages, including the terms, provisions and limits shown in the Checklist.

2.1.1 Commercial General Liability - Such Commercial General Liability policy shall include any or all of the following as indicated on the Checklist:

i. General aggregate limit is to apply per project;

ii. Premises/Operations;

iii. Actions of Independent Contractors;

iv. Contractual Liability including protection for the Engineer from claims arising out of liability assumed under this contract;

v. Personal Injury Liability including coverage for offenses related to employment;

vi. Explosion, Collapse, or Underground (XCU) hazards; if applicable. This coverage required for any and all work involving drilling, excavation, etc.

2.1.2 Business Automobile Liability including coverage for any owned, hired, or non-owned motor vehicles and automobile contractual liability.

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

2.2 Professional Errors and Omissions

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

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

ENGINEERING

City of Plano - Insurance Checklist

("X" means the coverage is required.)

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

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

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

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

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

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

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

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

_X_ 25. Other Insurance Required:

INSURANCE AGENT'S STATEMENT

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

_X_ 26. The above policy(s) carry the following deductibles:_____

Full limits of coverage available for:
General Liability_____ Professional Liability _____
Automobile Liability_____

_X_ 27. Liability policies are (indicate):

OCCURRENCE [ ] CLAIMS MADE [ ]

_____ _____
Signature Date

_____
Insurance Agent (Print)

_____
Name of Insured

_____
Date

9-22

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

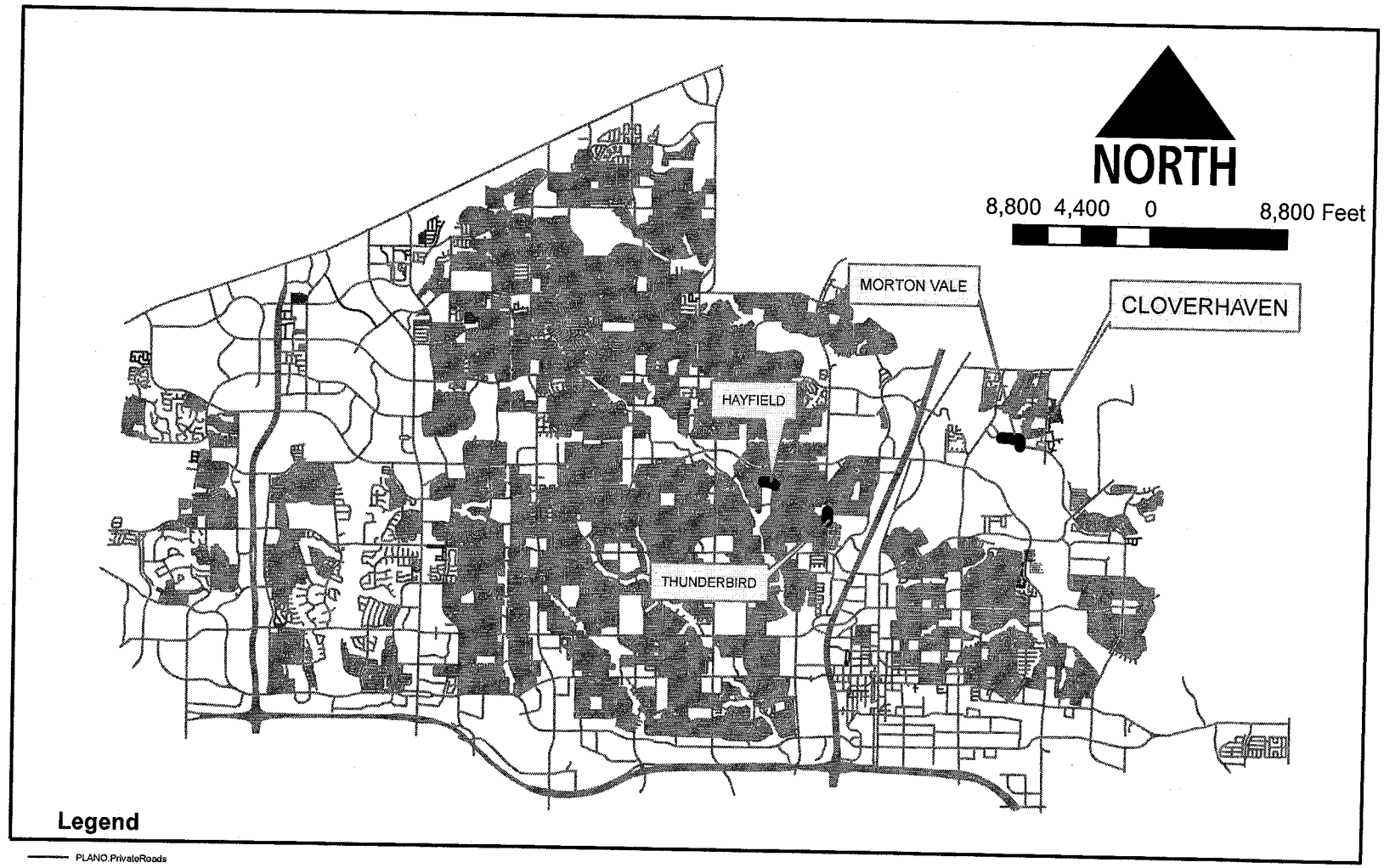
_____
Date

STATE OF TEXAS §
§
COUNTY OF _____ §

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

_____
Notary Public, State of Texas

2006-2007 CIP PROGRAM



8-24

CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	☒ Yes	☐ Not Applicable
☐ Consent ☐ Regular ☐ Statutory		Reviewed by Budget	☒ Yes	☐ Not Applicable
Council Meeting Date:	10/23/06	Reviewed by Legal	☒ Yes	☐ Not Applicable
Department:	Engineering		Initials	Date
Department Head	Alan L. Upchurch	Executive Director		10/16/06
Dept Signature:		City Manager		10/16/06
Agenda Coordinator (include phone #):	Pegues (7198)		(Project No. 5734)	

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

CAPTION

Approval of an Engineering contract by and between the City and Jaster-Quintanilla Dallas, LLP in the amount of $60,555 for design of construction plans and related services for the construction of Headquarters Drive - Parkwood Boulevard to Preston Road and authorizing the City Manager or his designee to execute all necessary documents.

FINANCIAL SUMMARY

☐ NOT APPLICABLE ☐ OPERATING EXPENSE ☐ REVENUE ☒ CIP

FISCAL YEAR: 2006-07	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	100,000	900,000	**1,000,000**
Encumbered/Expended Amount	0	0	0	**0**
This Item	0	-60,555	0	**-60,555**
BALANCE	0	39,445	900,000	**939,445**

FUND(S): STREET IMPROVEMENT CIP

COMMENTS: Funds are included in the 2006-07 Street Improvement CIP. This item, in the amount of $60,555, will leave a current year balance of $39,445 for the Headquarters – Parkwood to Preston project.

STRATEGIC PLAN GOAL: Engineering design for street construction relates to the City's Goal of Safe, Efficient Travel.

SUMMARY OF ITEM

This agreement with Jaster-Quintanilla Dallas, LLP is for engineering design for Headquarters Drive from Parkwood Boulevard to Preston Road to include preliminary design, construction plans and specification, bid phase assistance, and construction phase services for the widening of the road to six lanes. Included in the plans will be demolition, new paving on the inside, road markings and signage, street lighting, traffic control, SWPPP, and miscellaneous construction.

Design Survey	$ 12,000.00
Aerial Photogrammetry	$ 8,500.00
Preliminary Design	$ 11,120.00
Final Design	$ 16,680.00
Bid Phase Services	$ 1,835.00
Printing and other reimbursables	$ 3,000.00
Construction Phase Services (including control staking)	$ 7,420.00
TOTAL	$ 60,555.00

h-1

CITY OF PLANO
COUNCIL AGENDA ITEM

Funding is available from the 2006-07 Street Improvement Community Investment Program. Staff feels the fee is reasonable for this project estimated to cost $842.000.

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
Engineering Services Agreement Location Map	N/A

h-2

1023JASTER (VH/sr)

REV 08/98

HEADQUARTERS DRIVE
PARKWOOD BOULEVARD TO PRESTON ROAD (SH 289)

PROJECT NO. 5734

ENGINEERING SERVICES AGREEMENT

THIS AGREEMENT is made and entered by and between the **CITY OF PLANO, TEXAS**, a Home-Rule Municipal Corporation, hereinafter referred to as "City", and **JASTER-QUINTANILLA DALLAS, LLP**, a **TEXAS** Limited Liability Partnership, hereinafter referred to as "Engineer", to be effective from and after the date as provided herein.

W I T N E S S E T H:

WHEREAS, the City desires to engage the services of the Engineer to prepare construction plans, specifications, details and special provisions and to perform other related engineering services in connection with the **HEADQUARTERS DRIVE – PARKWOOD BOULEVARD TO PRESTON ROAD (SH 289)** project located in the City of Plano, Collin County, Texas, hereinafter referred to as the "Project"; and

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

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

I. Employment of the Engineer

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

II. Scope of Services

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

III. Schedule of Work

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

IV. Compensation and Method of Payment

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

V. Information to be Provided by the City

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

VI. Insurance

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

VII. Indemnity

Engineer shall release, defend, indemnify and hold City and its officers, agents and employees harmless from and against all damages, injuries (including death), claims, property damages (including loss of use), losses, demands, suits, judgments and costs, including reasonable attorney's fees and expenses, in any way arising out of, related to, or resulting from the services provided by Engineer and to the extent caused by the negligent act or omission or intentional wrongful act or omission of Engineer, its officers, agents, employees, subcontractors, licensees, invitees or any other third parties for whom Engineer is legally responsible (hereinafter "Claims"). Engineer is expressly required to defend City against all such Claims.

In its sole discretion, City shall have the right to approve defense counsel to be retained by Engineer in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. City reserves the right to provide a portion or all of its own defense; however, City is under no obligation to do so. Any such action by City is not to be construed as a waiver of Engineer's obligation to

defend City or as a waiver of Engineer's obligation to indemnify City pursuant to this Agreement. Engineer shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Agreement. If Engineer fails to retain counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Engineer shall be liable for all costs incurred by City.

VIII. Independent Contractor

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

IX. Assignment and Subletting

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

X. Audits and Records/Prohibited Interest

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

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

XI. Contract Termination

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

XII. Engineer's Opinion of Probable Construction Costs

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

XIII. Ownership of Documents

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

XIV. Complete Contract

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

h-6

XV. Mailing of Notices

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

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

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

Jaster-Quintanilla Dallas, LLP
2105 Commerce Street, Suite 300
Dallas, Texas 75201
Attn: Thomas V. Barone, P.E., R.P.L.S.
Manager-Civil Engineering

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.

h-7

D. Successors and Assigns:

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

E. Severability:

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

F. Effective Date:

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

SIGNED on the date indicated below.

JASTER-QUINTANILLA DALLAS, LLP
A Texas Limited Liability Partnership

DATE: _____

BY: _____
Gary Jaster, PARTNER

CITY OF PLANO, TEXAS

DATE: _____

BY: _____
Thomas H. Muehlenbeck
CITY MANAGER

APPROVED AS TO FORM:

Diane C. Wetherbee
Diane C. Wetherbee
CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS §
§
COUNTY OF DALLAS §

This instrument was acknowledged before me on the _____ day of _____, 2006, by **GARY JASTER, Partner** of **Jaster-Quintanilla Dallas, LLP,** a **TEXAS** Limited Liability Partnership, on behalf of said Limited Liability Partnership.

_____
Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2006, by **THOMAS H. MUEHLENBECK, City Manager,** of the **City of Plano, Texas,** a Home-Rule Municipal Corporation, on behalf of said municipal corporation.

_____
Notary Public, State of Texas

h-9

EXHIBIT A

SCOPE OF SERVICES

HEADQUARTERS DRIVE
FROM PARKWOOD BLVD
TO PRESTON ROAD (S.H. 289)
PROJECT NO. 5734
CIP NUMBER 33-31373-8321

PROJECT DESCRIPTION:

Increased traffic demand requires that the existing portion of Headquarters Drive be expanded from two lanes to three lanes from Parkwood Blvd to Preston Road (S.H. 289). The total length of the project is approximately 4,110 linear feet. The services to be provided for this project include preliminary design, development of construction plans and specifications, bid phase assistance and construction phase services.

BASIC SERVICES:

All work will be performed within the existing right-of-way. Plans will be prepared using information obtained from aerial topography, digitally formatted to produce 1"=20' scale construction documents. The base mapping will be tied horizontally to the existing pavement. No vertical control will be required. The project includes the following:

- The removal and disposal of a portion of the existing median curb-and-gutter.
- The addition of concrete pavement with integral curb.
- Re-striping the existing roadway.
- Street lighting plan.
- Additionally, traffic control and SWPPP measures will need to be considered. Except for the possible modification of the top of existing irrigation controllers and water meters, water valves and manholes, no utility construction is anticipated.

A. Research and Data Collection

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

3. The base bid will include lime stabilized subgrade; the alternate bid will require two inches of additional concrete pavement in lieu of the lime.

B. Design Survey

1. Establish a horizontal control network and project control baseline for the project areas. The network and baseline are to be tied into the existing pavement constructed in or around 2001.
2. Set new iron pins at all PC's and PT's of existing median centerline.
3. Provide roadway cross sections at a fifty-foot (50') interval relative to existing pavement. Cross sections will be based upon existing record drawings and are for project design review and quantity takeoffs only and will not be a part of the final construction plan set.
4. Identify the street address or addition name of all adjacent properties to the proposed construction and show on drawings.

C. Preliminary Design

1. Prepare preliminary construction plans. Prepare the following sheets at the engineering scale indicated:
   - Cover sheet.
   - Project layout control sheet(s). Scale 1"= 100'.
   - Quantity sheet.
   - Typical sections and detail sheets.
   - Construction phasing and temporary traffic control sheets, including temporary traffic signals. Scale 1"= 40'.
   - Paving plan sheets for street improvements. Scale 1"= 20'.
   - Paving plan sheets for street illumination plan. Plans will show the location of illumination bases, type of illumination pole (single or double mast arm pole, location of 2" conduit, and location of electrical service drops. The city will coordinate with TXU electric on service drop locations and provide to Engineer. Lights will be place on a minimum of 200 foot centers.
   - Temporary traffic control sheet (Typical Detail design provided by City).
   - SWPPP sheets meeting EPA and City of Plano requirements. Scale 1"= 50'.
   - City of Plano CIP projects SWPPP operator requirements for sites 1 to 5 acres.

   Information required can be combined on sheets if the information can be clearly shown and is approved by the City of Plano project manager.
2. Coordinate with affected utilities such as water, gas, telephone, cable TV and electric to obtain accurate information for the location of their facilities. Submit copies of correspondence to the City for its records.

3. Prepare outline of any special technical specifications needed for the project (if any).
4. Prepare an estimate of construction quantities and develop the preliminary statement of probable construction cost.
5. Submit three sets of preliminary plans, outline of special technical specifications and preliminary statement of probable construction cost to the City for review.
6. Meet with City of Plano staff to discuss City comments on preliminary plans, specifications and cost estimates.
7. Distribute twelve (12) sets of the preliminary plans and proposed schedule for bidding and start of construction to local utility companies to obtain information regarding impacts to their facilities.

D. Final Design

1. Revise preliminary plans incorporating comments from the City of Plano.
2. Incorporate comments from the utility companies.
3. Finalize construction plans for proposed improvements.
4. Finalize special technical specifications and special conditions (if any).
5. Incorporate standard details into the construction plans and prepare additional details as required.
6. Take off final construction quantities and prepare final construction cost estimates.
7. Submit one set of pre-final plans, special technical specifications, draft bid schedule and final statement of probable construction cost to the City for review.
8. Incorporate City final comments into the plans and bid documents.
9. Submit three sets of final blue line prints, three bound copies of the bid documents and one unbound original bid document set to the City of Plano.
10. Attend a utility coordination meeting to start relocation process with affected franchise utilities. Distribute copy of final plans and proposed schedule for bid letting and construction to all affected franchise utilities.

E. Bid Phase Services

1. Assist the City staff in advertising for bids.
2. Furnish plans and specifications for bidding. Cost for these to be recouped by non-refundable deposit from contractors. Maintain a list of plan holders.
3. Furnish plans and bid documents for up to four plan review rooms to be determined by the City. These documents are to be furnished at no cost to the plan review rooms.
4. Assist City staff in conducting a pre-bid conference, if required.

5. Prepare and distribute addenda to bid documents as necessary.
6. Assist City staff as required in bid opening. Submit list of plan holders to the City, 48-hours prior to the bid letting.
7. Provide bid tabulation to the City of Plano within four working days of the bid letting.
8. Evaluate the low and second low bidders. Prepare letter of recommendation to the City of Plano for awarding a contract to the lowest responsible bidder within four working days of the bid letting.

F. Construction Administration

1. Assist City staff in a pre-construction conference.
2. Furnish thirteen sets of final construction plans and three sets of the contract documents manual to the City for construction.
3. Provide periodic site visits by the design engineer with a written inspection report submitted to the City for each visit.
4. Provide written responses to requests for information or clarifications.
5. Prepare and process change orders in accordance with City of Plano format.
6. Assist the City staff in conducting the final inspection.
7. Recommend final acceptance of work when acceptable.
8. Prepare construction "Record Drawings" based upon mark-ups and information provided by the construction contractor(s). Submit one blackline set to the City and a CD-ROM disk containing scanned images of the 24" x 36" final "as constructed" blackline drawings (with "record drawing stamps" bearing the signature of the Engineer and the date). The drawings shall be scanned 1 to 1 as Group 4 TIF files at a minimum resolution of 200 dots per inch and a maximum resolution of 400 dots per inch. The TIF files shall be legible and shall include any post processing that may be required to enhance image quality (e.g., de-speckling, de-shading, de-skewing, etc.). Each file shall be named in numeric order.

G. Construction Control Survey

1. Set horizontal control stakes for construction at 500' intervals, or a minimum of one at each PC and PT.

EXCLUDED SERVICES

The intent of the scope of services is to include only the services specifically listed above and none others. Services specifically excluded from this Scope of Services include, but are not necessarily limited to, the following:

- Preparation of Geotechnical Report.
- Right-of-way and easement surveying.

- Title searches.
- Bridge Design.
- Computer modeling and routing of wastewater flows.
- Floodplain hydraulic analysis and permitting.
- Environmental impact statements or assessments.
- Fees for permits and advertising.
- Traffic engineering report or studies.
- Pavement thickness design or serviceability evaluation. JQD will prepare the pavement design to comply with City of Plano standard street pavement sections and details.
- Floodplain reclamation plans.
- Full time inspection during construction.
- Designs for trench safety.
- Structures, retaining walls, etc., not included in this Proposal.
- Revisions to plans as a result of revisions after completion of original final design (unless to correct error on plans).
- Consulting services by others not included in this Proposal.
- Quality control and testing services during construction.
- Prints furnished after acceptance of the required thirteen (13) sets for construction in accordance with this Agreement.
- Monthly coordination meetings with contractors, inspection personnel and City representatives.
- Public meetings.
- Roadway signs (to be provided by the City of Plano).
- Traffic signal design.
- Environmental Services, including but not limited to the following:
  - Threatened and endangers species surveys.
  - Wetland delineation and survey.
  - USACE Individual Permit application and coordination.
  - Preliminary mitigation and monitoring plans.
- Prepare to serve or serve as an expert witness on behalf of the City of Plano in connection with any public hearings or legal proceedings.
- Perform additional subsurface excavation in the event such excavation is required to locate existing facilities and/or utilities.
- Design and construction drawings for any upgrades, extensions, relocations or other modifications of both on-site and off-site utilities, such as water, wastewater, storm, gas, telephone or electric utility services, other than replacement of some existing curb inlets.
- Landscape and irrigation design.
- Additional site visits beyond the number specified above.
- Additional meetings beyond the number specified above.
- Progress and/or coordination sets beyond the number specified above.
- Field reconnaissance to ascertain as-built conditions. As-built drawings will be prepared solely on the basis of the record drawing set prepared and maintained by the contractor during construction.

- Review monthly requests for payment from the Contractor and prepare a recommendation for action by the City of Plano.
- Review the Contractor's monthly progress reports and provide review comments to the City of Plano.

EXHIBIT "B"

COMPLETION SCHEDULE

HEADQUARTERS DRIVE
FROM PARKWAY DRIVE
TO PRESTON ROAD (S.H. 289)
PROJECT NO. 5734
CIP NUMBER 33-31373-8321

Notice to Proceed	November 1, 2006
Preliminary Meeting w/City	November 6, 2006
Begin Field Surveys	November 13, 2006
Aerial Flight	November 27, 2006
Submit Preliminary Plans to City for Review	January 15, 2007
Receive Review Comments from City	February 12, 2003
Complete Final Plans	March 16, 2003
Advertise Project	April 2007
Receive Bids	May 2007
Award Contract	May 2007
Notice to Proceed	June 2007
Construction	June – September 2007

EXHIBIT C to Agreement Between the City of Plano, Texas (CITY) and Jaster- Quintanilla Dallas, LLP (ENGINEER) for Professional Services.

COMPENSATION AND METHOD OF PAYMENT

For all professional engineering services included in EXHIBIT "A", Scope of Services, the CITY agrees to pay the ENGINEER on a reimbursable basis. The total amount of the Contract shall not be exceeded without a modification to this agreement; however, any task may be exceeded as long as the PROJECT total is not exceeded. We recommend that the CITY budget the following:

Basic Services	
Design Survey	**$ 12,000.00**
Aerial Photogrammetry	**$ 8,500.00**
Preliminary Design	**$ 11,120.00**
Final Design	**$ 16,680.00**
Bid Phase Services	**$ 1,835.00**
Printing	**$ 3,000.00**
Construction Phase Services	**$ 7,420.00**
Total Not To Exceed	**$ 60,555.00**
Special Services	
Geotechnical Report (Not in Contract)	**$ 0.00**
Right of Way / Easement Metes & Bounds, Exhibit, Surveying, Deed Research (Not in Contract)	**$ 0.00**
Total Special Services	**$ 0.00**

The CITY shall compensate the ENGINEER for the various items listed above on a reimbursable basis, where the total contract amount may not be exceeded without an amendment, task budget may be exceeded with any notification of the CITY.

Monthly statements for reimbursable services will be based upon time directly chargeable to the project by the various types of individuals employed by the ENGINEER in accordance with the rate schedule in effect at the time of the services. ENGINEER may revise the rate schedule on January 1 of each year. The current rate schedule is attached.

Monthly statements for reimbursable services performed by sub consultants will be based upon the actual cost to the ENGINEER plus fifteen percent (15%).

Direct reimbursable expenses for services such as express mail, fees, out-of town mileage (trips in excess of 100 miles) and other direct expenses that are incurred during the progress of the project will be billed at 1.15 times the ENGINEER'S cost.

h-17

An amount equal to six percent (6%) of the ENGINEER'S labor fee will be added to each invoice to cover certain other direct expenses such as in-house duplicating and blueprinting, facsimile, local mileage, telephone, postage, and word processing computer time.

END OF EXHIBIT C

h-18

EXHIBIT "D"

ENGINEERING

INSURANCE

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

1. General Insurance Requirements:

1.1 The Engineer (hereinafter called "Engineer") shall not start work under this contract until the Engineer has obtained at his own expense all of the insurance called for here under and such insurance has been approved by the City. Approval of insurance required of the Engineer will be granted only after submission to the Purchasing Agent of original, signed certificates of insurance or, alternately, at the City's request, certified copies of the required insurance policies.

1.2 All insurance policies required hereunder shall be endorsed to include the following provision: "It is agreed that this policy is not subject to cancellation, non-renewal, material change, or reduction in coverage without first providing the Risk Manager, City of Plano, at least ten (10) days prior written notice."

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

1.3 No acceptance and/or approval of any insurance by the City shall be construed as relieving or excusing the Engineer from any liability or obligation imposed upon the provisions of the Contract.

1.4 The City of Plano (including its elected and appointed officials, agents, volunteers, and employees) is to be named as an additional insured under Engineer's General Liability Policy, and the certificate of insurance, or the certified policy, if requested, must so state. Coverage afforded under this paragraph shall be primary as respects the City, its elected and appointed officials, agents and employees.

1.4.1 The following definition of the term "City" applies to all policies issued under the contract:

The City Council of the City of Plano and any affiliated or subsidiary Board, Commission Authority, Committee, or Independent Agency (including those newly constituted), provided that such affiliated or subsidiary Board Commission, Authority, Committee, or Independent Agency is either a Body Politic created by the City Council of the City of Plano, or one in which controlling interest is vested in the City of Plano; and City of Plano Constitutional Officers.

1.5 The Engineer shall provide insurance as specified in the "Insurance Checklist" (Checklist) found on the last page of the bid or proposal form. Full limits of insurance required in the

Checklist of this agreement shall be available for claims arising out of this agreement with the City of Plano.

1.6 Engineer agrees to defend and indemnify the City of Plano, its officers, agents and employees as provided in Paragraph VII. of this contract.

1.7 Insurance coverage required in these specifications shall be in force throughout the Contract Term. Should the Engineer fail to provide acceptable evidence of current insurance within seven (7) days of written notice at any time during the Contract Term, the City shall have the absolute right to terminate the Contract without any further obligation to the Engineer, and the Engineer shall be liable to the City for the entire additional cost of procuring performance and the cost of performing the incomplete portion of the Contract at time of termination.

1.8 Written requests for consideration of alternate coverages must be received by the City Purchasing Manager at least ten (10) working days prior to the date set for receipt of bids or proposals. If the City denies the request for alternative coverages, the specified coverages will be required to be submitted.

1.9 All required insurance coverages must be acquired from insurers authorized to do business in the State of Texas and acceptable to the City. The City prefers that all insurers also have a policyholder's rating of "A-" or better, and a financial size of "Class VI" or better in the latest edition of A.M. Best, or A or better by Standard and Poors, unless the City grants specific approval for an exception.

1.10 Any deductibles shall be disclosed in the Checklist and all deductibles will be assumed by the Engineer. Engineer may be required to provide proof of financial ability to cover deductibles, or may be required to post a bond to cover deductibles.

2. <u>Engineer's Insurance - "Occurrence" Basis:</u>

2.1 The Engineer shall purchase the following insurance coverages, including the terms, provisions and limits shown in the Checklist.

2.1.1 Commercial General Liability - Such Commercial General Liability policy shall include any or all of the following as indicated on the Checklist:

i. General aggregate limit is to apply per project;

ii. Premises/Operations;

iii. Actions of Independent Contractors;

iv. Contractual Liability including protection for the Engineer from claims arising out of liability assumed under this contract;

v. Personal Injury Liability including coverage for offenses related to employment;

vi. Explosion, Collapse, or Underground (XCU) hazards; if applicable. This coverage required for any and all work involving drilling, excavation, etc.

h-20

2.1.2 Business Automobile Liability including coverage for any owned, hired, or non-owned motor vehicles and automobile contractual liability.

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

2.2 Professional Errors and Omissions

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

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

A-21

ENGINEERING

City of Plano - Insurance Checklist

("X" means the coverage is required.)

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

h-22

___ 18. Garagekeepers' Legal

$_____- Comprehensive
$_____- Collision

___ 19. Owners Protective Liability

$500,000 Combined single limits

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

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

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

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

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

_X_ 25. Other Insurance Required:

INSURANCE AGENT'S STATEMENT

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

_X_ 26. The above policy(s) carry the following deductibles:_____

Full limits of coverage available for:
General Liability_____ Professional Liability _____
Automobile Liability_____

_X_ 27. Liability policies are (indicate):

OCCURRENCE [ ] CLAIMS MADE [ ]

_____
Signature

_____
Date

_____
Insurance Agent (Print)

_____
Name of Insured

_____
Date

h-23

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

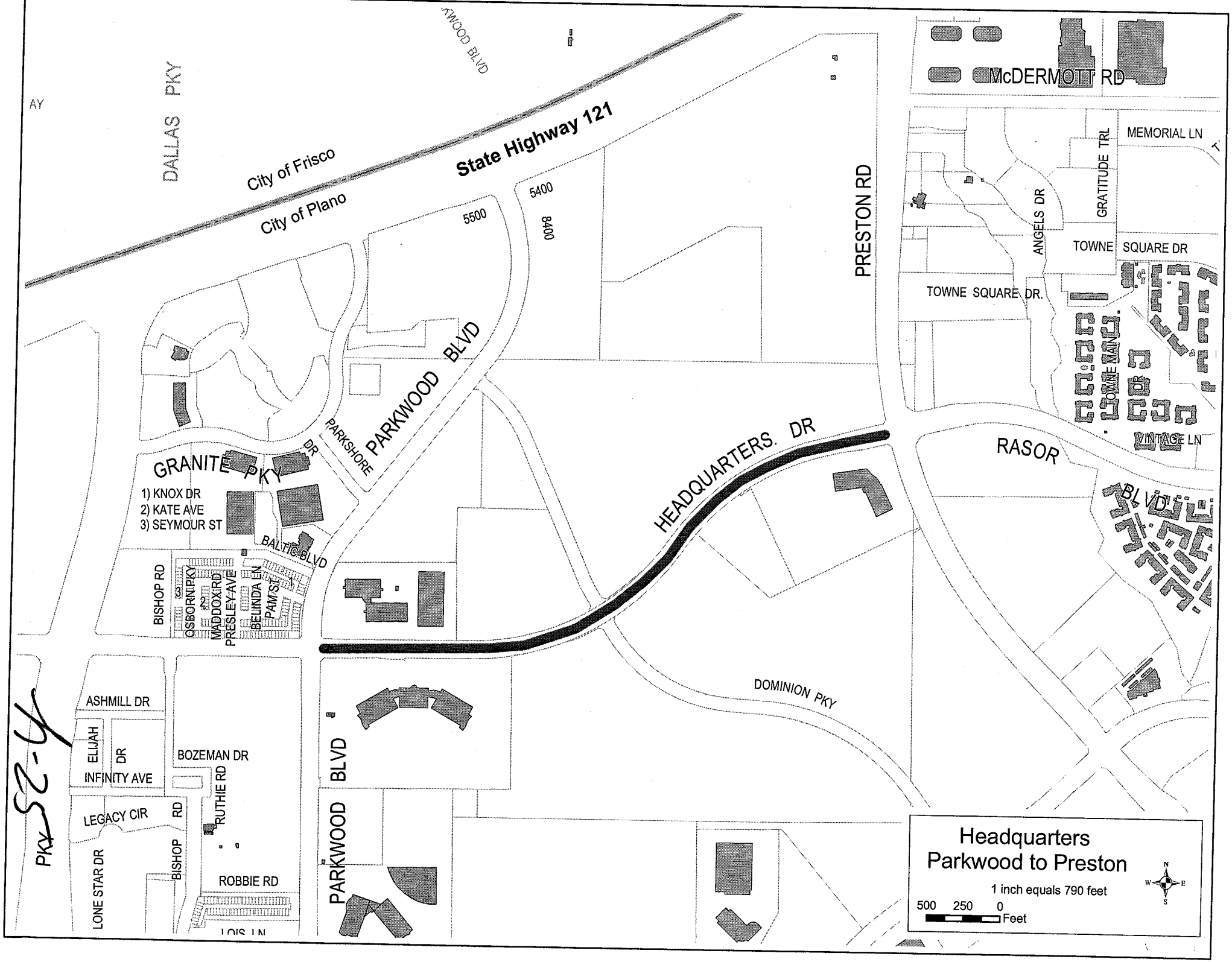
_____
Date

STATE OF TEXAS §
§
COUNTY OF _____ §

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

_____
Notary Public, State of Texas

h-24


Headquarters
Parkwood to Preston
1 inch equals 790 feet
500 250 0
Feet
N
W
E
S
State Highway 121
City of Frisco
City of Plano
DALLAS PKY
PRESTON RD
McDERMOTT RD
MEMORIAL LN
GRATITUDE TRL
ANGELS DR
TOWNE SQUARE DR
TOWNE SQUARE DR.
TOWNE MAN DR
VINTAGE LN
RASOR BLVD
HEADQUARTERS. DR
DOMINION PKY
PARKWOOD BLVD
PARKSHORE DR
GRANITE PKY
1) KNOX DR
2) KATE AVE
3) SEYMOUR ST
BALTIC BLVD
BISHOP RD
OSBORN PKY
MADDOX RD
PRESLEY AVE
BELINDA LN
PAM ST
ASHMILL DR
ELIJAH DR
INFINITY AVE
BOZEMAN DR
RUTHIE RD
LEGACY CIR
BISHOP RD
LONE STAR DR
ROBBIE RD
LOIS LN
5500
5400
8400

4-25

CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	☒ Yes	☐ Not Applicable
☐ Consent ☐ Regular ☐ Statutory		Reviewed by Budget	☒ Yes	☐ Not Applicable
Council Meeting Date:	10/23/06	Reviewed by Legal WS	☒ Yes	☐ Not Applicable
Department:	Engineering		Initials	Date
Department Head	Alan L. Upchurch	Executive Director		10/16/06
Dept Signature:	Alan L Upchurch	City Manager		10/16/06
Agenda Coordinator (include phone #):	Pegues (7198)		(Project No. 5742)	

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

CAPTION

Approval of contract to approve the terms and conditions of an engineering services contract by and between the City and Alan Plummer Associates, Inc. in the amount of $104,555 for design of Alma Drive and Parker Road Drainage Improvements and authorizing the City Manager or his designee to execute all necessary documents.

FINANCIAL SUMMARY

☐ NOT APPLICABLE ☐ OPERATING EXPENSE ☐ REVENUE ☒ CIP

FISCAL YEAR: 2006-07	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	425	571,575	500,000	**1,072,000**
Encumbered/Expended Amount	-425	0	0	**-425**
This Item	0	-104,555	0	**-104,555**
BALANCE	0	467,020	500,000	**967,020**

FUND(S): **MUNICIPAL DRAINAGE CIP**

COMMENTS: Funds are included in the 2006-07 Municipal Drainage CIP. This item, in the amount of $104,555, will leave a current year balance of $467,020 for the Miscellaneous Drainage Improvements project.

STRATEGIC PLAN GOAL: Engineering design for drainage improvements relate to the City's Goal of Livable Neighborhoods and Urban Centers.

SUMMARY OF ITEM

This agreement with Alan Plummer Associates, Inc. for engineering design of Alma Drive and Parker Road Drainage Improvements will provide for drainage improvements from the Alma Drive and Parker Road intersection downstream to the system outfall into Spring Creek. A route evaluation study will be performed to determine the most feasible route before detailed engineering is undertaken. One possible route would be along the south side of Parker Road from Alma Drive west to outfall into Spring Creek. Other possible routes could involve Alma Drive and/or the local neighborhood streets in the area southwest of the Alma Drive and Parker Road intersection.

The contract fee is for $104,555 and is detailed as follows:

Route Evaluation	$ 10,540
Drainage Study	$ 15,530
Design Survey	$ 10,787
Geotechnical Services/Report	$ 8,050
Preliminary Plans	$ 19,000
Final Plans	$ 20,740

i-1

CITY OF PLANO
COUNCIL AGENDA ITEM

Bid Phase Services	$ 3,280
Construction Phase Services	$ 8,140
Construction Control Survey	$ 1,150
Reimbursable	$ 6,188
TOTAL BASIC SERVICES	$103,405
Special Services (Right of Way/Easement Services)	$ 1,150
TOTAL FEE ALL SERVICES	$104,555

Funding is available from the Municipal Drainage Community Investment Program. Staff feels the fee is reasonable for this project estimated to cost $827,000.

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
Engineering Services Agreement Location Map	N/A

i-2

ALMA DRIVE AND PARKER ROAD DRAINAGE IMPROVEMENTS

PROJECT NO. 5742

ENGINEERING SERVICES AGREEMENT

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

W I T N E S S E T H:

WHEREAS, the City desires to engage the services of the Engineer to prepare construction plans, specifications, details and special provisions and to perform other related engineering services in connection with the **ALMA DRIVE AND PARKER ROAD DRAINAGE IMPROVEMENTS** project located in the City of Plano, Collin County, Texas, hereinafter referred to as the "Project"; and

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

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

I. Employment of the Engineer

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

II. Scope of Services

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

III. Schedule of Work

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

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

IV. Compensation and Method of Payment

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

V. Information to be Provided by the City

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

VI. Insurance

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

VII. Indemnity

Engineer shall release, defend, indemnify and hold City and its officers, agents and employees harmless from and against all damages, injuries (including death), claims, property damages (including loss of use), losses, demands, suits, judgments and costs, including reasonable attorney's fees and expenses, in any way arising out of, related to, or resulting from the services provided by Engineer and to the extent caused by the negligent act or omission or intentional wrongful act or omission of Engineer, its officers, agents, employees, subcontractors, licensees, invitees or any other third parties for whom Engineer is legally responsible (hereinafter "Claims"). Engineer is expressly required to defend City against all such Claims.

In its sole discretion, City shall have the right to approve defense counsel to be retained by Engineer in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. City reserves the right to provide a portion or all of its own defense; however, City is under no obligation to do so. Any such action by City is not to be construed as a waiver of Engineer's obligation to defend City or as a waiver of Engineer's obligation to indemnify City pursuant to this Agreement. Engineer shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Agreement. If Engineer fails to retain counsel within such time period, City

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

VIII. Independent Contractor

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

IX. Assignment and Subletting

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

X. Audits and Records/Prohibited Interest

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

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

XI. Contract Termination

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

XII. Engineer's Opinion of Probable Construction Costs

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

XIII. Ownership of Documents

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

XIV. Complete Contract

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

XV. Mailing of Notices

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

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

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

Cletus R. Martin, P.E., Associate
Alan Plummer Associates, Inc.
1320 S. University Drive #300
Fort Worth TX 76107-5764

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

XVI. Miscellaneous

A. Paragraph Headings:

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

B. Contract Interpretation:

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

C. Venue/Governing Law:

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

D. Successors and Assigns:

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

E. Severability:

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

F. Effective Date:

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

SIGNED on the date indicated below.

ALAN PLUMMER ASSOCIATES, INC.
A Texas Corporation

DATE: _____ BY: _____
Alan R. Tucker, PRESIDENT

CITY OF PLANO, TEXAS

DATE: _____ BY: _____
Thomas H. Muehlenbeck
CITY MANAGER

APPROVED AS TO FORM:

Diane C. Wetherbee
Diane C. Wetherbee
CITY ATTORNEY

1-8

ACKNOWLEDGMENTS

STATE OF TEXAS §
§
COUNTY OF TARRANT §

This instrument was acknowledged before me on the _____ day of _____, 2____, by **ALAN R. TUCKER, PRESIDENT,** of **ALAN PLUMMER ASSOCIATES, INC.**, a **TEXAS** corporation, on behalf of said corporation.

_____
Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2_____, by **THOMAS H. MUEHLENBECK, City Manager,** of the **City of Plano**, **Texas,** a Home-Rule Municipal Corporation, on behalf of said municipal corporation.

_____
Notary Public, State of Texas

EXHIBIT A
SCOPE OF SERVICES

ALMA DRIVE AND PARKER ROAD DRAINAGE IMPROVEMENTS
PROJECT NUMBER 5742

PROJECT DESCRIPTION:
Provide a drainage study including drainage area analysis, hydraulic evaluation of the existing storm drainage system, site surveying, design and plan preparation services in accordance with the City of Plano Storm Drainage Design Manual for the following:

A. Installation of a relief storm drain system to work with the existing 60" storm drain, which currently runs from the intersection of Alma at Parker, south down Alma and west along existing alleys to discharge into Spring Creek (the creek) between Ursula Court and Wimbledon Lane.

B. Provide a Route Evaluation Study to determine the most feasible route for the new line before beginning detailed engineering survey and design work. Possible routes to be evaluated would include:
   - (1) From the Parker/Alma intersection west along Parker to discharge into Spring Creek south of the existing Parker Road bridge over Spring Creek.
   - (1a) From the Parker /Alma intersection west along Parker, then south in Garner to discharge into Spring Creek opposite Ursula Court.
   - (1b) From the Parker/Alma intersection west along Parker then south in the alley east of Garner to Ursula, then west in Ursula across Garner to discharge into Spring Creek opposite Ursula.
   - (2) From the Parker/Alma intersection south along Alma, then west along Wimbledon and under Garner to discharge into Spring Creek opposite Wimbledon.
   - (2a) From the Parker/Alma intersection south along Alma, then west along the alley north of Wimbledon to Wimbledon, then west along Wimbledon and under Garner to discharge into Spring Creek opposite Wimbledon.

C. Once the route has been selected from the Route Evaluation Study in (B.) above, provide a drainage study including drainage area analysis, hydraulic evaluation of the existing storm drainage system, site surveying, design and plan preparation services in accordance with the City of Plano Storm Drainage Design Manual. Analysis should include the entire drainage area and existing drainage system contributing to the line to be relieved as defined in (A.) above.

D. A preliminary report by O'Brien Engineering, Inc. (Alma Drive Drainage Evaluation) has indicated that the existing drainage system described in (A.)

i-10

above is undersized. This report shall be used as a guide in preparing the plans. However, the drainage areas, system analysis and calculations from that report shall be checked as part of this contract to verify their accuracy.

E. The O'Brien Engineering report also indicates the need for two (2) additional inlets on the east side of Alma south of Lombardy. Unless determined to be unnecessary as a result of the detailed analysis, these should be included in the project as well. Any other deficiencies determined through detailed analysis shall be discussed and considered for inclusion. The recommended replacement of 190' of the existing 36" line A-2 with a 48" line will not be included in this project.

BASIC SERVICES:

A. Design Standards

1. This project shall be designed in accordance with the following:

   Geodetic Monumentation Manual

   Manual for Right-of-Way Management

   Storm Drainage Design Manual

   Stream Bank Stabilization Manual

   Erosion & Sediment Control Manual

   Thoroughfare Standards Rules & Regulations

   Manual for the Design of Water & Sanitary Sewer Lines

   Standard Construction Details

   Barrier Free Ramp Details

   NCTCOG Standard Specifications for Public Works Construction

   Special Provisions to Standard Specifications for Public Works Construction

   Sample Plan Set

2. All plans submitted to the City shall be signed and sealed in accordance with state law.

B. Research and Data Collection –

1. Meet with City of Plano engineering staff and obtain design criteria, pertinent utility plans, street plans, plats and right-of-way maps, existing easement information, and other information available for the project areas.

2. Meet with the City of Plano project manager and conduct an on-site review and walk through.

C. Route Evaluation Study

1. See description under Scope of Services,

D. Design Survey

1. Establish a horizontal and vertical control network and project control baseline for the project areas. The network and baseline are to be tied into the existing City of Plano control network.
2. Establish horizontal and vertical project control monumentation.
3. Tie right-of-way lines and corners, property lines and corners, buildings, fence lines, trees 4-inches in diameter and larger, edges of pavements and all other visible surface features to the project control baseline. Existing utility structures shall be located and referenced by utility name (i.e. TXU Elec., Verizon Telephone, Atmos Gas, Comcast, Etc.).
4. Vertical topographic information tying pavement, drives, walls, manholes (top and inverts), storm drain inlets (top and inverts), valve boxes (top of valve or operating nut) and other existing improvements as needed within the project areas for the design.
5. When underground utilities are exposed, tie to project control baseline.
6. Identify the street address of all adjacent properties to the proposed construction and show on drawings.

E. Right-of-way and Easement Requirements –

1. Prepare a preliminary list of easement parcels necessary to construct the project (if any). Submit to the City of Plano as soon as possible and prior to the preliminary plan submittal.
2. Meet with the City of Plano Staff to determine easement requirements for preparation of field notes and exhibits.

F. Geotechnical Report –

1. Perform geotechnical investigation for proposed design in the project area. Submit one copy of geotechnical report to the City with the preliminary design plans.
2. The geotechnical report shall include, but not be limited to the following:
    - A subsurface investigation consisting of soil and rock borings drilled to depth of 2 feet below the flow line of the proposed storm drain main/box to observe general site conditions, explore the subsurface materials, obtain samples for laboratory analysis and observe short-term groundwater levels as encountered during the drilling of the borings.

i-12

- Laboratory testing on selected samples to classify soil and rock types and to determine the engineering properties of the subsurface materials.
- Soil classification based on laboratory tests, estimation of subgrade support characteristics and recommended subgrade stabilization using lime for a rigid pavement.

3. Show geotechnical boring locations on the plan view of the construction drawings and cross reference to the geotechnical report. Soil horizon and vertical bore information shall (shall not) be shown on the vertical profile view of the construction plans.

G. Preliminary Design –

1. Prepare preliminary construction plans at approximately 30% to 50% complete. Prepare the following sheets (22" x 34") at the engineering scale indicated:
   - Cover sheet.
   - General Notes & Quantity sheet.
   - Project layout control sheet(s).
     Scale 1"= 100'.
   - Typical sections and detail sheets.
   - Construction phasing and temporary traffic control sheets.
     Scale 1"= 40'.
   - Drainage area map(s) for drainage basin including drainage calculations for area and runoff.
     Scale 1"= 100' (immediate project construction area)
     Scale 1" = 200' (all other areas)
   - Drainage calculation sheets for inlet sizing, placement and pipe hydraulic grade line
   - Storm drain & paving improvement plan & profile (with hydraulic grade line) sheets. Provide profile of top of curb line in areas where curb replacement is required
     Scale 1"= 20':H; 1"=5':V.
   - SWPPP sheets meeting TCEQ and City of Plano requirements. Scale 1"= 40'. Surface curb inlet protection shall not be used for existing curb inlets on existing thoroughfare pavement areas. Use "Depressed Back of Curb Sediment Trap" instead of silt fence to prevent silt onto roadway. Use "Pavement Replacement Sediment Trap" for areas where pavement will be removed for pavement widening or replacement. Use "Organic Filter Tube" instead of silt fence to prevent silt onto private property. Use City WORD file form for "City of Plano CIP Projects - SWPPP Operator Requirements" as part of SWPPP.

- Final buttoning and signage plan sheets.

Information required can be combined on sheets if the information can be clearly shown and is approved by the City of Plano project manager.

2. Coordinate with affected utilities such as water, gas, telephone, cable TV and electric to obtain accurate information for the location of their facilities.
3. Prepare a list of any special technical specifications needed for the project.
4. Prepare an estimate of construction quantities and develop the preliminary statement of probable construction cost.
5. Submit five (5) full sets of preliminary plans, one (1) partial set of plans with sheets for work in the parks only, and one (1) list of special technical specifications and preliminary statement of probable construction cost to the City for review.

   ☒ Engineering
   ☒ Public Works
   ☒ Inspectors
   ☒ Transportation
   ☒ Partial Set (Parks Dept.)
   ☒ File

6. Meet with City of Plano staff to discuss City comments on preliminary plans, specifications and cost estimates.
7. Distribute the preliminary plans and proposed schedule for bidding and start of construction to local utility companies to obtain information regarding impacts to their facilities. Submit copies of transmittal correspondence to the City for its records.

H . Final Design –

1. Revise preliminary plans incorporating comments from the City of Plano.
2. Incorporate comments from the utility companies.
3. Finalize construction plans for proposed improvements.
4. Finalize any special technical specifications and special conditions.
5. Incorporate standard details into the construction plans and prepare additional details as required.
6. Take off final construction quantities and prepare final construction cost estimates.
7. Submit five (5) full sets of pre-final plans, one (1) partial set of plans with sheets for work in the parks only and one (1) special technical specifications, draft bid schedule and final statement of probable construction cost to the City for review.
8. Incorporate City final comments into the plans and bid documents.
9. Submit three (3) sets of final construction plans, three (3) bound copies of the bid documents and the unbound original bid document to the City.

10. Attend a utility coordination meeting to start relocation process with affected franchise utilities. Distribute copy of final plans and proposed schedule for bid letting and construction to all affected franchise utilities. Submit copies of transmittal correspondence to the City for its records.

I. Bid Phase Services –

1. Assist the City staff in advertising for bids.
2. Provide one set of plans and specifications to a materials testing company to be designated by the City.
3. Furnish plans and specifications for bidding. Cost for these to be recouped by non-refundable deposit from contractors.
4. Maintain a list of plan holders including company name, contact person, mailing address, phone, fax and e-mail address. Submit list of plan holders to the City, 48-hours prior to the bid letting.
5. Furnish plans and bid documents for up to four (4) plan review rooms to be determined by the City. These documents are to be furnished at no cost to the plan review rooms.
6. Prepare and distribute addenda to bid documents as necessary.
7. Assist City staff as required in bid opening.
8. Provide bid tabulation to the City of Plano within four working days of the bid letting.
9. Submit a CD-ROM disk of the bid set plans in a PDF format.
10. Evaluate the low and second low bidders. Prepare letter of recommendation to the City of Plano for awarding a contract to the lowest responsible bidder within four working days of the bid letting.

J. Construction Administration –

1. Assist City staff in a pre-construction conference.
2. Furnish eleven (11) sets of full size and four (4) sets of half size final construction plans and seven (7) sets of the contract documents manual to the City for construction.
3. Prepare and process plan and quantity revisions associated with change orders. The City will process the actual change order.
4. Provide written responses to requests for information or clarifications.
5. Review submittals.
6. Prepare construction "Record Drawings" based upon mark-ups and information provided by the construction contractor(s). Submit one blackline set to the City and two (2) CD-ROM disks containing scanned images of the 22" x 34" final "as constructed" blackline drawings (with "record drawing stamps" bearing the signature of the Engineer and the date). The drawings shall be scanned 1 to 1 as Group 4 TIF files at a minimum resolution of 200 dots per inch and a maximum resolution of 400 dots per inch. The TIF files shall be legible and shall include any post processing that may be required to

enhance image quality (e.g., de-speckling, de-shading, de-skewing, etc.). Each file shall be named in numeric order.

K. Construction Control Survey –

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

SPECIAL SERVICES:

A. Easement Surveying –

1. Prepare a metes and bounds description and an 8-1/2" x 11" exhibit for temporary construction easements on a per tract basis. Deliver three (3) approved, signed and sealed originals to the City. Provide a per tract fee with the proposal fee to be based on one tract.
2. Prepare a metes and bounds description and an 8-1/2" x 11" exhibit for permanent drainage easements on a per tract basis. Deliver three (3) approved, signed and sealed originals to the City. Provide a per tract fee with the proposal fee to be based on one tract.
3. Prepare exhibits with the field notes first and the drawings second. Both the field notes and the drawing should be called Exhibit "A". Parcels should be numbered. Easement parcels shall be numbered with letters added to indicate the type of easement (for instance: DE for Drainage Easement).

i-16

EXHIBIT B
COMPLETION SCHEDULE
ALMA DRIVE AND PARKER ROAD DRAINAGE IMPROVEMENTS
PROJECT NUMBER 5742

Activity	Duration (working days)
Notice to Proceed	0
Route Evaluation Study	10
City Review	10
Preliminary Design	30
City Review	22
Final Design & Preparation of Bid Documents	40
City Review	22
Revise Final Plans & Specifications	20
City Review	5
Assemble Bid Documents	5
Advertise for Bids	22
Receive Bids	0
Bid Recommendation	5
Prepare City Council Agenda	20
Council Award	0
Prepare & Execute Contract	30
Schedule Preconstruction Meeting	10
Notice to Proceed	10
Construction	150

A working day is defined as Monday through Friday, excluding City of Plano Holidays.

i-17

EXHIBIT C
PAYMENT SCHEDULE
ALMA DRIVE AND PARKER ROAD DRAINAGE IMPROVEMENTS
PROJECT NUMBER 5742
(All fees "Not to Exceed" without prior approval)

WORK STAGE SUBMITTAL OR COMPLETION	FEE AMOUNT
BASIC SERVICES	
A. Route Evaluation	$10,540
B. Drainage Study	$15,530
C. Design Survey	$10,787
D. Geotechnical Services / Report	$8,050
E. Preliminary Plans	$19,000
F. Final Plans	$20,740
G. Bid Phase Services	$3,280
H. Construction Phase Services	$8,140
I. Construction Control Survey	$1,150
J. Reimbursable	$6,188
TOTAL BASIC SERVICES	**$103,405**
SPECIAL SERVICES	
A. Right of Way and Easement Services 1. Temporary Construction Easements 1 @ $575/each 2. Permanent Easements 1 @ $575/each	
TOTAL SPECIAL SERVICES	**$ 1,150**
TOTAL FEE ALL SERVICES	**$104,555**

i-18

EXHIBIT "D"

ENGINEERING

INSURANCE

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

1. General Insurance Requirements:

1.1 The Engineer (hereinafter called "Engineer") shall not start work under this contract until the Engineer has obtained at his own expense all of the insurance called for here under and such insurance has been approved by the City. Approval of insurance required of the Engineer will be granted only after submission to the Purchasing Agent of original, signed certificates of insurance or, alternately, at the City's request, certified copies of the required insurance policies.

1.2 All insurance policies required hereunder shall be endorsed to include the following provision: "It is agreed that this policy is not subject to cancellation, non-renewal, material change, or reduction in coverage without first providing the Risk Manager, City of Plano, at least ten (10) days prior written notice."

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

1.3 No acceptance and/or approval of any insurance by the City shall be construed as relieving or excusing the Engineer from any liability or obligation imposed upon the provisions of the Contract.

1.4 The City of Plano (including its elected and appointed officials, agents, volunteers, and employees) is to be named as an additional insured under Engineer's General Liability Policy, and the certificate of insurance, or the certified policy, if requested, must so state. Coverage afforded under this paragraph shall be primary as respects the City, its elected and appointed officials, agents and employees.

1.4.1 The following definition of the term "City" applies to all policies issued under the contract:

The City Council of the City of Plano and any affiliated or subsidiary Board, Commission Authority, Committee, or Independent Agency (including those newly constituted), provided that such affiliated or subsidiary Board Commission, Authority, Committee, or Independent Agency is either a Body Politic created by the City Council of the City of Plano, or one in which controlling interest is vested in the City of Plano; and City of Plano Constitutional Officers.

1.5 The Engineer shall provide insurance as specified in the "Insurance Checklist" (Checklist) found on the last page of the bid or proposal form. Full limits of insurance required in the

Checklist of this agreement shall be available for claims arising out of this agreement with the City of Plano.

1.6 Engineer agrees to defend and indemnify the City of Plano, its officers, agents and employees as provided in Paragraph VII. of this contract.

1.7 Insurance coverage required in these specifications shall be in force throughout the Contract Term. Should the Engineer fail to provide acceptable evidence of current insurance within seven (7) days of written notice at any time during the Contract Term, the City shall have the absolute right to terminate the Contract without any further obligation to the Engineer, and the Engineer shall be liable to the City for the entire additional cost of procuring performance and the cost of performing the incomplete portion of the Contract at time of termination.

1.8 Written requests for consideration of alternate coverages must be received by the City Purchasing Manager at least ten (10) working days prior to the date set for receipt of bids or proposals. If the City denies the request for alternative coverages, the specified coverages will be required to be submitted.

1.9 All required insurance coverages must be acquired from insurers authorized to do business in the State of Texas and acceptable to the City. The City prefers that all insurers also have a policyholder's rating of "A-" or better, and a financial size of "Class VI" or better in the latest edition of A.M. Best, or A or better by Standard and Poors, unless the City grants specific approval for an exception.

1.10 Any deductibles shall be disclosed in the Checklist and all deductibles will be assumed by the Engineer. Engineer may be required to provide proof of financial ability to cover deductibles, or may be required to post a bond to cover deductibles.

2. <u>Engineer's Insurance - "Occurrence" Basis:</u>

2.1 The Engineer shall purchase the following insurance coverages, including the terms, provisions and limits shown in the Checklist.

2.1.1 Commercial General Liability - Such Commercial General Liability policy shall include any or all of the following as indicated on the Checklist:

i. General aggregate limit is to apply per project;

ii. Premises/Operations;

iii. Actions of Independent Contractors;

iv. Contractual Liability including protection for the Engineer from claims arising out of liability assumed under this contract;

v. Personal Injury Liability including coverage for offenses related to employment;

vi. Explosion, Collapse, or Underground (XCU) hazards; if applicable. This coverage required for any and all work involving drilling, excavation, etc.

2.1.2 Business Automobile Liability including coverage for any owned, hired, or non-owned motor vehicles and automobile contractual liability.

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

2.2 Professional Errors and Omissions

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

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

ENGINEERING

City of Plano - Insurance Checklist

("X" means the coverage is required.)

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

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

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

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

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

_X_22. Ten (10) days notice of cancellation, non-renewal, material change or coverage reduction endorsement required. The words "endeavor to" and "but failure" (to end of sentence) are to be eliminated from the Notice of Cancellation provision on standard ACORD certificates.

_X_23. The City of Plano prefers an A.M. Best's Guide Rating of "A-", "VI" or better or Standard and Poors Rating AA or better; Authorized to do business in the State of Texas (not applicable for workers' compensation assigned through pool or alternative compensation programs).

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

_X_ 25. Other Insurance Required:

INSURANCE AGENT'S STATEMENT

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

_X_ 26. The above policy(s) carry the following deductibles:_____

Full limits of coverage available for:
General Liability_____ Professional Liability _____
Automobile Liability_____

_X_ 27. Liability policies are (indicate):

OCCURRENCE [ ] CLAIMS MADE [ ]

_____ _____
Signature Date

_____
Insurance Agent (Print)

_____
Name of Insured

_____
Date

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

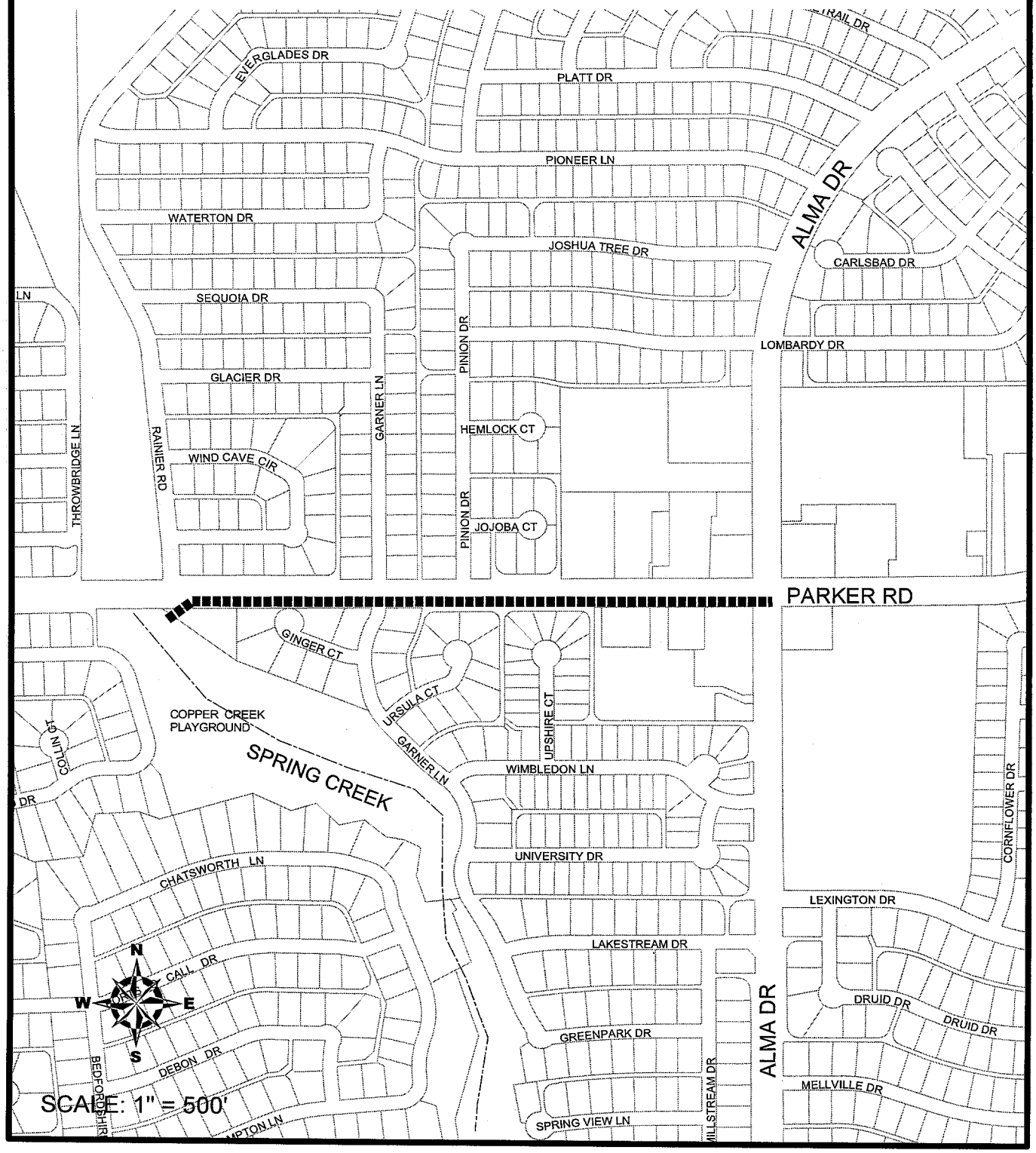
_____
Date

STATE OF TEXAS §
§
COUNTY OF _____ §

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

_____
Notary Public, State of Texas

ALMA DRIVE AND PARKER ROAD DRAINAGE IMPROVEMENTS PROJECT NO. 5742



i-25

CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	☐ Yes	☒ Not Applicable
☐ Consent ☐ Regular ☐ Statutory		Reviewed by Budget	☒ Yes	☐ Not Applicable
Council Meeting Date:	**10/23/06**	Reviewed by Legal	☒ Yes	☐ Not Applicable
Department:	Parks and Recreation/Marketing & Special Events		Initials	Date
Department Head	Don Wendell	Executive Director		10/13/06
Dept Signature:	Don Wendell	City Manager		10/13/06
Agenda Coordinator (include phone #):	**Linda Benoit (7255)**			

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

CAPTION

Agreement between the City of Plano and the Shops of Legacy, L.P. whereby the City will provide funding in part for The Lights of Legacy.

FINANCIAL SUMMARY

☐ NOT APPLICABLE ☒ OPERATING EXPENSE ☐ REVENUE ☐ CIP

FISCAL YEAR: **2006-07**	**Prior Year (CIP Only)**	**Current Year**	**Future Years**	**TOTALS**
Budget	0	60,000	0	**60,000**
Encumbered/Expended Amount	0	0	0	**0**
This Item	0	-60,000	0	**-60,000**
BALANCE	0	0	0	**0**

FUND(S): **GENERAL FUND**

COMMENTS: This item is included in the approved FY 2006-07 Budget.

STRATEGIC PLAN GOAL: This item relates to the City's Goal of "Premier City in Which to Live."

SUMMARY OF ITEM

Contract between the City of Plano and the Shops At Legacy, L.P. to provide partial funding for The Lights of Legacy. The City will contribute $60,000 for this annual event benefiting Children's Medical Center Legacy.

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
Contract	

REV 08/98

J-1

CONTRACT BY AND BETWEEN
CITY OF PLANO, TEXAS AND
THE SHOPS AT LEGACY, L.P.
FOR ANNUAL TREE LIGHTING FESTIVAL

THIS CONTRACT is made and entered into by and between **THE SHOPS AT LEGACY, L.P.**, a Texas Limited Partnership, whose address is 7200 Bishop Road, Suite 250, Plano, Texas 75024, hereinafter referred to as "The Shops at Legacy," and the **CITY OF PLANO, TEXAS**, a home rule municipal corporation, hereinafter referred to as "City," to be effective upon approval of the Plano City Council and subsequent execution of the Contract by the Plano City Manager or his duly authorized designee.

WHEREAS, The Shops at Legacy holds an annual tree lighting event, The Lights of Legacy, benefiting the Children's Medical Center Legacy; and

WHEREAS, the City has been asked to contribute to this event; and

WHEREAS, the City wishes to promote visitors to the City of Plano through "The Lights of Legacy."

NOW, THEREFORE, in consideration of the terms and conditions contained herein, City and The Shops at Legacy do hereby agree as follows:

I.
DATE OF EVENT

The date of the annual tree lighting event, The Lights of Legacy, will be Sunday, November 19, 2006.

II.
COMPENSATION

City agrees to pay The Shops at Legacy a sum not to exceed **SIXTY-THOUSAND AND 00/100 DOLLARS ($60,000)** to be used in production of the event.

III.
GOVERNING LAW

The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this Agreement, and the exclusive venue for any legal proceedings involving this Agreement shall be Collin County, Texas.

J-2

IV.
AFFIDAVIT OF NO PROHIBITED INTEREST

The Shops at Legacy acknowledges and represents its is aware of the laws, City Charter, and City Code of Conduct regarding prohibited interests and that the existence of a prohibited interest at any time will render this Agreement voidable. At the time of execution of this Agreement, a representative of The Shops at Legacy shall execute the Affidavit of No Prohibited Interest, attached and incorporated herein as Exhibit "A."

V.
ASSIGNMENT AND SUBLETTING

The Shops at Legacy further agrees that it will retain personal control and will give its personal attention to the fulfillment of this Agreement and that it will not assign by Power of Attorney, or otherwise, or sublet said Agreement without the prior written consent of City and that no part or feature of the work will be sublet to any one objectionable to City. The Shops at Legacy further agrees that the subletting of the work, or the performance of the Agreement, shall not relieve The Shops at Legacy from its full obligations to City as provided by this Agreement.

VI.
INDEPENDENT CONTRACTOR

The Shops at Legacy covenants and agrees that it is an independent contractor and not an officer, agent, servant or employee of City; that The Shops at Legacy 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, and nothing herein shall be construed as creating a partnership or joint enterprise between City and The Shops at Legacy.

VII.
INDEMNIFICATION

The Shops at Legacy shall release, defend, indemnify and hold harmless City and its officers, agents and employees from and against all damages, injuries (including death) claims, property damages (including loss of use), losses, demands, suits, judgments, and costs, including reasonable attorney's fees and expenses, in any way arising out of, related to, or resulting from the performance of the work or caused by the negligent act or omission of The Shops at Legacy, its officers, agents, employees, subcontractors, licensees, invitees, or any other third parties for whom The Shops at Legacy is legally responsible (hereinafter "Claims"). The Shops at Legacy is expressly required to defend City against all such claims.

In the event the City is a named party to a suit arising out of the subject matter of this Agreement, the City shall have reasonable input into the selection of defense counsel to be retained by The Shops at Legacy in fulfilling its obligation hereunder to defend and indemnify City. 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 be construed as a waiver of The Shops at Legacy's obligation to defend City or as a waiver of The Shops at Legacy's obligation to indemnify City pursuant to this Agreement. The Shops at Legacy 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 The Shops at Legacy fails to retain counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and The Shops at Legacy shall be liable for all costs incurred by City.

VIII.
ENTIRE AGREEMENT

This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement, or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding.

IX.
SUCCESSORS AND ASSIGNS

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

X.
LEGAL CONSTRUCTION

In case 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 any other provision thereof and this Agreement shall be construed to be as if such invalid, illegal or unenforceable provision had never been contained herein.

XI.
AMENDMENT

This Agreement may be amended by the mutual agreement of the parties hereto in writing to be attached to and incorporated into this Agreement.

J-4

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

THE SHOPS AT LEGACY, L.P., a Texas Limited Partnership

By: **K/S Legacy L.L.C., a Texas limited liability company, General Partner**

Date: Sept 29, 06

By: _____
Fehmi Karahan
Manager

CITY OF PLANO, TEXAS

Date: _____

By: _____
Thomas H. Muehlenbeck
CITY MANAGER

APPROVED AS TO FORM

_____
Diane C. Wetherbee, CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS)
)
COUNTY OF COLLIN)

This instrument was acknowledged before me on the 29th day of September, 2006 by Fehmi Karahan, of THE SHOPS AT LEGACY, L.P., a Texas Limited Partnership, on behalf of said Partnership.

CHRISTIE THORNTON
MY COMMISSION EXPIRES
OCTOBER 13, 2007

Christie Thornton
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 _____, 2006 by _____, THOMAS H. MUEHLENBECK, City Manager of the CITY OF PLANO, TEXAS, a home-rule municipal corporation, on behalf of said corporation.

_____
Notary Public in and for the
State of Texas

J-6

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.

The Shops at Legacy, L.P.
Name of Contractor

By: _____
Signature

Fehmi Karahan
Print Name

Manager
Title

Sept. 29, 2006
Date

STATE OF Texas §
COUNTY OF Collin §

SUBSCRIBED AND SWORN TO before me this 29th day of September, 2006.

Christie Thornton
Notary

CHRISTIE THORNTON
MY COMMISSION EXPIRES
OCTOBER 13, 2007

J-7

CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY			
☐ Consent ☐ Regular ☐ Statutory	Reviewed by Purchasing	☐ Yes	☒ Not Applicable
Council Meeting Date: 10/23/06	Reviewed by Budget	☐ Yes	☒ Not Applicable
Department: Engineering	Reviewed by Legal	☒ Yes	☐ Not Applicable
Department Head: Alan L. Upchurch		Initials	Date
Dept Signature:	Executive Director		10/13/06
Agenda Coordinator (include phone #): Irene Pegues X-7198	City Manager		10/13/06
		#5602	

ACTION REQUESTED: ☐ ORDINANCE ☐ RESOLUTION ☐ CHANGE ORDER ☐ AGREEMENT ☐ APPROVAL OF BID ☐ AWARD OF CONTRACT ☒ OTHER – SUBDIVISION IMPROVEMENT AGREEMENT

CAPTION

Approving the terms and conditions of a Subdivision Improvement Agreement by and between the City of Plano, Texas, and Newmark Homes, L.P. for off-site paving improvements in Cloverhaven Way and Bright Star Way.

FINANCIAL SUMMARY

☒ NOT APPLICABLE ☐ OPERATING EXPENSE ☐ REVENUE ☐ CIP

FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				

COMMENTS:

STRATEGIC PLAN GOAL:

SUMMARY OF ITEM

This Subdivision Improvement Agreement provides for the City to reimburse Newmark Homes L.P. for off-site paving improvements in Cloverhaven Way and Bright Star Way adjacent to the Trails of Glenwood Subdivision.

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
Location Map	n/a

M:\PRIVATE DEVELOPMENT\Agendas\2006\102306-Newmark SIA.doc

R-1

Contract No. 5602

SUBDIVISION IMPROVEMENT AGREEMENT
(OVERSIZE IMPROVEMENTS)
(PARK IMPROVEMENTS)

THIS AGREEMENT is made and entered into as of the ____ day of September, 2006, by and between the **CITY OF PLANO, TEXAS,** a Home Rule Municipal Corporation (the "City") and **NEWMARK HOMES, L.P.,** a Texas limited partnership (the "Developer"), in the estimated oversize participation amount of Forty-Five Thousand Five Hundred Seventy-Three Dollars and Seventy Cents ($45,573.70), as shown on Exhibit "A" attached hereto and made a part hereof, and in the estimated park improvement reimbursement amount of No Dollars and No Cents ($0.00) as shown on Exhibit "B" attached hereto and made a part thereof, and in the estimated park land amount of No Dollars and No Cents ($0.00).

WHEREAS, the Developer is the developer of a certain proposed subdivision called Glenwood, located in the City of Plano, Collin County, Texas (called "Subdivision"); and

WHEREAS, among other reasons, the parties have entered into this Agreement for the purpose of eliminating and avoiding the harmful effects of premature subdivision which leaves property undeveloped and unproductive, and to ensure the completion of public improvements regardless of whether Developer improves or sells any lots within the Subdivision; and

WHEREAS, the benefits of this Agreement inure solely to the City and the Developer, not to any third parties such as lot purchasers, subcontractors, laborers, and suppliers.

NOW, THEREFORE, for and in consideration of **ONE DOLLAR ($1.00)** and other good and valuable consideration, including without limitation the approval by the City of the final plat of the Subdivision, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

ARTICLE I. OBLIGATION TO COMPLETE PUBLIC IMPROVEMENTS

1.01. Classes of Improvements

This Agreement calls for the completion by Developer of public improvements certain of which the City will reimburse the Developer for a portion of the costs as provided in Section 3.02 of this Agreement called "Oversize Improvements" (those

R-2

public improvements for which the City will reimburse the Developer for a portion of the costs, except for park improvements). Those public improvements for which there will be no reimbursement are called "Basic Improvements." The cost reimbursements for "Oversize Improvements" are described in Exhibit "A". The Public Improvements to be made to park land are called "Park Improvements." The amount of reimbursement for the Park Improvements is set forth on Exhibit "B" attached hereto and made a part hereof. Park Improvement reimbursement is governed by Section 3.03 of this Agreement. The Oversize Improvements, Basic Improvements and Park Improvements are called the "Public Improvements." The Public Improvements are set forth on Exhibit "C" attached hereto and made a part hereof.

1.02. Duty to Construct

Developer shall construct or cause to be constructed the Public Improvements in accordance with the City's Standard Specifications for Public Works Construction, which are made a part hereof by reference ("Standard Specifications"), and Developer's Engineering Plans approved by the City on June 12, 2006, which are made a part hereof by reference ("Engineering Plans"). Developer shall commence construction of the Public Improvements no later than December 31, 2006, and shall complete the construction of the Public Improvements on or before April 30, 2007 as set forth above even if it does not begin such construction of private improvements or sell any of such lots. The completion date may be extended by the mutual agreement of the parties hereto.

1.03 Agreed Benefit

Developer agrees that the Public Improvements to be constructed in accordance with this Agreement substantially advances a legitimate governmental interest in providing improved access to new development and expanding infrastructure capacity to accommodate new development. Developer also agrees that Developer's share of the cost of the Public Improvements to be constructed under this Agreement is fair and equitable and is roughly proportional to the impact that Developer's Subdivision will have on the City's roadways and other infrastructure. **Developer further agrees to release, indemnify and hold the City, its officers, officials, agents and employees harmless from and against any constitutional, statutory or common law claims or lawsuits Developer may now have or may accrue in the future related to or arising out of this Agreement or the Public Improvements to be constructed pursuant to this Agreement.**

ARTICLE II. WARRANTIES

2.01. Warranty Against Defects

Developer expressly warrants that the Public Improvements shall be constructed in substantial compliance with the Standard Specifications and Engineering Plans and free from all defects. Developer shall indemnify the City from all expenses and liability incurred by the City as a direct and proximate cause of such defects. This warranty and indemnity shall extend for a period of one (1) year after the acceptance of the dedication of the Oversize Improvements, or if such Public Improvements are accepted separately, one (1) year after acceptance of the dedication of the last completed Public Improvement.

2.02. Remedy of Defects

The Developer shall remedy and repair all defects within twenty (20) days of written notice to Developer from the City that the defect exists. If the defect is of the type that will require additional time in which to remedy, the Developer shall specify in writing to the City within said twenty (20) day period the particular reasons why such repairs cannot be completed in said twenty (20) day period. If, in the City's reasonable opinion, such reasons for delay are justified, the City may grant the Developer additional time. However, in such event the Developer must have commenced the repair work within said twenty (20) day period and continue diligently to complete the repair work. If the City grants additional time, such extension shall be in writing and shall be for a specified period of time which shall be reasonable considering all circumstances.

2.03. Failure of Developer to Remedy Defect

If the Developer fails to meet its warranty obligation, it shall be considered in default and the City, at its option, may:

(a) Contract with another party for the repair work;

(b) Complete the repair work with its own crews;

(c) Contract with another party for the repair work and immediately draw down on the letter of credit or cash escrow for the amount of such repair work;

(d) Complete the repair work with its own crews, and immediately draw down on the letter of credit or cash escrow for such costs; or

(e) In the case where the security is a performance or maintenance bond, require that the Surety complete the repair work.

In any cases where the City decides to complete the contract with another party to complete any such work, the City shall do so in a reasonable manner and shall use its reasonable efforts to complete or contract to complete such work.

k-4

Additionally, the Developer shall be liable to the City for reimbursement of all actual costs expended by the City as a direct result of completing the repair work if such costs were not reimbursed by drawing down on the letter of credit or cash escrow or if, in the case of a performance or maintenance bond, the Surety fails to complete the repair work in a case where the security is a performance or maintenance bond, if the Surety fails to remedy the defect within thirty (30) days written notice from the City, then the City will be entitled to complete the repair work in accordance with Subsections (a) and (b) above and in such event the Surety, Principal and Developer shall be liable to the City for the actual costs to repair such defects; provided, however, in no event shall such reimbursement amounts exceed ten percent (10%) of the amount set forth on Exhibit "C".

ARTICLE III. PUBLIC IMPROVEMENTS

3.01. Contracting Requirements

Before awarding a construction contract for the Oversize Improvements and Park Improvements, the Developer shall submit to the City the total bid for the Oversize Improvements and Park Improvements plus unit price bids. If, in the City's sole opinion, the bid amounts exceed prices normally bid for such Oversize Improvements and Park Improvements, the City may require the Developer to seek additional bids. It is understood that when requesting bids, the Developer must require bidders to separate their bid into unit prices. If, in the City's sole opinion, the bid is not sufficiently detailed, the City may require that the Developer have the bidder revise its bid to add such details. Before the Developer enters into a construction contract which includes Oversize Improvements and/or Park Improvements, all construction documents shall be submitted to the City for its approval, which approval shall not be unreasonably withheld. The construction contract documents shall provide that the City is a third party beneficiary by containing the following language:

> "It is hereby agreed that this contract shall be incorporated and made a part of that certain Subdivision Improvement Agreement between the City of Plano and Newmark Homes, L.P. ("Developer"), **Contract No.** 5602 (the "Subdivision Improvement Agreement"), which Subdivision Improvement Agreement is incorporated herein by reference. The Contractor agrees that the City of Plano shall be a third party beneficiary under this Agreement with regard to the construction of those portions of the work constituting Oversize Improvements as defined in said Subdivision Improvement Agreement. With regard to the Oversize Improvements and Park Improvements described in the Subdivision Improvement Agreement, the Contractor shall provide the same services to the City of Plano that are being provided by the Contractor to the Developer under this Agreement. The Contractor agrees that the City will not be responsible for any of its fees or other monies due under this

Agreement, but that it will look solely to the Developer for payment of any such monies or fees."

Once such construction documents are approved by the City, the Developer will not amend or change them without prior approval by the City, which approval shall not be unreasonably withheld.

3.02. Oversize Cost Reimbursement

If the Developer completes the Oversize Improvements as provided in this Agreement and they are accepted by the City, which acceptance shall not be unreasonably withheld, the City will reimburse the Developer for a portion of the costs of the Oversize Improvements ("Oversize Costs"), as provided in Article VI of the City's Subdivision Ordinance No. 98-9-5 as amended (the "Subdivision Ordinance"). The amount, manner and time of reimbursement shall be strictly governed by this Subdivision Ordinance. Developer's obligation to construct and complete the Oversize Improvements is independent of and in no way conditioned upon the City's reimbursement of such Oversize Costs. The term "costs of the Oversize Improvements" includes actual costs of construction of the Oversize Improvements in accordance with the Standard Specifications and Engineering Plans and the construction contract approved in advance by the City, and includes engineering fees not to exceed six (6) percent of such costs. The costs of Oversize Improvements specifically excludes costs to acquire right-of-way, real property, or other incidental costs. The term "Oversize Costs" is defined as that portion of the costs of improvements that are to be reimbursed by the City in accordance with the provisions of the Subdivision Ordinance.

3.03 Park Cost Reimbursement

When the developer completes the Park Improvements as provided in this Agreement and they are accepted by the City, which acceptance shall not be unreasonably withheld, the City will reimburse the Developer for the Reimbursable Park Improvements and for the cost of the Parkland in the manner provided for in the "Plano Park and Recreation Fee Article" being Article XII of Chapter 16 of the City of Plano Code of Ordinances (the "Park Fee Ordinance") and the Administrative Guidelines. In the event that the Park Fee Ordinance conflicts with the Administrative Guidelines, the Park Fee Ordinance shall control. The amount, manner, and time of reimbursement shall be strictly governed by the Park Fee Ordinance and the Administrative Guidelines. The Developer's obligation to construct and complete the Park Improvements is independent of and in no way conditioned upon the City's reimbursement of the costs of the Reimbursable Park Improvements and the costs of the Parkland. Unless otherwise provided for in the Park Fee Ordinance and Guidelines, the term "Costs" includes actual costs of construction of the Standard Park Improvements in accordance with the Standard Specifications and Engineering Plans

R-6

and the construction contract approved in advance by the City, and includes engineering fees not to exceed six percent (6%) of such costs. The term "Costs" specifically excludes any incidental costs. Notwithstanding anything contained in this Agreement or the Subdivision Ordinance, the Park Fee Ordinance or the Administrative Guidelines to the contrary, the City shall not reimburse that portion of the Oversize Costs and Reimbursable Park Improvement Costs which together exceed thirty percent (30%) of the costs of the Public Improvements.

ARTICLE IV. SECURITY

4.01. Forms of Security

In order to guarantee completion of the Public Improvements and the faithful performance of this Agreement, the Developer no later than ten (10) days after the award of a construction contract and before the commencement of the construction of the Public Improvements shall deliver to the City the following:

(a) A performance bond and a payment bond from the Contractor performing the work in the penal sum of one hundred (100) percent of the cost to complete the Public Improvements insuring the completion of the Public Improvements. The bonds shall be in form and substance identical to the bond forms attached hereto as Exhibit "D" and made a part by reference (the "Performance Bond" and "Payment Bond", respectively; collectively called the "Bonds"), unless changes are approved in writing by the City Attorney or his/her designee, which approval shall not be unreasonably withheld. The Bonds shall be signed by a corporate Surety or Sureties authorized to do business in the State of Texas, and shall be signed by the Contractor performing the work as principal. The City shall be named as a co-obligee in the Bonds. A power of attorney shall be attached to the Bonds evidencing that the agent signing the Bonds has authority to sign the Bonds on behalf of the Surety. The Bonds shall additionally insure that the Public Improvements shall be free of defects for the period of warranty set forth in Article II of this Agreement; and

(b) An irrevocable letter of credit in the sum of one hundred (100) percent of the cost to complete the Public Improvements and in form and substance identical to the letter of credit attached hereto as Exhibit "E" and made a part hereof by reference (the "Letter of Credit") unless changes are approved in writing by the City Attorney or his/her designee, which approval shall not be unreasonably withheld. The Letter of Credit shall be issued by a local bank approved in advance by the City, which approval shall not be unreasonably withheld. The Letter of Credit shall be payable at sight to the City upon presentation of the City's written statement stating that Developer is in default or that the City is otherwise entitled to draw down on the Letter of Credit. Such certificate shall be conclusive to allow the City to draw the proceeds of the Letter of Credit. In no event shall the City be required to prove to the issuer that the Developer is actually in default or to specify specific grounds of default in order to draw proceeds of the Letter of Credit. The Letter of Credit is intended to be security for the faithful

completion of the Public Improvements and to ensure against defects for the warranty period specified in Article II of this Agreement; or

(c) The cash sum (the "Cash Escrow") in an amount equal to one hundred (100) percent of the cost to complete the Public Improvements. The Cash Escrow is intended to be security (in place of a Letter of Credit) for the faithful completion of the Public Improvements and to ensure against defects for the warranty period specified in Article II of this Agreement.

4.02. Duration of and Reductions of Letter of Credit

(a) The Letter of Credit shall be issued for a period of at least one (1) year. If the Public Improvements have not been accepted by the City within thirty (30) days of the expiration date of the Letter of Credit, and Developer has not provided a new Letter of Credit for an additional period of at least one (1) year, identical in amount (unless the Letter of Credit was previously reduced in amount pursuant to Section 4.02(d)) and in all other respects to the original Letter of Credit (unless the City Attorney or his/her designee approves in writing any changes to the new Letter of Credit), which approval is not unreasonably withheld, then the City shall be entitled to immediately draw down the proceeds of the original Letter of Credit (or previously reduced Letter of Credit). This provision shall not be construed to require that the City accept the new Letter of Credit if Developer is in default and the City has elected to draw down from the proceeds of the original Letter of Credit (or previously reduced Letter of Credit).

(b) Within ten (10) days after the acceptance of the Public Improvements, the Developer shall deliver to the City another Letter of Credit equal in amount to ten (10) percent of the original Letter of Credit, unless the City Attorney or his/her designee approves in writing changes to this Letter of Credit, which approval is not unreasonably withheld. This Letter of Credit shall be for a period of one (1) year and shall be security to insure against defects during the warranty period specified in Article II of this Agreement. However, if this Letter of Credit is not delivered to the City at least thirty (30) days before the expiration of the original Letter of Credit (or the additional new Letter of Credit as described above), then the City shall be entitled to draw down on ten (10) percent of the proceeds of such existing Letter of Credit. Such money shall be held in escrow by the City and used as security against defects during the warranty period. In lieu of the Letter of Credit provided for in this subparagraph (b), the City Engineer may accept a Maintenance Bond as provided for in subparagraph (e) of this Section 4.02.

(c) From time to time as portions of the Public Improvements are completed in accordance with the Standard Specifications and the Engineering Plans, the Developer may make application to the City Engineer or his/her designee to reduce the amount of the original Letter of Credit or Cash Escrow. If the City Engineer or his/her designee is satisfied that such portion of the completed Public Improvements has been substantially completed in accordance with the Standard Specifications and

Engineering Plans, he/she may (but is not required to) cause the amount of the Letter of Credit or Cash Escrow to be reduced by such amount that he/she in his/her reasonable discretion deems is appropriate so that the remaining amount of the Letter of Credit or Cash Escrow adequately ensures the completion of the remaining Public Improvements. If the City Engineer or his/her designee has approved the reduction and the issuing bank will not reduce the Letter of Credit without issuing a new Letter of Credit, the City will accept a new Letter of Credit for such reduced amount, if it substantially conforms with the provisions of this Article IV. The decision of the City Engineer or his/her designee to reduce the amount of the Letter of Credit or Cash Escrow shall in no way be construed as an acceptance by the City of the completed Public Improvements.

(d) When Cash Escrow is used as the security, all accrued interest shall become a part of the Cash Escrow and shall be used as security for the completion of the Public Improvements. The term "Cash Escrow" used in this Agreement includes accrued interest. After final acceptance of the Public Improvements by the City, the Cash Escrow shall be reduced to ten (10) percent of the original Cash Escrow amount. The remaining ten (10) percent Cash Escrow shall be retained for a period of one (1) year after acceptance of the Public Improvements as security to ensure against defects during the warranty period specified in Article II of this Agreement. In lieu of the retention of the ten (10) percent Cash Escrow or ten (10) percent Letter of Credit provided for in paragraph 4.02(b) of this Agreement, the City Engineer may accept a maintenance bond in the same amount from the Contractor actually performing the work. Such maintenance bond shall be substantially in the same form and substance as the form attached hereto as Exhibit "F", which is made a part hereof by reference, unless changes are approved in writing by the City Attorney or his/her designee. At such time as the remaining Cash Escrow is refunded to the Developer, such refund shall include accrued interest, calculated at one (1) percent less than the rate of actual earnings. The one (1) percent accrued interest on the principal amount of the Cash Escrow shall be retained by the City as an administrative expense to cover the cost of administering this Agreement. In the event that money is refunded within six (6) months of deposit, only the principal will be refunded.

ARTICLE V. DEDICATION AND ACCEPTANCE

5.01. City Inspection

During the construction of the Public Improvements the City will inspect the Public Improvements, for compliance with this Agreement, the Standard Specifications and the Engineering Plans. Upon completion of the Public Improvements, the City shall make a final inspection of the Public Improvements.

5.02. Public Improvements to be Constructed on Public Property; Good Title

Public Improvements other than Park Improvements shall be constructed wholly within property dedicated to the public in fee simple absolute or within easements. Park land dedication shall be made to the City of Plano in fee simple absolute. All Park Improvements shall be made on such park land dedications to the City. At the option of the City, the City may require that the Developer convey by warranty deed, fee simple title to the City of all or part of the real property upon which the Public Improvements are located. In addition, the City may require, at its option, that Developer provide at Developer's cost title insurance in an amount equal to the cost of the Oversize Improvements and Park Improvements, or such other evidence of title acceptable to the City Attorney or his/her designee, indicating that the City will be receiving good and indefeasible fee simple title free and clear of all liens, encumbrances and restrictions.

5.03. Final Acceptance

If the Public Improvements are completed except screening walls, landscape and growth of erosion control materials, and surety is provided (in accordance with the Subdivision Regulations) to insure completion of the remaining items, the final plat can be submitted to the Planning and Zoning Commission. If approved by the Commission, the plat will be recorded at the County Clerk's office, by the Engineering Department, within five (5) working days after receipt of mylars executed by the owners and surveyor. If the Public Improvements are in substantial compliance with this Agreement, the Standard Specifications, and the Engineering Plans, and the final subdivision plat has been approved and filed of record in the County Land Records, and so long as the Developer has substantially complied with Sections 5.01 and 5.02 of this Agreement, the City Engineer shall issue his/her letter of acceptance which shall evidence the City's acceptance of ownership and maintenance of the Public Improvements and the real property associated therewith. In no event shall the City be required to accept separate Public Improvements at different times. However, nothing shall preclude the City from doing so if, in the reasonable opinion of the City Engineer, it is beneficial and feasible for the City to do so.

ARTICLE VI. DEFAULT AND REMEDIES

6.01. Events of Default

The following shall be considered as events of default:

(a) The Developer has failed to commence construction of the Public Improvements by the date specified in Section 1.02 of this Agreement.

(b) The Developer has failed to substantially complete construction of the Public Improvements in accordance with the Standard Specifications and Engineering Plans by the completion date specified in Section 1.02 of this Agreement.

(c) The Developer has failed to perform work on the Public Improvements for fourteen (14) consecutive days, unless due to causes beyond Developer's control.

(d) The Developer has been declared insolvent.

(e) The filing of a voluntary or involuntary petition in bankruptcy by or against the Developer.

(f) The commencement of a foreclosure proceeding of a lien against the Property or its conveyance in lieu of foreclosure.

(g) The Developer's failure to cure a defect within the cure period provided in Section 2.02 of this Agreement.

(h) The failure of the contractor and any subcontractor who actually performs construction work on the Public Improvements to maintain insurance as required by Section 7.02 of this Agreement.

(i) The failure of Developer to substantially comply with any other covenant or promise contained in this Agreement.

6.02. Specific Remedies

(a) In the event of default by Developer, after notice and applicable time period, the City shall be entitled to draw down on the proceeds of the Letter of Credit when a Letter of Credit has been issued as security, use the Cash Escrow when it has been deposited with the City, and to require that the Surety remedy the default when a performance or maintenance bond has been issued. Notwithstanding the foregoing, in the event of default, the damages that the City is entitled to recover from Developer shall not be limited to the amount of the Letter of Credit, Cash Escrow and Performance Bond, but shall be based upon the actual costs reasonably incurred in completing the Oversize Improvements or to cure defects within the warranty period.

(b) In the event the City files an action to enforce the terms of this Agreement, including without limitation, a court action or claim in bankruptcy court, the City will be entitled to its actual court costs and reasonable attorneys' fees.

6.03. Performance Bond Surety

In the case where a performance or maintenance bond is the security, the City shall give the Surety thirty (30) days written notice to commence work to complete the Public Improvements or correct a defect if within the warranty period. If the Surety has not commenced work within said thirty (30) day period, the City shall be entitled to complete the work or repair the defect by contract or by its own forces in compliance with Section 2.03 of this Agreement. In such event, the City shall be entitled to

reimbursement from the Developer and Surety, jointly and severally, for the actual costs of completion.

6.04. Remedies Cumulative

The remedies of the City provided in this Agreement shall be construed to be cumulative and nonexclusive. The City shall also be entitled to exercise all other rights and remedies that are available at law and in equity. Specifically the right to draw down on the proceeds of the Letter of Credit, or Cash Escrow or to require the Surety to complete the work or repair the defect is in addition to and not in lieu of the City's other rights and remedies.

ARTICLE VII. INDEMNIFICATION AND INSURANCE

7.01. Indemnity

The Developer and its Sureties shall indemnify, defend, and hold harmless the City, its officers, agents and employees from all suits, actions or claims of any character, name and description brought for or on account of any injuries, including death or damages received or sustained by any person or property on account of or arising out of the construction of the Public Improvements by Developer or its contractors or defects existing within the warranty period; or on account of or arising out of the operations of the Developer, its contractor, agents or employees or the contractor's subcontractors, agents or employees; or on account of any negligent act or omission of the Developer, its contractor, agents or employees or the contractor's subcontractors, agents or employees; or on account of any failure to provide the necessary barricades, warning lights or signs; and shall be required to pay any judgment with costs, which may be obtained against the City, its officers, agents or employees growing out of such injury, including death or damages.

7.02. Insurance

All contractors or subcontractors performing any portion of the work to construct or complete the Public Improvements must meet the insurance requirements of 1.26.1 of the special provisions of the Standard Specifications required for heavy construction, and the policy endorsement and special condition requirements of Item 1.26.4 of the Standard Specifications.

ARTICLE VIII. MISCELLANEOUS

8.01. Assignment

k-12

This Agreement may not be assigned without the express written consent of the City. However, the City shall consent to such an assignment if all of the following conditions are satisfied:

(a) Developer is not in default;

(b) The assignment is to a new owner and developer of the Property;

(c) Developer provides the City with written evidence satisfactory to the City Attorney or his/her designee that the new owner is the record owner of the Property;

(d) Developer delivers to the City an original counterpart of the assignment fully executed by the Developer and new owner in form and substance identical (unless such changes are approved by the City Attorney or his/her designee) to the document attached hereto as Exhibit "G" and made a part hereof by reference (the "Assignment"). Under the Assignment, the new owner shall assume and agree to perform all obligations of the Developer under this agreement; and

(e) The new owner delivers to the City the security required by this Agreement.

The City Manager, an Executive Director or City Engineer of the City are authorized to approve assignments on behalf of the City.

8.02. Entire Agreement

This Agreement contains the entire agreement between the City and the Developer, and cannot be varied except by written agreement executed by the parties hereto.

8.03. Time is of the Essence

Time is of the essence of this Agreement.

8.04. Notice

Any notice to be given or to be served upon a party hereto in connection with this Agreement must be in writing and may be given by certified or registered mail and shall be deemed to have been given and received when a certified or registered letter containing such notice, properly addressed with postage prepaid, is deposited in the United States mail, it shall be deemed to have been given and delivered to and received by the party (or such party's agent or representative) to whom it is addressed. Such notice shall be given to the parties hereto at the address set forth under their respective signatures below. In case of the Surety, notice shall be given to the Surety at the address set forth in the Performance Bond. Any party hereto, including the

Surety on the Performance Bond, may, at any time by giving two (2) days written notice to the other parties, designate any other address in substitution of the foregoing address to which such notice shall be given.

8.05. Nonwaiver

No waiver of the City's rights under this Agreement shall be deemed to have been made unless expressed in writing and signed by an authorized representative of the City. No delay or omission in the exercise of any right or remedy accruing to the City upon a breach of this Agreement by the Developer or its Sureties will impair its right or remedy or be construed as a waiver for any such breach theretofore or thereafter occurring. The waiver by the City of any breach of any term, covenant or conditions shall not be deemed to be a waiver of any other or subsequent breach of this same or any other term, covenant or condition herein contained.

8.06. No Vested Rights

Nothing in this Agreement shall be implied to vest any rights in the Developer except as are provided by statute, ordinance or as expressly provided in this Agreement.

8.07. Recitals and Headings

Recitals contained at the beginning of this Agreement shall be construed as a part of this Agreement. However, headings used throughout this Agreement have been used for administrative convenience only and do not constitute matter to be considered in interpreting this Agreement.

8.08. Successors and Assigns, Covenants with the Land, and Subordination by Lienholders

This Agreement shall be binding upon the successors and assigns of the Developer and shall be covenants running with the land described herein as the Property and be binding upon all future owners of the Property. This Agreement or a memorandum thereof, may be recorded in the Land Records of the county in which the Property is located. All existing lienholders shall be required to subordinate their liens to the covenants contained in this Agreement.

8.09. Venue

This Agreement shall be construed under and in accordance with the laws of the State of Texas and is fully performable in Collin County, Texas. Exclusive venue shall be in Collin County, Texas.

8.10. Severability

In case any one or more of the provisions contained in this Agreement shall be for any reason held invalid, illegal or unenforceable in any respect, such invalidity, illegality or un-enforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

8.11. No Waiver of Governmental Immunity

Nothing contained in this Agreement shall be construed as a waiver of the City's sovereign or governmental immunity.

8.12. Developer's Authority

The Developer represents and warrants to the City that it has full power and authority to enter into and fulfill the obligations of this Agreement.

EXECUTED as of the date first above written.

CITY OF PLANO, TEXAS
A Home Rule Municipal Corporation

By: _____
Name: **ALAN L. UPCHURCH, P.E.**
Title: City Engineer
Address: 1520 K Avenue
PO Box 860358
Plano, Texas 75086-0358

APPROVED AS TO FORM:

_____
Diane C. Wetherbee, CITY ATTORNEY

DEVELOPER:

NEWMARK HOMES, L.P.,
A Texas limited partnership

By: TOUSA Homes, Inc.,
A Florida corporation,
Its General Partner

_____

_____

By: _____
Name: RICHARD D. ALBUQUERQUE
Title: VICE PRESIDENT
Address: 1505 LBJ FRWY SUITE 200
DALLAS, TX 75234

R-16

ACKNOWLEDGMENTS

STATE OF TEXAS §
§
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, _____, by **Alan L. Upchurch, P.E., City Engineer** of the **City of Plano, Texas**, a Home Rule Municipal Corporation, on behalf of said municipal corporation.

_____
Notary Public in and for the State of Texas

--- AND ---

STATE OF Texas §
§
COUNTY OF Dallas §

This instrument was acknowledged before me on the 25th day of September, 2006, by Richard D. Alberque, Vice President of TOUSA Homes, Inc., a Florida corporation, General Partner of **NEWMARK HOMES, L.P.**, a Texas limited partnership, on behalf of said partnership.

SHARON GARNER
NOTARY PUBLIC
STATE OF TEXAS
EXPIRES
8-28-2010

Sharon Garner
Notary Public, State of Texas

EXHIBIT "A"

PROJECT NAME:	The Trails of Glenwood Ph1	ACREAGE:	N/A	NO. OF LOTS:	N/A
CITY:	Plano, Texas	CREATED:	13-Jul-06	LF OF STREETS	N/A
JOB NUMBER:	023561.010	REVISED:		BY	TJY
FILE NAME:	i:\sld\02356101\PH1_DEVAGREEMENT	PRINTED:	09-Aug-06	CHECKED:	BLM

CLOVERHAVEN WAY

DESCRIPTION	UNIT	APPROXIMATE QUANTITY	UNIT PRICE	TOTAL AMOUNT
REMOVE 5" CONC PAV (EAST OF CL, 3.0')	SY	907	$6.50	$5,895.50
REMOVE 12" REINF. CONC PAV (EAST OF CL, 3.0')	SY	13	$6.50	$84.50
TRAFFIC CONTROL SIGNAGE	LS	0.5	$5,000.00	$2,500.00
ENGINEERING AND SURVEYING SERVICES	PERCENTAGE	6.0%	$8,480.00	$508.80
TOTAL				$8,988.80

BRIGHT STAR WAY

DESCRIPTION	UNIT	APPROXIMATE QUANTITY	UNIT PRICE	TOTAL AMOUNT
5" REINF. CONCRETE STREET PAVEMENT	SY	1,389	$18.95	$26,321.55
6" LIME SUBGRADE INCLUDING LIME	SY	1,455.5	$2.50	$3,638.75
BARRIER FREE RAMPS	EA	1	$600.00	$600.00
PAVEMENT HEADER	LF	34.5	$6.00	$207.00
STREET BARRICADE	EA	0.5	$1,250.00	$625.00
PAVESTONE PAVERS IN MEDIAN	SF	62	$12.00	$744.00
BARBWIRE FENCE RELOCATION	LS	0.5	$2,244.00	$1,122.00
LANDSCAPE MAINTENANCE RAMP	EA	0.5	$1,120.00	$560.00
EXCAVATION (AT 0.92 FT)	CY	446	$1.56	$695.76
ENGINEERING AND SURVEYING SERVICES	PERCENTAGE	6.0%	$34,514.06	$2,070.84
TOTAL				$36,584.90

SUMMARY

CLOVERHAVEN WAY	$8,988.80
BRIGHT STAR WAY	$36,584.90
TOTAL COSTS	$45,573.70

R-18

EXHIBIT "B"

PARK IMPROVEMENTS

"NONE"

EXHIBIT "C"

PROJECT NAME:	The Trails of Glenwood Ph1	ACREAGE:	N/A	NO. OF LOTS:	N/A
CITY:	Plano, Texas	CREATED:	16-May-06	LF OF STREETS	N/A
JOB NUMBER:	023561.010	REVISED:		BY	TJY
FILE NAME:	i:\sld\02356101\PH1_DEVAGREEMENT	PRINTED:	09-Aug-06	CHECKED:	BLM

CLOVERHAVEN WAY

DESCRIPTION	UNIT	APPROXIMATE QUANTITY	UNIT PRICE	TOTAL AMOUNT
REMOVE 5" CONC PAV (EAST OF CL, 3.0')	SY	907	$6.50	$5,895.50
5" READY-MIX CONC PAV (EAST OF CL, 3.0')	SY	907	$36.94	$33,504.58
6" LIME SUBGRADE INCLUDING LIME (EAST OF CL, 3.0')	SY	907	$2.60	$2,358.20
REMOVE 12" REINF. CONC PAV (EAST OF CL, 3.0')	SY	13	$6.50	$84.50
12" REINF. CONC PAV (EAST OF CL, 3.0')	SY	13	$87.94	$1,143.22
5" REINF. CONCRETE STREET PAVEMENT (EAST OF CL, 15.5')	SY	5,311	$24.00	$127,464.00
6" LIME SUBGRADE INCLUDING LIME (EAST OF CL, 15.5')	SY	5,644	$2.60	$14,674.40
SUB - TOTAL				**$185,124.40**

BRIGHT STAR WAY

DESCRIPTION	UNIT	APPROXIMATE QUANTITY	UNIT PRICE	TOTAL AMOUNT
5" REINF. CONCRETE STREET PAVEMENT	SY	2,778	$18.95	$52,643.10
6" LIME SUBGRADE INCLUDING LIME	SY	2,911	$2.50	$7,277.50
BARRIER FREE RAMPS	EA	2	$600.00	$1,200.00
PAVEMENT HEADER	LF	69	$6.00	$414.00
STREET BARRICADE	EA	1	$1,250.00	$1,250.00
PAVESTONE PAVERS IN MEDIAN	SF	124	$12.00	$1,488.00
BARBWIRE FENCE RELOCATION	LS	1	$2,244.00	$2,244.00
LANDSCAPE MAINTENANCE RAMP	EA	1	$1,120.00	$1,120.00
EXCAVATION (AT 0.92 FT)	CY	892	$1.56	$1,391.52
SUB - TOTAL				**$69,028.12**

SUMMARY

CLOVERHAVEN WAY	$185,124.40
BRIGHT STAR WAY	$69,028.12
TOTAL COSTS	**$254,152.52**

R-20

EXHIBIT "D"

PERFORMANCE BOND

STATE OF TEXAS §
§
COUNTY OF COLLIN §

KNOW ALL MEN BY THESE PRESENTS: That_____ whose _____ address is _____, _____hereinafter called Principal, and _____, a corporation _____ organized and existing under the laws of the State of _____, and fully licensed to transact business in the State of Texas, as Surety, are held and firmly bound unto the **CITY OF PLANO**, a municipal corporation organized and existing under the laws of the State of Texas, hereinafter sometimes called "City", and _____ _____, hereinafter _____ sometimes called "Owner" (the City and Owner are collectively called "Obligees"), in the penal sum of _____ **DOLLARS** ($_____) in lawful money of the United States, to be paid in Collin County, Texas, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors jointly and severally, firmly by these presents. This Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement which reduces the Contract price decrease the penal sum of this Bond.

THE OBLIGATION TO PAY SAME is conditioned as follows: Whereas, the Principal entered into a certain Contract with Owner (the "Contract") dated the ____ day of _____, 20___, which is made a part hereof by reference, wherein the City is a third party beneficiary with regard to the completion of certain public improvements (as defined therein); said Contract calling for the completion of the public improvements among other things.

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform and fulfill all of the undertakings, covenants, terms, conditions and agreements of said Contract in accordance with the plans, specifications and Contract Documents during the original term thereof and any extension thereof which may be granted by Obligees, with or without notice to the Surety, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the Surety being hereby waived; and, if the Principal shall fully indemnify and save harmless the Obligees from all costs and damages which Obligees

may suffer by reason of failure to so perform herein and shall fully reimburse and repay Obligees all outlay and expense which the Obligees may incur in making good any default or deficiency, then this obligation shall be void; otherwise, it shall remain in full force and effect.

PROVIDED FURTHER, that if any legal action be filed on this Bond, exclusive Venue shall lie in Collin County, Texas.

AND PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder or the Specifications accompanying the same shall in anywise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work or to the Specifications.

This Bond is given pursuant to the provisions of V.T.C.A., Government Code Section 2253.001, et seq., and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Collin County or Dallas County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship, as provided by Article 7.19-1 of the Insurance Code, Vernon's Annotated Civil Statutes of the State of Texas.

IN WITNESS WHEREOF, this instrument is executed in ____ copies, each one of which shall be deemed an original, this, the _____ day of _____, 20____.

PRINCIPAL:_____

BY: _____
Name

ATTEST:
_____

TITLE:_____

SURETY:_____

BY: _____
Name

ATTEST:
_____

TITLE:_____

The Resident Agent of the Surety in Collin County or Dallas County, Texas, for delivery of notice and service of the process is:

NAME: _____

STREET ADDRESS: _____

CITY, STATE, ZIP: _____

NOTE: Date on ***Page 1*** of Performance Bond must be ***same date as Contract***. Date on ***Page 2*** of Performance Bond must be ***after date of Contract***. If Resident Agent is not a corporation, give a person's name.

EXHIBIT "D"

PAYMENT BOND

STATE OF TEXAS §
§
COUNTY OF COLLIN §

KNOW ALL MEN BY THESE PRESENTS: That _____ whose address is _____, hereinafter called Principal, and _____,a corporation organized and existing under the laws of the State of _____, and fully licensed to transact business in the State of Texas, as Surety, are held and firmly bound unto the **CITY OF PLANO**, a home-rule municipal corporation organized and existing under the laws of the State of Texas, hereinafter called "Owner", and unto all persons, firms, and corporations who may furnish materials for, or perform labor upon the building or improvements hereinafter referred to in the penal sum of _____ **DOLLARS** ($_____) in lawful money of the United States, to be paid in Collin County, Texas, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors jointly and severally, firmly by these presents. This Bond shall automatically be increased by the amount of any Change Order or Supplemental Agreement which increases the Contract price, but in no event shall a Change Order or Supplemental Agreement which reduces the Contract price decrease the penal sum of this Bond.

THE OBLIGATION TO PAY SAME is conditioned as follows: Whereas, the Principal entered into a certain Contract with the City of Plano, the Owner, dated on or about the _____ day of _____, A.D. 20____, which is made a part hereof by reference, for the _____.

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties and make prompt payment to all persons, firms, subcontractors, corporations and claimants supplying labor and/or material in the prosecution of the Work provided for in said Contract and any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modification to the Surety is hereby expressly waived, then this obligation shall be void; otherwise it shall remain in full force and effect.

PROVIDED FURTHER, that if any legal action be filed on this Bond, exclusive Venue shall lie in Collin County, Texas.

AND PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to

k-24

Contract, or to the Work performed thereunder, or the Plans, Specifications, Drawings, etc., accompanying the same, shall in anywise affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work to be performed thereunder.

This Bond is given pursuant to the provisions of V.T.C.A., Government Code Section 2253.001, et seq., and any other applicable statutes of the State of Texas.

The undersigned and designated agent is hereby designated by the Surety herein as the Resident Agent in Collin County or Dallas County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship, as provided by V.A.T.S., Insurance Code Article 7.19-1.

IN WITNESS WHEREOF, this instrument is executed in _____ copies, each one of which shall be deemed an original, this, the _____ day of _____, 20__.

PRINCIPAL: _____

BY: _____

Name

ATTEST: _____

TITLE: _____

SURETY: _____

BY: _____

Name

ATTEST: _____

TITLE: _____

The Resident Agent of the Surety in Collin County or Dallas County, Texas, for delivery of notice and service of the process is:

NAME:

STREET ADDRESS: _____

CITY, STATE, ZIP: _____

NOTE: Date on ***Page 4*** of Payment Bond must be ***same date as Contract***. Date on ***Page 5*** of Payment Bond must be ***after date of Contract***. If Resident Agent is not a corporation, give a person's name.

EXHIBIT "E"

IRREVOCABLE LETTER OF CREDIT
(Letterhead of Bank)

_____, _____

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

Gentlemen:

By order of our client, _____, we hereby open our clean Irrevocable Letter of Credit No. _____, in your favor for an amount not to exceed the aggregate of U.S. $ _____ (_____ U.S. Dollars), effective immediately and expiring at our offices on _____, _____, relative to our client's Contract No. _____ entitled Subdivision Improvement Agreement.

Funds under this Letter of Credit are available against your sight draft or drafts on us, mentioning thereon our Credit No. _____. Each such draft must be accompanied by your signed written statement to the effect that _____ has failed to comply with the terms and conditions of the above-mentioned Contract. Said written statement shall be sufficient if signed by any one of the following representatives of the city of Plano: City Manager, an Executive Director, City Engineer or Finance Director. The above-mentioned written statement shall be sufficient and conclusive and you will not be required to specify the nature or grounds of noncompliance with or default of the above-mentioned Contract.

The amount of this Letter of Credit may be reduced at the sole option of the City of Plano upon our receipt of a written statement signed by any one of the above representatives of the City of Plano specifying the amount of the reduction.

If we receive your sight draft or drafts and statement or statements as mentioned above, here at our _____ office, on or before the expiration date of this Letter of Credit, we will promptly honor the same.

NAME OF BANK

BY: _____
Name: _____
Title: _____
_____
_____
_____

EXHIBIT "F"

MAINTENANCE BOND

STATE OF TEXAS

COUNTY OF COLLIN

KNOW ALL MEN BY THESE PRESENTS: _____ of the City of _____, County of _____ and State of Texas, as Principal, and _____, authorized under the laws of the State of Texas to act as surety on bonds for principals, (called "Surety"), are held and firmly bound unto the **CITY OF PLANO**, a Home Rule Municipal Corporation (called "City"), in the penal sum of _____ **DOLLARS** $_____), for the payment of which, the Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents:

WHEREAS, the Principal has entered into a contract (called "Contract") with _____ (called "Developer") dated the ____ day of _____, _____, which among other things calls for the construction of certain public improvements (called "Work"), which inure to the benefit of the City, such public improvements being in connection with development of _____, an addition or subdivision incorporated hereby reference and which public improvements are listed on Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, under the terms of the specifications of the Work, the Principal is required to give a bond in the amount specified hereinabove to guarantee the replacement and repair of defective or faulty workmanship furnished or installed by the Principal for a period of one (1) year, from and after the date the Work is completed by Principal and accepted by the City.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal shall for a period of one (1) year, from and after the date the Work is completed by the Principal and accepted by the City, replace and repair any and all defective or faulty workmanship in the Work, then the above obligation shall be void; otherwise, the said obligation shall remain in full force and effect.

Venue for any action to enforce this Bond shall be Collin County, Texas

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this ____ day of _____, _____.

Principal	Surety
By: _____	By: _____
Title: _____	Title: _____
Address: _____	Address: _____
_____	_____
_____	_____

The name and address of the Resident Agent of Surety is:

Name: _____

Address: _____

City, State, Zip _____

EXHIBIT "G"

ASSIGNMENT OF SUBDIVISION IMPROVEMENT AGREEMENT

WHEREAS, _____, a _____ ("Developer") entered into a certain Subdivision Improvement Agreement (the "Agreement") dated _____ with the City of Plano, Texas (called "City"), which was recorded in Volume _____, Page ____ of the Land Records of Collin County, Texas [or Real Property Records of Denton County, Texas]; and

WHEREAS, the Agreement calls for the Developer's obligation to complete certain public improvements (as defined therein) as a condition of final subdivision plat approval of _____, an addition to the City of Plano, Texas (the "Subdivision"); and

WHEREAS, the real property in which the Subdivision is located is in Collin County, Texas, and is more fully described in Exhibit "A" attached hereto and made a part hereof by reference (the "Property"); and

WHEREAS, _____, a _____ ("New Owner") is the new owner of the Property; and

WHEREAS, the City has signed this assignment for the sole purpose of evidencing its written consent.

NOW, THEREFORE, in consideration of **TEN AND NO/100 DOLLARS ($10.00)** and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, Developer and New Owner agree as follows:

(1) Developer hereby assigns to the New Owner all of its right, title and interest in and to the Agreement.

(2) New Owner hereby agrees to assume all of the Developer's obligations and to perform the Developer's responsibilities under the Agreement and to indemnify and hold harmless the Developer from the same.

(3) This Assignment shall be binding upon and inure to the benefit of Developer, New Owner and their heirs, executors, administrators, successors and assigns and shall inure to the benefit of the City, its successors and assigns.

EXECUTED as of the _____ day of _____, 20__.

DEVELOPER:

By: _____

Name: _____

Title: _____

Address: _____
_____
_____

NEW OWNER:

By: _____

Name: _____

Title: _____

Address: _____
_____
_____

CONSENT:

CITY OF PLANO, TEXAS

BY: _____
THOMAS H. MUEHLENBECK
City Manager

ACKNOWLEDGMENTS

STATE OF TEXAS §
§
COUNTY OF COLLIN §

This instrument was acknowledged before me this _____ day of_____, 20__, by _____.

_____
Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF COLLIN §

This instrument was acknowledged before me this _____ day of_____, 20__, by _____.

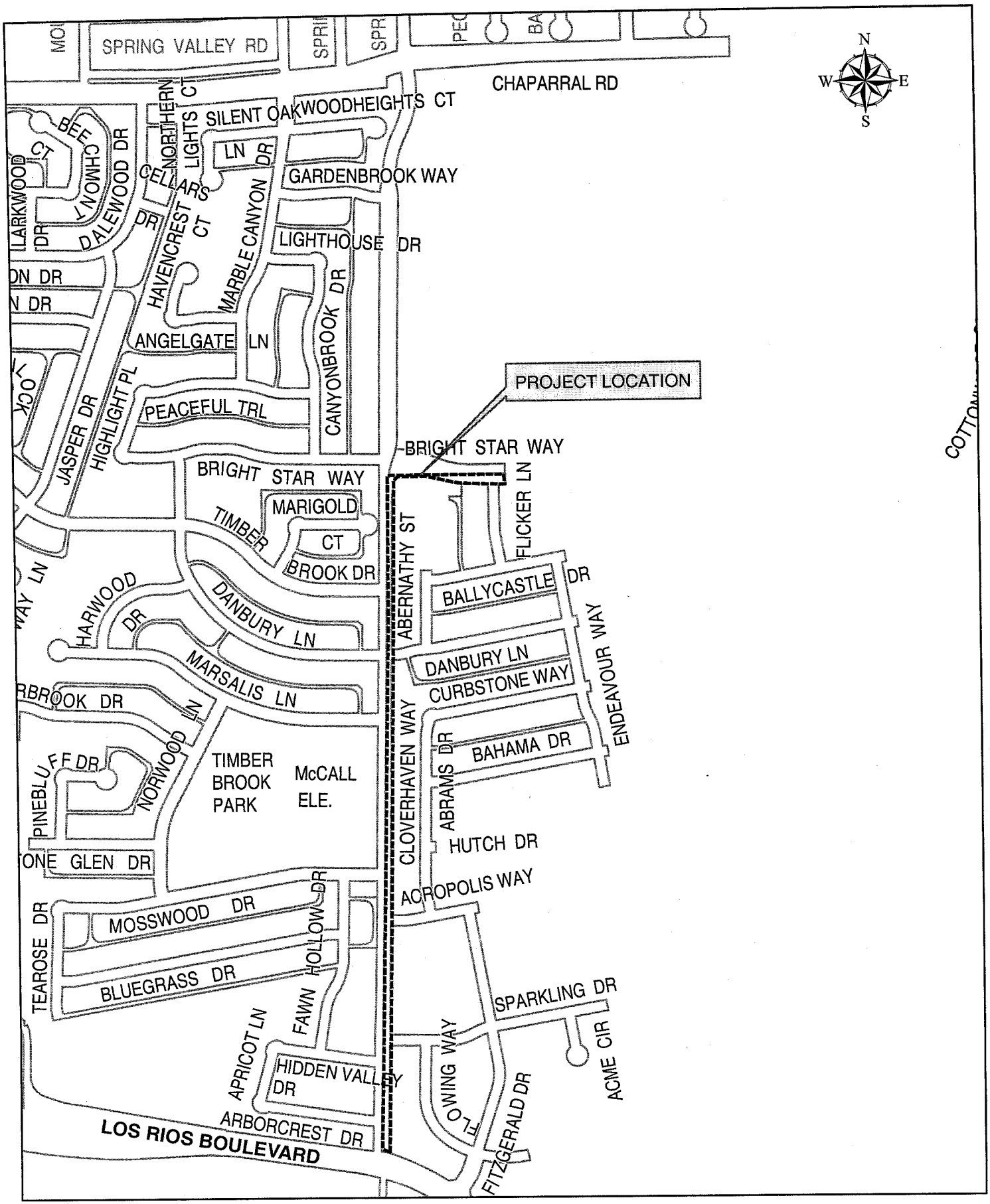
_____
Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF COLLIN §

This instrument was acknowledged before me this _____ day of_____, 20__, by **THOMAS H. MUEHLENBECK**, City Manager of the **CITY OF PLANO, TEXAS**, a home rule municipal corporation, for an on behalf of said corporation.

_____
Notary Public, State of Texas

CLOVERHAVEN WAY and BRIGHT STAR WAY



10/10/06

LOCATION MAP

R-32

CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	☒ Yes	☐ Not Applicable
☐ Consent ☐ Regular ☐ Statutory		Reviewed by Budget	☒ Yes	☐ Not Applicable
Council Meeting Date:	10/23/06	Reviewed by Legal	☐ Yes	☒ Not Applicable
Department:	Engineering Department		Initials	Date
Department Head	Alan Upchurch	Executive Director		10/9/06
Dept Signature:		City Manager		10/12/06
Agenda Coordinator (include phone #):	Irene Pegues (7198)			(Project No. 5503)

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

CAPTION

To Duit Construction Company, Inc., increasing the contract by $132,949.00 for the Alma Road Whitetopping Street Resurfacing, Change Order No. 1. (Original Bid No. 2006-112-B)

FINANCIAL SUMMARY

☐ NOT APPLICABLE ☐ OPERATING EXPENSE ☐ REVENUE ☒ CIP

FISCAL YEAR: 2006-07	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	969,557	999,443	0	**1,969,000**
Encumbered/Expended Amount	-969,557	-831,723	0	**-1,801,280**
This Item	0	-132,949	0	**-132,949**
BALANCE	**0**	**34,771**	**0**	**34,771**

FUND(S): STREET IMPROVEMENT & MUNICIPAL DRAINAGE CIP

COMMENTS: Funds are included in the 2006-07 Street Improvement and Municipal Drainage CIP. This change order, in the amount of $132,949, will leave a current year balance of $34,771 for the Alma Road Whitetopping and Alma Road Drainage projects.

STRATEGIC PLAN GOAL: Street resurfacing and storm water sewer main construction relate to the City's Goals of Safe, Efficient Travel and Livable Neighborhoods and Urban Centers.

SUMMARY OF ITEM

This change order is for revising the scope of work to include additional street pavement repairs, storm sewer main and additional items necessary to resolve conflicts with other utilities.

Staff recommends approval of Change Order No. 1. The contract total will be $1,863,591.65, which includes change orders of 7.68% of the original contract amount of $1,730,642.65.

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
Change Order No. 1	N/A
Location Map	

1023DUIT (DF/sr)

e-1

CHANGE ORDER NO. 1

ALMA ROAD WHITETOPPING STREET RESURFACING
PROJECT NO. 5503
PURCHASE ORDER NO. 103028
CIP NO. 33-37839, 26-71125
BID NO. 2006-12-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 **DUIT CONSTRUCTION COMPANY, INC.** for the **ALMA ROAD WHITETOPPING STREET RESURFACING**, dated April 24, 2006.

B. DESCRIPTION OF CHANGE

The change order is for additional items necessary to install the storm sewer along Alma and for pavement repairs to the existing concrete road surface and other miscellaneous item.

C. EFFECT OF CHANGE

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

ITEM NO.	ITEM DESCRIPTION	ORIGINAL QUANTITY	REVISED QUANTITY	UNIT	UNIT PRICE	AMOUNT OF CHANGE
	33-37839					
11	Remove & replace with 10" conc.	1500	1317	SY	$132.00	-$24,156.00
11a	Remove & replace with 8" conc.	0	1053	SY	$120.00	$126,360.00
14	Adjust valve box	11	12	EA	$600.00	$600.00
27	Median nose	5	8	EA	$1,750.00	$5,250.00
	TOTAL:					$108,054.00
	26-71125					
30A	24" RCP	0	12	LF	$105.00	$1,260.00
30B	30" RCP	0	16	LF	$115.00	$1,840.00
40	Cut in 12" gate valve	0	1	EA	$3,550.00	$3,550.00
41	Cut in 12" gate valve City supplied	0	2	EA	$3,462.50	$6,925.00
42	Conflict manhole	0	1	EA	$7,320.00	$7,320.00
43	Fiber optic conflicts	0	1	LS	$4,000.00	$4,000.00
	TOTAL:					**$132,949.00**

Original Contract Amount	$ 1,730,642.65
Contract Amount (Including Previous Change Orders)	$ 1,730,642.65
Amount, Change Order No. 1	**$ 132,949.00**
Revised Contract Amount	**$ 1,863,591.65**
Total Percent Increase Including Previous Change Orders	**7.68%**

D. EFFECT OF CHANGE ON CONTRACT TIME

The work required under this change order will add 15 days to this project:

Original Contract Time	100 working days
Amount (Including Previous Change Orders)	100 working days
Amount, Change Order No. 1	**15** working days
Revised Contract Time	**115** working days
Total Percent Increase Including Previous Change Orders	**15.00%**

E. AGREEMENT

By the signatures below, duly authorized agents of the City of Plano, Texas and **DUIT CONSTRUCTION COMPANY, INC.**, do hereby agree to append this Change Order No. 1 to he original contract between themselves, dated April 24, 2006.

OWNER: CITY OF PLANO	**CONTRACTOR: DUIT CONSTRUCTION COMPANY, INC.**
By: (signature)	By: James A. Duit (signature)
Print Name: Thomas H. Muehlenbeck	Print Name: JAMES A. DUIT
Print Title: City Manager	Print Title: PRESIDENT
Date:	Date: 9-26-06

APPROVED AS TO FORM:

By: _____
Diane C. Wetherbee, City Attorney

ACKNOWLEDGMENTS

STATE OF TEXAS §
§
COUNTY OF Oklahoma §

This instrument was acknowledged before me on the 26th day of SEPTEMBER, 2006, by JAMES A. DUIT, President of **DUIT CONSTRUCTION COMPANY, INC.**, an Oklahoma corporation, licensed to do business in Texas on behalf of said corporation.

DONNA WILLIAMS NOTARY PUBLIC #02019552 EXP. 11/25/06 STATE OF OKLAHOMA

Donna Williams 02019552
Notary Public, State of ~~Texas~~ OKLAHOMA
EXP: 11-25-06

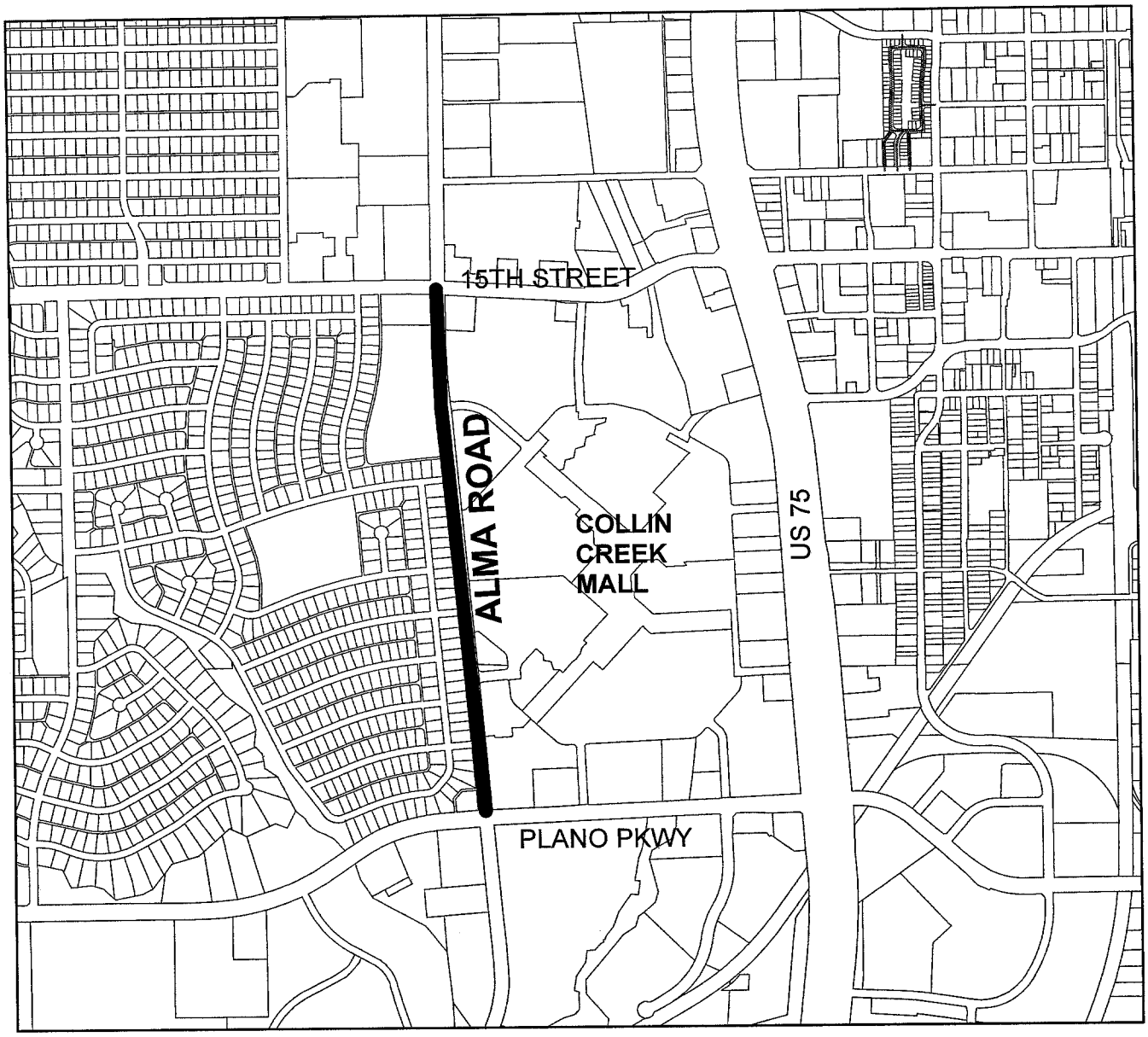
STATE OF TEXAS §
§
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2006, by **Thomas H. Muehlenbeck**, **City Manager** of the **City of Plano, Texas,** a Home-Rule Municipal Corporation, on behalf of said municipal corporation.

_____
Notary Public, State of Texas

l-4

ALMA ROAD WHITETOPPING
PLANO PKWY TO 15TH STREET



CITY OF PLANO ENGINEERING DEPARTMENT

COMMUNITY INVESTMENT PROJECT

N
W E
S

0 0.25 0.5 1 Miles

l-5

CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	☐ Yes	Not Applicable
☐ Consent ☐ Regular ☐ Statutory		Reviewed by Budget	☒ Yes	☐ Not Applicable
Council Meeting Date:	10/23/06	Reviewed by Legal PM	☒ Yes	☐ Not Applicable
Department:	Planning		Initials	Date
Department Head	Phyllis Jarrell	Executive Director		
Dept Signature:	P. Jarrell	City Manager		10/12/06
Agenda Coordinator (include phone #):	Lynn Woodall, ext. 7156			

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

CAPTION

A RESOLUTION OF THE CITY OF PLANO, TEXAS APPROVING THE TERMS AND CONDITIONS OF 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 $544,089; AUTHORIZING THE CITY MANAGER, OR IN HIS ABSENCE AN EXECUTIVE DIRECTOR, TO EXECUTE SUCH AGREEMENTS WITH THESE ORGANIZATIONS FOR THE PROVISION OF SUPPORT OF HERITAGE PRESERVATION; AND PROVIDING AN EFFECTIVE DATE.

FINANCIAL SUMMARY

☐ NOT APPLICABLE ☒ OPERATING EXPENSE ☐ REVENUE ☐ CIP

FISCAL YEAR: 2006-2007	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	601,301	0	**601,301**
Encumbered/Expended Amount	0	0	0	**0**
This Item	0	-544,089	0	**-544,089**
BALANCE	0	57,212	0	**57,212**

FUND(S): CONVENTION AND TOURISM FUND

COMMENTS: THIS ITEM IS INCLUDED IN THE APPROVED 2006-07 BUDGET. THIS ITEM LEAVES A BALANCE OF $57,212, OF WHICH $10,000 WILL GO TO BLACKLAND PRAIRIE FESTIVAL, LEAVING A REMAINING BALANCE OF $47,212 TO BE DISTRIBUTED BY THE HERITAGE COMMISSION TO EXISTING GRANT RECIPIENTS UPON FURTHER REVIEW IN 2006-07.

STRATEGIC PLAN GOAL: THIS ITEM RELATES TO THE CITY'S GOAL OF "PREMIER CITY IN WHICH TO LIVE."

SUMMARY OF ITEM

This resolution establishes funding agreements for the purpose of heritage preservation with various non-profit organizations as reviewed and approved by the City Council in the 2006-07 adopted budget. This item amounts to $544,089. The funds will be provided to the Plano Conservancy for Historic Preservation and to the Plano Heritage Association (Heritage Farmstead Museum), with 50% being distributed by November 30, 2006. The remaining amounts will be distributed as follows: 25% by February 28, 2007 and 25% by May 31, 2007.

M-1

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF PLANO, TEXAS APPROVING 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 $544,089; AUTHORIZING THE CITY MANAGER, OR IN HIS ABSENCE AN EXECUTIVE DIRECTOR, TO EXECUTE SUCH AGREEMENTS WITH THESE ORGANIZATIONS FOR THE PROVISION OF SUPPORT OF HERITAGE PRESERVATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has assigned to the Heritage Commission the responsibility of considering funding requests from outside heritage preservation organizations; and

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

WHEREAS, the City Council received such recommendations during budget deliberations, conducted a public hearing on the proposed budget and approved and adopted the 2006-2007 budget; and

WHEREAS, pursuant to Ordinance No. 2006-9-11 the City Council has appropriated funds for such purposes and find that the services provided by these organizations are beneficial to the public and serve a valid public purpose; and

WHEREAS, the City Council desires to enter into agreements with the various heritage preservation organizations, a sample agreement is attached hereto by reference as Exhibit "A", which establishes the terms and conditions for funding.

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

Section 1. The terms and conditions of the Agreements with the below named organizations in the amounts specified, having been reviewed by the City Council and found to be proper and acceptable and in the best interests of the City of Plano are hereby in all things approved:

Heritage Preservation Grants:	
Plano Heritage Association	$368,381
Plano Conservancy for Historic Preservation	$175,708
TOTAL	$544,089

M-2

Z:ORD/HERITAGE FUNDING (MW)

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

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

DULY PASSED AND APPROVED THIS THE 23RD DAY OF OCTOBER, 2006.

_____
Pat Evans, MAYOR

ATTEST:

_____
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM;

_____
Diane C. Wetherbee, CITY ATTORNEY

FUNDING AGREEMENT BETWEEN CITY OF PLANO AND [NAME OF ORGANIZATION]

The **CITY OF PLANO,** a Texas home rule municipal corporation (hereinafter referred to as "City"), and [Name Of Organizaton], a Texas non-profit corporation, acting herein through its duly authorized representative (hereinafter referred to as "Contractor"); enter into this funding agreement to set out the terms and conditions governing the grant of City funds to Contractor 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 City of Plano and its citizens; and

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

WHEREAS, pursuant to Ordinance No. [NUMBER], the City Council of the City of Plano has appropriated necessary funds to enable the City to Grant $[GRANT AMOUNT] to Contractor for the purposes set forth in this Agreement; and

WHEREAS, Contractor through the application process, has demonstrated that it has the ability to perform such services.

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:

ARTICLE I
PURPOSES/CONSIDERATION; PRIORITY OF DOCUMENTS

1.01 Purpose/Consideration.

This Agreement provides the terms and conditions under which City will make available the sum of $[GRANT AMOUNT], to be used [DESCRIPTION OF SERVICES AND PROJECTS], as prescribed in Exhibit "A," HERITAGE COMMISSION SUMMARY OF 2006-2007 HISTORIC PRESERVATION FUNDING RECOMMENDATIONS and the Application. The City's source of these funds is general revenues derived from collection of property, sales

M-4

and other taxes, as well as other sources. In consideration of the City of Plano providing the funding specified for the 2006-2007 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; General Conditions; Affidavit of No Prohibited Interest and Insurance. 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.

ARTICLE 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 herein and in Contractor's Application, which is made a part hereof by reference and incorporated as Exhibit "A".

1. Should the Contractor wish to utilize funds for a purpose other than those stated in its Application, the Contractor must obtain approval from the Contractor's Board, the Heritage Commission, and the Plano 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 Heritage Commission, as evidenced by the official minutes of the Commission authorizing the change presented by the Contractor's Board;

   c. Written approval from the City Manager, following approval by the Heritage Commission.

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. 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 "B".

2.04 Unexpended and unencumbered City funds that remain with the Contractor after September 30, 2007, will revert to the City's general revenue fund.

ARTICLE 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.

ARTICLE IV
INDEPENDENT CONTRACTOR

4.01 The City enters into this Agreement with Contractor for the purposes enumerated in Article I. Contractor asserts and agrees that Contractor is an independent contractor and not an officer, agent, servant or employee of the City of Plano. 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 respondeat 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.

ARTICLE V
DISBURSEMENT OF FUNDS

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

1. 50% of the funds by November 30, 2006.
2. 25% of the funds by February 28, 2007.

M-6

3. The remaining 25% of the funds by May 31, 2007.

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 Contractor recognizes that this Agreement 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.

5.04 **Reporting Requirements.**

1. Within thirty (30) days following the close of each preceding quarter of the contract term, Contractor agrees to provide financial statements sufficiently describing the expenditure of funds provided by the City, as well as a description of program goals achieved and/or progress of same for the preceding quarter. These reports shall be furnished in writing to the Contract Administrator at the following address:

Marcus Watson
Planning Department
Municipal Center
1520 K Avenue
Plano, Texas 75074
Telephone: (972)941-7152
Facsimile: (972) 941-7397

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.

ARTICLE VI

M-7

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 "C".

ARTICLE 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 "D". Additionally, this insurance must specifically cover any and all activities occurring on City property, including those activities of Contractor's employees, volunteers, vendors, contractors, or subcontractors. Contractor must provide proof of this insurance to the Contract Administrator 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.

7.02 Indemnification.

Contractor shall release, defend, indemnify and hold City and its officers, agents and employees harmless from and against all claims, damages, injuries (including death), property damages (including loss of use), losses, demands, suits, judgments and costs, including attorney's fees and expenses, in any way arising out of, related to, or resulting from Contractor's performance under this Agreement or caused by the negligent act or omission of Contractor, its officers, agents, employees, subcontractors, licensees, invitees or any other third parties for whom Contractor is legally responsible (hereinafter "Claims"). Contractor must defend City against all such Claims.

M-8

City shall have the right to select or to approve defense counsel retained by Contractor to fulfill its obligation to defend and indemnify the City, unless such right is expressly waived by City in writing. City reserves the right to provide a portion or all of its own defense; however, City is under no obligation to do so. Any such action by City is not a waiver of Contractor's obligation to defend or indemnify the City pursuant to this Agreement. Contractor shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Agreement. If Contractor fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Contractor is liable for all costs incurred by City.

ARTICLE VIII
TERM

8.01 The term of this Agreement shall be November 1, 2006, through September 30, 2007. 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.

ARTICLE IX
TERMINATION

9.01 Either party may terminate this Agreement without cause 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 <u>before</u> 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 Notwithstanding anything herein to the contrary, in the event Contractor breaches any of the terms or conditions of this Agreement, whether in whole or in part, the City may immediately terminate this Agreement by providing written notice to the Contractor. After

notice of termination, Contractor may use City funds only for costs incurred before the notice of termination is received. Contractor is solely responsible for funds expended contrary to the terms and conditions of this Agreement, and must return all such funds to the City within ten (10) days of the termination.

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

City
Marcus Watson
City of Plano
1520 K Avenue, Ste. 250
Plano, TX 75074
972-941-7152
Fax: 972-941-7397

Contractor
[CONTRACTOR NAME AND ADDRESS]

M-10

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 Non-Waiver.

It is further agreed that one or more instances of forebearance by either party of any of its rights herein shall in no way constitute a waiver thereof.

10.08 Venue.

The parties agree that the laws of the State of Texas govern this Agreement. The parties further agree that this Agreement is performable in Collin and Denton Counties, Texas. In the event any dispute arises from this Agreement, venue for all causes of action shall exclusively lie in Collin County, Texas.

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

SIGNED on the date indicated below.

[CONTRACTOR NAME]

BY: _____

Name: _____

Title: _____

Date: _____

CITY OF PLANO, TEXAS

BY: _____

Thomas H. Muehlenbeck
CITY MANAGER

Date: _____

APPROVED AS TO FORM:

_____

Diane C. Wetherbee, CITY ATTORNEY

M-11

ACKNOWLEDGMENTS

STATE OF TEXAS)
)
COUNTY OF _____)

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

_____
Notary Public in and for the
State of Texas

M-12

EXHIBIT "A"
HERITAGE COMMISSION
SUMMARY OF 2006-2007 HISTORIC PRESERVATION
FUNDING RECOMMENDATIONS

Plano Heritage Association, Inc. d/b/a Heritage Farmstead Association

AMOUNT OF REQUEST: $432,795
RECOMMENDED FUNDING: ~~$378,381~~ $368,381*

The Heritage Farmstead Association collects preserves and interprets late 19th- and early 20th-century Blackland Prairie history while making appropriate use of the authentically restored Farrell-Wilson Farmstead. Funding will support personnel, promotion, maintenance, security, insurance and utilities to support and enhance this designated historic site. Additionally, the Heritage Farmstead Association will again host the Blackland Prairie Festival and will assist the Plano African American Museum with repairs to the Thornton House. From the funds recommended to this organization, ~~*$10,000 must be used for administration of the Blackland Prairie Festival~~ and $21,921 must be used for museum planning and/or repairs for the Thornton House as detailed below.

Recommended Budget:**

Operating Expenses	$346,460
Thornton House	21,921
(Repairs, Renovations and Collections Plan Only)	
Blackland Prairie Festival	*10,000
(administration only)	

Plano Conservancy for Historic Preservation, Inc.

AMOUNT OF REQUEST: $195,425
RECOMMENDED FUNDING: $175,708

The Plano Conservancy for Historic Preservation is dedicated to promote civic pride in the past, to increase preservation awareness through education and public outreach, and to provide financial assistance to protect and preserve our heritage resources for this and future generations. Funding will be used for personnel, promotion, other operating expenses, improvements to the Interurban Museum, educational programming, and heritage tourism marketing.

Recommended Budget:*

Operating Expenses	$127,608
Interurban Exhibit	25,000
Tourism Brochures and Cards	13,500
Cemetery Signage	3,350
Car 360 Roof Sealer	3,000
PISD Educational Program	2,250
Preservation Awards	1,000

* Blackland Prairie Festival funds ($10,000) are to be held until the formation of a new non-profit organization, Blackland Prairie Festival, Inc. These funds will be distributed directly to the new organization.

** Monies left over from grant funds not specifically assigned to a "Heritage Project" may be transferred to any "Heritage Projects" as described in the respective organization's application as it deems necessary.

EXHIBIT B
GENERAL CONDITIONS OF AGREEMENT

The Contractor agrees to the following general conditions:

(1) The Contractor must provide reports of its activities as described in Article V, Section 5.04, 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 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, at City's option.

(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, and/or recovery of previous payments, disqualification from future participation in grant program offered or sponsored by or through City.

(5) Programs, activities, employment opportunity, etc. fund 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, and said laws shall apply to all parties and beneficiaries under this contract as well as to all officers, employees, and agents of City.

(8) None of the funds, materials, property, or services provided directly under this contract shall be used for any partisan political activity or to further the election or defeat of any candidate for public office, or for publicity, lobbying and/or propaganda purposes designed to support or defeat legislation pending before the Congress of the United States of America,

M-14

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 contracts to be let by the Contractor prior to execution by the Contractor, and to require such terms and conditions as it deems necessary to protect the City's interests to be modified, added, or deleted.

(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.

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

EXHIBIT C

AFFIDAVIT OF NO PROHIBITED INTEREST

I, the undersigned declare and affirm that no person or officer in this sole proprietorship, partnership, corporation, or board has or will have during the term of this contract a prohibited interest as that term is defined in Section 11.02 of the Plano City Charter and the City's Code of Conduct, Chapter 2, Article IV of the City's Code of Ordinances.

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 TEXAS §
COUNTY OF _____ §

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2004.

_____
Notary Public, State of Texas

M-16

Exhibit "D"
City of Plano
Contractor Insurance Requirements and Agreement

Contractors performing work on City property or public right-of-way for the City of Plano shall provide the City a certificate of insurance evidencing the coverages and coverage provisions identified herein. Contractors shall provide the City evidence that all subcontractors performing work on the project have the same types and amounts of coverages as required herein or that the subcontractors are included under the contractor's policy. The City, at its own discretion, may require a certified copy of the policy.

All insurance companies and coverages must be authorized by the Texas Department of Insurance to transact business in the State of Texas and must be acceptable to the City of Plano.

Listed below are the types and amounts of insurance required. The City reserves the right to amend or require additional types and amounts of coverages or provisions depending on the nature of the work.

Type of Insurance	**Amount of Insurance**	**Provisions**
1. Commercial General (Public) Liability to include coverage for: a) Premises/Operations b) Products/Completed Operations c) Independent Contractors d) Personal Injury e) Contractual Liability	$500,000 each occurrence, $1,000,000 general aggregate; Or $1,000,000 combined single limits	City to be listed as additional insured and provided 30-day notice of cancellation or material change in coverage. City prefers that insurer be rated B+VI or higher by A.M.Best or A or higher by Standard & Poors
2. Business Auto Liability	As required by State of Texas	
3. Workers' Compensation & Employers' Liability	Statutory Limits $100,000 each accident	City to be provided a waiver of subrogation

Questions regarding this insurance should be directed to the City of Plano Purchasing Department (972) 941-7557.

This form must be signed and returned with your quotation to verify that you can and will meet the insurance requirements listed herein should you be selected to perform work for the City, and will provide the certificates of insurance acceptable to the City. ***A PURCHASE ORDER WILL NOT BE ISSUED WITHOUT EVIDENCE OF INSURANCE.***

I agree to provide the above-described insurance coverages if selected to perform work for the City of Plano. I also agree to provide the City evidence of insurance coverage on any and all subcontractors performing work on the project.

Project/Bid #: _____

Company: _____

Printed Name: _____

Signature: _____ Vendor # (if applicable) _____

Date: _____

Return Signed Form to: _____

M-17

EXHIBIT "A"
HERITAGE COMMISSION
SUMMARY OF 2006-2007 HISTORIC PRESERVATION
FUNDING RECOMMENDATIONS

Plano Heritage Association, Inc. d/b/a Heritage Farmstead Association

AMOUNT OF REQUEST: $432,795
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(Repairs, Renovations and Collections Plan Only)	
Blackland Prairie Festival	*10,000
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Car 360 Roof Sealer	3,000
PISD Educational Program	2,250
Preservation Awards	1,000

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M-18

CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	☐ Yes	☒ Not Applicable
☐ Consent ☐ Regular ☐ Statutory		Reviewed by Budget	☒ Yes	☐ Not Applicable
Council Meeting Date:	**10/23/06**	Reviewed by Legal	☒ Yes	☐ Not Applicable
Department:	Parks and Recreation/Marketing & Special Events		Initials	Date
Department Head	Don Wendell	Executive Director		10/13/06
Dept Signature:	Don Wendell	City Manager		10/13/06
Agenda Coordinator (include phone #):	**Linda Benoit (7255)**			

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

CAPTION

Approving the terms and conditions of the funding agreements between the City of Plano, Texas and six special events for the production of such events; authorizing the City Manager, or in his absence an Executive Director to execute such agreements; and providing an effective date.

FINANCIAL SUMMARY

☐ NOT APPLICABLE ☒ OPERATING EXPENSE ☐ REVENUE ☐ CIP

FISCAL YEAR: **2006-07**	**Prior Year (CIP Only)**	**Current Year**	**Future Years**	**TOTALS**
Budget	0	254,437	0	**254,437**
Encumbered/Expended Amount	0	0	0	**0**
This Item	0	-254,437	0	**-254,437**
BALANCE	0	0	0	**0**

FUND(S): **GENERAL FUND, CONVENTION & TOURISM FUND**

COMMENTS: This item, in the amount of $254,437, includes total funding approved in the FY 2006-07 budget for Asian Heritage Festival ($10,161), Blackland Prairie Festival ($54,500), Plano Balloon Festival ($139,192), Plano Book Festival ($13,500), Plano International Festival ($28,000), and Fiesta Cultural LatinoAmericana ($9,084).

STRATEGIC PLAN GOAL: This item relates to the City's Goal of "Premier City in Which to Live."

SUMMARY OF ITEM

This Resolution establishes funding agreements for six special events totaling $254,437, which were approved in the FY 2006-07 budget. Funds will be distributed to each event separately and no earlier than 120 days prior to the event. The six special events are:

Asian Heritage Festival	$ 10,161
Blackland Prairie Festival	$ 54,500
Plano Balloon Festival	$139,192
Plano Book Festival	$ 13,500
Plano International Festival	$ 28,000

CITY OF PLANO
COUNCIL AGENDA ITEM

Fiesta Cultural LatinoAmericana	$9,084
TOTAL	$254,437

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
Funding Agreement Grant Application	

M-2

RESOLUTION NO._____

A RESOLUTION OF THE CITY OF PLANO, TEXAS APPROVING THE TERMS AND CONDITIONS OF THE FUNDING AGREEMENTS BETWEEN THE CITY OF PLANO, TEXAS, AND SIX SPECIAL EVENTS, AUTHORIZING THE CITY MANAGER, OR IN HIS ABSENCE AN EXECUTIVE DIRECTOR, TO EXECUTE SUCH AGREEMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council established the Cultural Affairs Commission for the purpose of considering funding requests from community special events; 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 2006-2007 budget; and

WHEREAS, the City Council has appropriated $254,437 for such purposes and finds that the services provided by the six special events are beneficial to the public and serve a valid public purpose; and

WHEREAS, the City Council desires to enter into Funding Agreements with six 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 Agreement and the recommended funding amounts for the below named special events, hereby approves the Agreement and funding amounts, which are proper and in the best interests of the City of Plano.

Special Event Grants:

Asian Heritage Festival	$ 10,161
Blackland Prairie Festival	$ 54,500
Plano Balloon Festival	$139,192
Plano Book Festival	$ 13,500
Plano International Festival	$ 28,000
Fiesta Cultural LatinoAmericana	$ 9,084
TOTAL:	**$254,437**

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

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

DULY PASSED AND APPROVED this the _____day of _____, 2006.

_____
Pat Evans, MAYOR

ATTEST:

_____
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

_____
Diane C. Wetherbee, CITY ATTORNEY

M-4

AGREEMENT BETWEEN CITY OF PLANO AND (NAME OF EVENT)

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

THIS AGREEMENT, this day made and entered into by and between the **CITY OF PLANO,** a Texas home rule municipal corporation (hereinafter referred to as "City"), and the **(NAME OF AGENCY/EVENT),** a non-profit corporation, acting herein through its duly authorized representative (hereinafter referred to as "Contractor");

WHEREAS, Contractor desires to put on the 2007 **(event name)** Festival to celebrate the **(event theme)** of the City of Plano; and

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

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

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

SECTION I.
PURPOSES / CONSIDERATION / OBLIGATIONS.

The purpose of this Agreement is to provide terms and conditions under which City will make available the sum of _____ **NO/100 DOLLARS** to be used for the performance of the Festival to be held **(event date),** 2007, in Plano, Texas.

In addition to the funding referenced above, the City further agrees to make available City Services as described in **Exhibit "C"** in an amount not to exceed **$**_____ to assist with the Festival on **(event date)**, 2007. The City will notify Contractor if Contractor's request for City Services exceeds the amount indicated in Exhibit "C". Any City Services requested by Contractor that exceed the Exhibit "C" amount will be billed back to Contractor by City. Payments for those additional City Services are to be paid by Contractor, in full within 30 days of the invoice date.

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

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

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

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

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

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

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

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

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

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

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

D. Contractor agrees to and shall fully comply with the special conditions of the grant as set forth in the attachment entitled "Special Conditions of Contract"

M-6

(hereinafter referred to as the "Special Conditions"), a copy of which is attached hereto and incorporated herein as **Exhibit "C".**

E. Any City grant funds remaining with Contractor that are not expended for or that are not encumbered for expenses related to the 2006 Festival prior to the event start date, will revert to the City general revenues. Notwithstanding the above, excess funds may be retained and used as start up funds for the same event in the following year. Such use of excess funds shall not constitute a commitment by the City to fund future events.

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

SECTION III.
BUDGET.

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

SECTION IV.
INDEPENDENT CONTRACTOR.

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

SECTION V.
DISBURSEMENT OF FUNDS / REPORTING / AUDIT.

Funds and City Services provided for under this Agreement shall be disbursed in accordance with **Exhibit "A"** and **Exhibit "C"** attached hereto. Within sixty (60) days following the end of the contract term, Contractor agrees to provide financial statements sufficiently describing the expenditure of funds provided by the

City and affirmatively verify that such funds were expended in accordance with the terms of this Agreement. These reports shall be furnished in writing to the Contract Administrator at the following address:

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

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

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

M-8

SECTION VI.
INSURANCE REQUIREMENTS.

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

SECTION VII.
TERM.

The term of this Agreement begins on the date of execution by all parties and ends sixty (60) days after conclusion of the Festival or on September 30, 2007, whichever occurs first. At the expiration of this Agreement, the Contractor shall have the continuing obligation to complete any unfulfilled terms and conditions of this Agreement, including but not limited to the submission of a final report to the Contract Administrator.

SECTION VIII.
TERMINATION.

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

In the event Contractor breaches any of the terms or conditions of this Agreement, whether in whole or part, the City shall have the right to immediately terminate this Agreement by providing written notice to the Contractor,

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

SECTION IX.
AFFIDAVIT OF NO PROHIBITED INTEREST.

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

SECTION X.
INDEMNIFICATION

Contractor shall release, defend, indemnify and hold the City, its officers, agents and employees harmless from and against all damages, injuries (including death), claims, property damages (including loss of use), losses, demands, suits, judgments and costs, including reasonable attorney's fees and expenses, in any way arising out of, related to, or resulting from the Festival or caused by the negligent act or omission or intentional act or omission of Contractor, its officers, agents, employees, contractors, subcontractors, participating organizations or entities, licensees, invitees or any other third parties for whom Contractor is legally responsible (hereinafter "Claims"). Contractor is expressly required to defend City against all such Claims.

In its sole discretion, City shall have the right to select or to approve defense counsel to be retained by Contractor in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. City reserves the right to provide a portion or all of its own defense; however, City is under no obligation to do so. Any such action by City is not to be construed as a waiver of Contractor's obligation to defend City or as a waiver of Contractor's obligation to indemnify City pursuant to this Contract. Contractor shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Contract. If Contractor fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Contractor shall be liable for all costs incurred by City.

71-10

SECTION XI.
MISCELLANEOUS

A. Entire Agreement/Amendment.

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

B. Authorized to Execute/Binding on Contractor.

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

C. Binding on the City of Plano.

This Agreement shall not be considered fully executed or binding on the City of Plano until the same shall have been executed by Contractor, the City Manager or his designee, and the City Secretary, and approved and accepted by the City Council of the City of Plano in open meeting as required by law. After such approval and acceptance, City shall deliver to Contractor a certified copy of the Resolution as evidence of the authority of the City Manager or his designate to bind the City of Plano to the covenants, terms and provisions of this Agreement and to perform the same in accordance herewith.

The parties agree that they, their officials, agents, successors, legal representatives and administrators are bound to the terms and conditions of this Agreement. This Agreement may not be assigned by Contractor without the written permission of City.

D. Notice.

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

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

E. Paragraph Headings.

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

F. Contract Interpretation.

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

G. Venue.

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

H. Severability.

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

I. Applicable Law.

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

J. Non-Waiver.

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

M-12

IN TESTIMONY OF WHICH THE PARTIES HERETO AFFIXED THEIR SIGNATURES ON THIS THE _____ DAY OF _____, 2006.

CITY OF PLANO, TEXAS

BY: _____
Thomas H. Muehlenbeck
CITY MANAGER

APPROVED AS TO FORM:

_____
Diane C. Wetherbee, CITY ATTORNEY

(EVENT NAME)

BY: _____

ACKNOWLEDGMENTS

STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 2006, by (signors name), (title), (event producer).

_____
Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF COLLIN §

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

_____
Notary Public, State of Texas

M-14

EXHIBIT "A"

The purpose of this Agreement is to provide terms and conditions under which the City shall make available the sum of $ **(total amount)** to be used for some or all of the following:

1. Directly contracted City services;
2. Auxiliary Police and Traffic Control Officers;
3. Traffic control expenses required by the City both internal and external to the Festival grounds;
4. Event insurance (excluding payment of deductibles and vendor pass-throughs);
5. Public restrooms;
6. Auxiliary power;
7. Auxiliary public safety lighting;
8. Barricades;
9. Event signage;
10. Expenses outlined in the Special Event Grant Application and approved by the Cultural Affairs Commission;
11. Other expenses expressly authorized and approved by the City Manager.

EXHIBIT "B"
GENERAL CONDITIONS OF AGREEMENT

The Contractor agrees to the following general conditions:

1. The Contractor will provide the City a written report of its activities and expenditures no less than sixty (60) days after the last day of the event.

2. The Contractor agrees to maintain accounting records for three (3) years after the close of the fiscal year.

3. All accounting procedures, records, and reports shall be available for inspection by a duly authorized representative of the City of Plano.

4. The Contractor agrees to the on-site inspection of its facilities and/or programs by the City.

5. Improper use of funds provided by City will result in termination of the Contract, forfeiture of any outstanding grant money, and recovery of previous payments.

6. Programs, activities, employment opportunities, and other participatory events funded totally or partially by the City must be made available to all people regardless of race, color, religion, sex, age, national origin, handicap or political affiliation.

7. The Contractor and any person or organization it contracts with shall comply with all applicable laws, regulations, ordinances, and code of the United States of America, the State of Texas, and the City of Plano.

8. The Contractor shall comply with all Federal, State and Local conflict of interest laws, statutes, and regulations; these laws shall apply to all parties and beneficiaries under this Agreement, as well as to all officers, employees, and agents of the City.

9. Contractor shall not assign any interest in this Agreement without prior written consent of the City of Plano City Council.

10. None of the funds, materials, property, or services provided directly or indirectly under this Agreement shall be used for any partisan political activity, to further the election/defeat of any candidate for public office, or for publicity, lobbying and/or propaganda purposes designed to support or defeat legislation pending before the Congress of the United States of

77-16

America, the Legislature of the State of Texas, the City Council of the City of Plano, or any other political body.

11. The City shall have the right to review any and all of Contractor's agreements and contracts prior to execution by Contractor. City further has the right to require the modification, addition, or deletion of such terms and conditions in Contractor's agreements of contracts as it deems necessary to protect the City's interests.

12. Conditions of this Agreement may not be changed or adjusted without the prior written approval of Plano City Council.

EXHIBIT "C"
SPECIAL CONDITIONS OF AGREEMENT

The Contractor agrees to the following special conditions:

_____ and No/100 Dollars ($) (amount minus in-kind) shall be disbursed, lump sum, to the Festival upon execution of the Agreement and proof of insurance acceptable to the City Risk Manager as required by this Agreement. This disbursement will occur one hundred twenty (120) days prior to the event start date.

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

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

Police Department (traffic, security service)	$
Parks and Recreation (barricades, flags, site services)	$
Total	**$**

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

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

71-18

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

The Festival shall provide adequate handicapped parking or transportation.

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

EXHIBIT "D"

INSURANCE REQUIREMENTS FOR SPECIAL EVENTS

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

A. MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

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

B. MINIMUM LIMITS OF INSURANCE

Festival shall maintain limits no less than:

1. Commercial General Liability: $500,000 limit per occurrence for bodily injury, personal injury and property damage, $1,000,000 Aggregate. *NOTE: The aggregate loss limit applies to each event.*

2. Participant Liability (where applicable – races, walks, etc.) $500,000 limit per occurrence for bodily injury, personal injury, and property damage, $1,000,000 aggregate.

C. DEDUCTIBLES AND SELF-INSURED RETENTIONS

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

D. OTHER INSURANCE PROVISIONS

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

1. General Liability

   a. The City, its officers, officials, employees and volunteers are to be covered as "additional insured" as respects: liability arising out of premises owned, occupied or used by the Festival. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.

   b. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

   c. Coverage shall state that the Festival's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respects to the limits of the insurer's liability.

   d. Festival's insurance shall be primary as respects to the City, its officers, officials, employees or volunteers.

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

E. ACCEPTABILITY OF INSURERS

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

F. VERIFICATION OF COVERAGE

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

G. FOOD AND/OR LIQUOR COVERAGE

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

H. SPECIAL EVENTS

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

I. HOLD HARMLESS AND INDEMNIFICATION

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

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

J. PROOF OF INSURANCE

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

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

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

And

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

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

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

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 _____, 2006.

_____
Notary

M-24

THE CITY OF PLANO TEXAS

CULTURAL AFFAIRS COMMISSION

FY 2006-2007
APPLICATION FOR
SPECIAL EVENT
START-UP SPONSORSHIP GRANT

Must be submitted no later than 5:00pm May 12, 2006

THIS APPLICATION MUST BE TYPED AND SUBMITTED ON EITHER THIS FORM OR THE ELECTRONIC TEMPLATE AVAILABLE AT THE CONTACT POINTS BELOW

Cultural Affairs Commission
c/o Dana Conklin
City of Plano
P. O. Box 860358
Plano, TX 75086-0358

1409 Avenue K
Plano, TX 75074

www.planocourtyardtheater.com, then Cultural Affairs

71-25

THE CITY OF PLANO TEXAS

CULTURAL AFFAIRS COMMISSION

FY 2006-2007
APPLICATION FOR
SPECIAL EVENT
START-UP SPONSORSHIP GRANT

APPLICANT AGENCY: _____

EVENT NAME: _____

EVENT DATE: _____

CONTACT PERSON:

Name: _____ Title: _____

Address: _____ City: _____ Zip: _____

Daytime Phone: _____ e-mail: _____

CONTACT PERSON:

Name: _____ Title: _____

Address: _____ City: _____ Zip: _____

Daytime Phone: _____ e-mail: _____

BRIEF EVENT DESCRIPTION:

Please provide a brief description of the event. (Narrative will be requested later in this application)

_____

_____

_____

_____

N-26

Agency Board of Directors

Name	City of Residence

Planning Committee (if appropriate)

Name	City of Residence

Leadership Diversity

Please indicate the percent of Board and/or Planning Committee belonging to the following groups:

	Board	Planning Committee
White (not of Hispanic origin)		
Black (not of Hispanic origin)		
American Indian / Alaskan Native		
Hispanic		
Asian / Pacific Islander		
Multi-Racial / Other		

NARRATIVE QUESTIONS

Please look at the criteria in the sponsorship guidelines when you answer the following questions. **Be specific and give examples.** Answers to individual questions should be as brief as possible and should **never** exceed one page.

1. Describe the purpose and history of the event.
2. Describe the uniqueness of the event.
3. Outline the event for the upcoming sponsorship year.
4. Describe the 3, 5, and 10-year vision for the event
5. Show evidence of growth in community support prior to this application. Be sure to include specific information as to the activities taking place within the City of Plano.
6. How does your event meet the definition of Event Merit as described in the grant guidelines?
7. How does your event meet the definition of Community Partnership as described in the guidelines? Be sure to include detailed descriptions of the public benefits to the City of Plano, which will result from your organization's efforts.
8. How does your event promote tourism into Plano? What is your event doing to promote the use of Plano hotels/motels?
9. How does your organization meet the definition of Administrative and Fiscal Responsibility as described in the guidelines?
10. What are your fundraising plans/forecasts for the next three years?
11. How does your organization plan to manage expenses for the next three years?
12. How do you publicize your activities? How do you evaluate these efforts and what have you done to increase the effectiveness of your marketing efforts?
13. How does your marketing plan focus on Plano?
14. What do you consider to have been your greatest success in FY 2004-05?

N-28

ATTENDANCE:

Please provide a projection of your attendance figures

	FY 2003-04	FY 2004-05	FY 2005-06	FY2006-07	FY 2007-08
Projection					
Actual					
% = Plano residents					

VOLUNTEERS:

Services Provided	Number of People	Number of Hours
TOTAL		

71-29

GRANT REQUEST:

Total Amount Requested for 2006-07 $_____

Total Amount Received for 2005-06 $_____

Percent increase requested over last year's grant _____%

BUDGET:

Event Budget Information

Please provide a quick outline of your budgets matching the City of Plano Fiscal Year(s) in which the funding occurs. The City of Plano Fiscal Year begins October 1 and ends September 30.

	FY 2004-05	FY 2005-06	FY 2006-07
Revenues			
Expenses			
Total Net Gain/Loss			

11-30

Budget for 2006-07 Grant Request

Please complete the following by providing information for your FY 2006-07 request and attach a copy of your complete budget for the year of your request.

Revenue:

	Total Event Budget	City Cash Requested	City In-Kind Requested	City % of Total Budget
Sponsorships*			x	
Corporate		x	x	x
Foundations		x	x	x
Individual		x	x	x
In-Kind Sponsorships **		x		
Fees		x	x	x
Admission		x	x	x
Vendors (non-sponsor)		x	x	x
Vendors (sponsor)		x	x	x
Parking		x	x	x
Other (specify)				
Grand Total				

*Sponsorship defined as cash-only in keeping with sponsor levels established by event.
**Includes any sponsorships of services balanced against event costs. (i.e. media value, contract services)

Expenses:

	Total Event Budget	City Cash Requested	City In-Kind Requested	City % of Total Budget
Contracted City Services*				
Contracted Services other than City		x	x	x
Rental Expenses				
In-Kind Services other than City		x	x	x
Advertising & Promotion				
Insurance			x	
Other				
Grand Total				

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

71-31

OTHER REQUIRED DOCUMENTATION

The following additional information is required to accept the sponsorship grant application:

A. A detailed budget for request year as outlined on page 7.

B. IRS Letter of Determination certifying federal tax-exempt status under section 501(c)(3) of the Internal Revenue Code;

C. Statement of Good Standing from the Office of the Secretary of State, State of Texas, must be provided annually;

D. Articles of Incorporation, if applicable;

E. Constitution and/or By-Laws;

F. Balance Sheet and Statement of Income and Expenses **and** Form 990 as filed with the U.S. Internal Revenue Services for the two most recently ended fiscal years;

G. If your organization's budget exceeds $50,000 (Exclusive of in-kind) attach a copy of the last independent audit of financial records. If no audit was completed, please explain;

H. Schedule of Board of Directors meetings, or event planning meetings, for the period of October 1, 2006 through September 30, 2007. Meetings must occur at least once per quarter;

I. Resumes of principal staff and other relevant job descriptions.

J. Organization will obtain a Certificate of Insurance for liability coverage as outlined in this application. The City of Plano requires each grantee to have liability insurance to protect the public for acts by the grantee. This mandated coverage does not cover the grantee nor any of its members. We encourage the grantee to acquire insurance to cover itself and its members as it deems fit. Please see your insurance agent for the local government endorsement. The cost of the local government endorsement may be included as part of your budget to be considered for a grant. The City of Plano Risk Manager is available at 972-941-7129 if you or your insurance agent has questions on the required coverage.

ORAL PRESENTATION OF GROUP'S APPLICATION IS MANDATORY (JUNE 12, 2006)

N-32

INSURANCE REQUIREMENTS FOR SPECIAL EVENTS

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

A. MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

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

B. MINIMUM LIMITS OF INSURANCE

Festival shall maintain limits no less than:

1. Commercial General Liability: $500,000 limit per occurrence for bodily injury, personal injury and property damage, $1,000,000 Aggregate.
   NOTE: The aggregate loss limit applies to each event.

2. Participant Liability (where applicable – races, walks, etc.) $500,000 limit per occurrence for bodily injury, personal injury, and property damage, $1,000,000 aggregate.

C. DEDUCTIBLES AND SELF-INSURED RETENTIONS

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

D. OTHER INSURANCE PROVISIONS

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

1. General Liability

   a. The City, its officers, officials, employees and volunteers are to be covered as "additional insured" as respects: liability arising out of premises owned, occupied or used by the Festival. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.

71-33

b. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

c. Coverage shall state that the Festival's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respects to the limits of the insurer's liability.

d. Festival's insurance shall be primary as respects to the City, its officers, officials, employees or volunteers.

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

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

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

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

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

N-34

I. **HOLD HARMLESS AND INDEMNIFICATION**

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

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

J. **PROOF OF INSURANCE**

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

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

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

And

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

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

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

71-35

VALIDATION OF APPLICATION

The signatory declares that he/she is an authorized official of the applicant, is authorized to make this application, and certifies that the information in this application is true and correct to the best of his/her knowledge. Signatory further declares that applicant, if previously funded by the City of Plano, has successfully fulfilled all prior sponsorship contract obligations.

_____

Signature of Authorized Official Date

_____

Typed Name

_____

Title within Organization

_____

Business Telephone Home Telephone

_____

E-mail address

71-36

CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	☐ Yes	☒ Not Applicable
☐ Consent ☐ Regular ☐ Statutory		Reviewed by Budget	☒ Yes	☐ Not Applicable
Council Meeting Date:	**10/23/06**	Reviewed by Legal	☒ Yes	☐ Not Applicable
Department:	Parks and Recreation, Creative Arts Division		Initials	Date
Department Head	Don Wendell	Executive Director	[signature]	10/13/06
Dept Signature:	Amy Intenbrny for DW	City Manager	[signature]	10/13/06
Agenda Coordinator (include phone #):	**Linda Benoit (7255)**			

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

CAPTION

APPROVING THE TERMS AND CONDITIONS OF FUNDING AGREEMENTS BETWEEN THE CITY OF PLANO, TEXAS, AND VARIOUS ARTS ORGANIZATIONS, WHICH ALL RENDER SERVICES THAT ARE BENEFICIAL TO THE PUBLIC AND SERVE A VALID PUBLIC PURPOSE; AUTHORIZING THE CITY MANAGER, OR IN HIS ABSENCE AN EXECUTIVE DIRECTOR, TO EXECUTE SUCH AGREEMENTS WITH THESE ORGANIZATIONS PROVIDING FOR SUPPORT OF THE ARTS; AND PROVIDING AN EFFECTIVE DATE.

FINANCIAL SUMMARY

☐ NOT APPLICABLE ☒ OPERATING EXPENSE ☐ REVENUE ☐ CIP

FISCAL YEAR: **2006-07**	**Prior Year (CIP Only)**	**Current Year**	**Future Years**	**TOTALS**
Budget	0	601,301	0	**601,301**
Encumbered/Expended Amount	0	0	0	**0**
This Item	0	-601,301	0	**-601,301**
BALANCE	0	0	0	**0**

FUND(S): **CONVENTION & TOURISM FUND**

COMMENTS: Funds are available in the FY 2006-2007 approved budget. for a total of $601,301 in funding agreements with various arts organizations.

STRATEGIC PLAN GOAL: This item relates to the City's Goal of "Premier City in Which to Live."

SUMMARY OF ITEM

This resolution establishes funding agreements with various arts organizations for a total of $601,301 approved in the FY 2006-2007 budget. Funds will be distributed to the organizations on the following schedule: 50% of the funds by November 30, 2006; 25% of funds by February 28, 2007; the remaining 25% of the funds by July 1, 2007. Small Grants ($1,000 or less) will be distributed in a single payment to the recipient organization by November 30, 2006.

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
Sample funding agreements	

RESOLUTION NO._____

A RESOLUTION OF THE CITY OF PLANO, TEXAS APPROVING THE TERMS AND CONDITIONS OF THE FUNDING AGREEMENTS BETWEEN THE CITY OF PLANO, TEXAS, AND VARIOUS ARTS ORGANIZATIONS, WHICH ALL RENDER SERVICES THAT ARE BENEFICIAL TO THE PUBLIC AND SERVE A VALID PUBLIC PURPOSE; AUTHORIZING THE CITY MANAGER, OR IN HIS ABSENCE AN EXECUTIVE DIRECTOR, TO EXECUTE SUCH AGREEMENTS WITH THESE ORGANIZATIONS FOR PROVISION OF SUPPORT OF THE ARTS; AND PROVIDING AN EFFECTIVE DATE.

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

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

WHEREAS, the City Council received such recommendations during budget deliberations, conducted a public hearing on the proposed budget and approved and adopted the 2006-2007 budget; and

WHEREAS, pursuant to Ordinance No. 2006-9-9, the City Council has appropriated $601,301 for such purposes and finds that the services provided by the twenty organizations are beneficial to the public and serve a valid public purpose; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE C ITY 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	$	67,581.98
Chamberlain Ballet	$	43,951.49
Classical Acting Company	$	1,000.00
Dallas Asian American Youth Orchestra	$	16,365.17
Dallas Chinese Choral Society	$	1,000.00
Ivy Camerata Orchestra	$	3,415.57
Men of Note	$	7,727.99
Plano Art Association	$	23,002.15
Plano Children's Theatre	$	68,188.19
Plano Civic Chorus	$	9,247.23

0-2

Plano Community Band	$ 23,093.07
Plano Metropolitan Ballet, Inc.	$ 5,752.87
Plano Symphony Orchestra	$ 206,066.23
Quilters Guild of Plano	$ 5,355.65
Rhythm Junkies Incorporated	$ 1,000.00
Rover Dramawerks	$ 2,760.84
Texas Performing Chinese Arts Association, Inc.	$ 10,000.93
The Classics/Carousel	$ 76,319.81
The Living Opera	$ 22,729.40
Younger Generation Chorus of Plano	$ 6,742.44
TOTAL:	**$ 601,301.00**

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

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

DULY PASSED AND APPROVED this the _____ day of _____, 2006.

_____
Pat Evans, MAYOR

ATTEST:

_____
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

_____
Diane C. Wetherbee, CITY ATTORNEY

0-3

FUNDING AGREEMENT BETWEEN CITY OF PLANO AND DALLAS CHINESE CHORAL SOCIETY, INC

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

THIS AGREEMENT, this day made and entered into by and between the **CITY OF PLANO**, TEXAS, a home rule municipal corporation (hereinafter referred to as "City"), and **DALLAS CHINESE CHORAL SOCIETY, INC,** a Texas non-profit corporation, acting herein through its duly authorized representative (hereinafter referred to as "Organization");

WHEREAS, it is deemed to be in the best interest of the residents of and the City of Plano to expend public funds for improvement, promotion, application, and encouragement of the arts and culture for organizations which provide services within the corporate limits of the City of Plano; and

WHEREAS, the City Council finds that expending public funds for encouragement, promotion, improvement, and application of the arts and culture are valid public purposes and will promote tourism and visitors to the City of Plano; and

WHEREAS, the City Council determined that up to $1,000.00 shall be expended for the purposes as outlined in the attachment entitled "Small Grants Application 2006-07" (hereinafter referred to as "Application");

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

0-4

SECTION I.

PURPOSES/CONSIDERATION; PRIORITY OF DOCUMENTS

1.01 Purpose/Consideration. The purpose of this Agreement is to provide terms and conditions under which City shall make available the sum of money up to but not to exceed, $1,000.00, to be used for the purposes set forth in the Application submitted by Organization, such purposes being those which will aid in the improvement, promotion, encouragement, and application of the arts and culture within the corporate limits of the City of Plano. City's source of these funds is general revenues derived from collection of property, sales and other taxes, as well as other sources.

In consideration of the City of Plano providing the funding specified in the 2006-07 fiscal year, Organization shall abide by the terms and conditions of this Agreement.

1.02 Priority of Documents. This Agreement consists of: Agreement between City of Plano and **DALLAS CHINESE CHORAL SOCIETY, INC**; Application; General Conditions; and Affidavit of No Prohibited Interest. The documents are complementary, and what is called for by one shall be binding as if called for by all. In the event of inconsistency in any provisions of the documents, the inconsistency shall be resolved by giving precedence to the documents in the order in which they are listed above.

SECTION II.

PERMITTED USES OF FUNDS; CONDITIONS OF USE

2.01 Organization shall use any and all funds furnished by City under this Agreement only for those purposes as outlined in the Application, a copy of which is attached hereto and made a part hereof as Exhibit "A". No expenditure of funds contrary to the funding application is permitted unless prior written approval is received from the City Manager or his designee.

0-5

2.02 Organization agrees to the general conditions of the grant as set forth in the attachment entitled "General Conditions of Agreement" (hereinafter referred to as the "General Conditions"), a copy of which is attached hereto and incorporated herein as Exhibit "B".

2.03 City funds which are remaining with Organization and which are not expended or unencumbered on September 30, 2007, will revert to the City general revenues.

SECTION III.

NON-ASSIGNMENT

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

SECTION IV.

INDEPENDENT CONTRACTOR

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

SECTION V.

DISBURSEMENT OF FUNDS

5.01 Disbursement. Funds provided for under this Agreement shall be disbursed on or about November 30, 2006. Expenses incurred after the termination

0-6

date will not be reimbursed under this Agreement and the City shall assume no liability for same.

5.02 Reporting Requirements. Within thirty (30) days of the close of the contract term, Organization agrees to provide financial records sufficiently describing the expenditure of funds provided by the City, as well as a description of program goals achieved and/or progress of same for the contract period. The report shall be furnished in writing to the Contract Administrator at the following address:

Jim Wear, Manager
Creative Arts Division
City of Plano, Texas
P.O. Box 860358
Plano, Texas 75086-0358
Telephone: 972/941-5202
Fax: 972/941-7221

SECTION VI.

AFFIDAVIT OF NO PROHIBITED INTEREST

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

SECTION VII

INDEMNIFICATION

7.01 Organization shall release, defend, indemnify and hold harmless City and its officers, agents and employees from and against all damages, injuries (including death), claims, property damages (including loss of use), losses, demands, suits, judgments and costs, including attorney's fees and expenses, in any way arising out of, related to, or resulting from the performance of the work or caused by the negligent act

0-7

or omission of Organization, its officers, agents, employees, contractors, subcontractors, licensees, invitees or any other third parties for whom Organization is legally responsible (hereinafter "Claims"). Organization is expressly required to defend City against all such Claims.

7.02 In its sole discretion, City shall have the right to select or to approve defense counsel to be retained by Organization in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. City reserves the right to provide a portion or all of its own defense; however, City is under no obligation to do so. Any such action by City is not to be construed as a waiver of Organization's obligation to defend City or as a waiver of Organization's obligation to indemnify City pursuant to this Agreement. Organization shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Agreement. If Organization fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Organization shall be liable for all costs incurred by City.

SECTION VIII.

TERM

The term of this Agreement shall begin on November 1, 2006 and expire on September 30, 2007. At the expiration of this Agreement, the Organization shall have the continuing obligation to complete any unfulfilled terms and conditions of this Agreement, including but not limited to the submission of a final report to the City.

0-8

SECTION IX.

TERMINATION

9.01 Either party shall have the right to an early termination of this Agreement by giving the other party written notice of intention of such early termination, with such notice to be given in writing ninety (90) days before the desired early termination date. The right to early termination of this Agreement is specifically reserved to both parties. Any commitments and obligations of Organization existing prior to notice of early termination shall be honored and shall not prejudice the right of Organization to pay such costs previously incurred out of the funds furnished by City. However, City is only required to pay those previously incurred costs that are properly due and payable under the terms of this Agreement. In the event of such early termination, or at the end of the term of this Contract, the Organization agrees to return to City the unused balance of any funds previously disbursed to the Organization by City pursuant to this Agreement within ten (10) days of either event.

9.02 In the event Organization breaches any of the terms or conditions of this Agreement, whether in whole or part, the City shall have the right to immediately terminate this Agreement by providing thirty (30) days written notice to the Organization, notwithstanding any provisions to the contrary. In the event of termination for breach, Organization shall be solely responsible for funds expended contrary to the terms and conditions of this Agreement. Funds expended contrary to the terms and conditions of this Agreement and unexpended funds in the possession of Organization shall be returned to City within ten (10) days of termination.

SECTION X.

MISCELLANEOUS

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

10.02 Authorized to Execute/Binding on Organization. The undersigned represents and warrants that he or she is the duly authorized representative of the Organization and that this Agreement has been approved and accepted by the Organization.

10.03 Binding on the City of Plano. This Agreement shall not be considered fully executed or binding on the City of Plano until the same shall have been executed by Organization, the City Manager or his designee, approved and accepted by the City Council of the City of Plano in open meeting as required by law. After such approval and acceptance, City shall deliver to Organization a certified copy of the Resolution as evidence of the authority of the City Manager or his designee to bind the City of Plano to the covenants, terms and provisions of this Agreement and to perform the same in accordance herewith.

The Parties agree that they, their officials, successors, legal representatives and administrators are bound to the terms and conditions of this Agreement.

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

0-10

City	Organization
Jim Wear, Manager Creative Arts City of Plano, Texas P.O. Box 860358 Plano, TX 75086-0358 Telephone: 972/941-5202 Fax: 972/941-7221	Joan Hwa, _____ Dallas Chinese Choral Society, Inc 2077 Cumberland Trail Plano, TX 75023 Telephone: 972/712-7546 Fax: 972/712-4093

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

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

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

EXECUTED the _____ day of _____, 2_____.

DALLAS CHINESE CHORAL SOCIETY, INC

BY: _____
Joan Hwa, _____

CITY OF PLANO, TEXAS

BY: _____
Thomas H. Muehlenbeck
CITY MANAGER

APPROVED AS TO FORM:

_____
Diane C. Wetherbee, City Attorney

10-11

ACKNOWLEDGMENTS

STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 2_____. by **JOAN HWA,** _____ of **DALLAS CHINESE CHORAL SOCIETY, INC.**, a Texas Non-Profit Corporation, on behalf of said corporation.

_____
Notary Public in and for the State of Texas

STATE OF TEXAS §
§
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2_____ by **THOMAS H. MUEHLENBECK**, City Manager of the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, on behalf of said corporation.

_____
Notary Public in and for the State of Texas

0-12

SAMPLE CONTRACT

FUNDING AGREEMENT BETWEEN CITY OF PLANO AND ARTCENTRE OF PLANO, INC.

The **CITY OF PLANO,** a Texas home rule municipal corporation (hereinafter referred to as "City"), and **ARTCENTRE OF PLANO, INC.**, a Texas non-profit corporation, acting herein through its duly authorized representative (hereinafter referred to as "Contractor"), enter into this funding agreement to assist in funding the general operating expenses of the facility, including annual art exhibitions, administrative expenses and programming.

WHEREAS, the City Council finds that the expenditure of public funds to **ARTCENTRE OF PLANO, INC.** is in the best interest of the residents and the City of Plano; and

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

WHEREAS, pursuant to Ordinance No. 2006-9-9, the City Council determined that the City should expend the sum of $67,581.98 for the purposes outlined in the attachment entitled "Cultural Affairs Commission 2006-07 Major 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:

0-13

SAMPLE CONTRACT

SECTION I
PURPOSES/CONSIDERATION; PRIORITY OF DOCUMENTS

1.01 **Purpose/Consideration**. This Agreement provides the terms and conditions under which City will make available the sum of $67,581.98, for use to support events, exhibitions, programming, education, and general operating expenses as described in the Application. The City's source of these funds is general revenues derived from collection of property, sales and other taxes, as well as other sources. In consideration of the City of Plano providing the funding specified for the 2006-07 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; General Conditions; Affidavit of No Prohibited Interest, and Insurance. 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".

1. Should the Contractor wish to utilize funds for a purpose other than those stated in its Application, the Contractor must request approval from the Contractor's Board, Cultural Affairs Commission, and City Manager. No change may occur unless:

0-14

(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. 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 "B".

2.04 Unexpended and unencumbered City funds that remain with the Contractor after September 30, 2007, will revert to the City's general revenue fund.

2.05 Within ten (10) calendar days of the end of the Contract Term or in the event of earlier termination, Contractor shall provide a final written report of its activities and total expenditures to the Contract Administrator.

0-15

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 respondeat 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. 50% of the funds by November 30, 2006.
2. 25% of the funds by February 28, 2007.
3. The remaining 25% of the funds by July 1, 2007.

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

0-16

5.03 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.

5.04 Reporting Requirements.

1. Within thirty (30) days of the close of each preceding quarter of the contract term, Contractor agrees to provide financial statements sufficiently describing the expenditure of funds provided by the City, as well as a description of program goals achieved and/or progress of same for the preceding quarter. These reports shall be furnished in writing to the Contract Administrator at the following address:

James Wear, Manager
Creative Arts Division
City of Plano
P.O. Box 860358
Plano, TX 75086-0358
Telephone: (972) 941-5202
Facsimile: (972) 941-7221

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 as discussed in Section 2.05 above.

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 "C".

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 "D". Additionally, this insurance must specifically cover any and all activities occurring on City property, including those activities of Contractor's employees, volunteers, vendors, contractors, or subcontractors. Contractor must provide proof of this insurance to the Contract Administrator 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.

7.02 **Indemnification**. Contractor shall release, defend, indemnify and hold harmless City and its officers, agents and employees from and against all damages, injuries (including death), claims, property damages (including loss of use), losses, demands, suits, judgments and costs, including attorney's fees and expenses, in any way arising out of, related to, or resulting from the performance of the work or caused

0-18

by the negligent act or omission of Contractor, its officers, agents, employees, subcontractors, licensees, invitees or any other third parties for whom Contractor is legally responsible (hereinafter "Claims"). Contractor must defend City against all such Claims.

City shall have the right to select or to approve defense counsel retained by Contractor to fulfill its obligation to defend and indemnify the City, unless such right is expressly waived by City in writing. City reserves the right to provide a portion or all of its own defense; however, City is under no obligation to do so. Any such action by City is not a waiver of Contractor's obligation to defend or indemnify the City pursuant to this Agreement. Contractor shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Agreement. If Contractor fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Contractor is liable for all costs incurred by City.

SECTION VIII
TERM

8.01 The term of this Agreement is November 1, 2006, through September 30, 2007. 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

0-20

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

City	Contractor
James Wear, Manager Creative Arts Division City of Plano, Texas P.O. Box 860358 Plano, TX 75086-0358 Telephone: 972-941-5202	Suzy Jones Executive Director ArtCentre of Plano, Inc. P.O. Box 861011 Plano, TX 75086-1011 Telephone: 972-423-7809

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/Denton Counties, Texas. In the event of breach of this Agreement, venue for all causes of action shall exclusively lie in Collin County, Texas.

0-21

SAMPLE CONTRACT

EXECUTED this _____ day of _____, 2_____.

ARTCENTRE OF PLANO, INC.

BY: _____
Suzy S. Jones
EXECUTIVE DIRECTOR

CITY OF PLANO, TEXAS

BY: _____
Thomas H. Muehlenbeck
CITY MANAGER

APPROVED AS TO FORM:

_____
Diane C. Wetherbee, City Attorney

0-22

ACKNOWLEDGMENTS

STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 2_____, by **SUZY S. JONES,** Executive Director of **ARTCENTRE OF PLANO, INC,** a Texas non-profit corporation, on behalf of said corporation.

_____
Notary Public in and for the State of Texas

STATE OF TEXAS §
§
COUNTY OF COLLIN §

This instrument was acknowledged before me on the ___ day of _____, 2_____, by **THOMAS H. MUEHLENBECK**, City Manager of the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, on behalf of said corporation.

_____
Notary Public in and for the State of Texas

0-23

CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	☒ Yes	☐ Not Applicable
☐ Consent ☐ Regular ☐ Statutory		Reviewed by Budget	☒ Yes	☐ Not Applicable
Council Meeting Date:	10/23/06	Reviewed by Legal PM	☒ Yes	☐ Not Applicable
			Initials	Date
Department:	Purchasing			
Department Head	Mike Ryan	Executive Director		
Dept Signature:		City Manager		10/16/06
Agenda Coordinator (include phone #):	January M. Cook X7376			

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

CAPTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING AN ANNUAL CONTRACT WITH RENEWALS FOR THE PURCHASE OF ADDITIONAL DRIVECAMS AND DRIVING FEEDBACK SYSTEMS FOR IMPLEMENTATION ON CITY OPERATED VEHICLES IN AN ESTIMATED ANNUAL AMOUNT OF TWO HUNDRED THIRTY-SEVEN THOUSAND SIX HUNDRED FIFTY DOLLARS AND 00/100 ($237,650.00) FROM DRIVECAM INC., THE SOLE SOURCE VENDOR OF SUCH EQUIPMENT AND SERVICES; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO TAKE SUCH ACTION AND EXECUTE SUCH DOCUMENTS AS NECESSARY TO EFFECTUATE THE CONTRACT; AND PROVIDING AN EFFECTIVE DATE.

FINANCIAL SUMMARY

☐ NOT APPLICABLE ☒ OPERATING EXPENSE ☐ REVENUE ☐ CIP

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

FUND(S): PROPERTY & LIABILITY LOSS

COMMENTS: This item established DriveCam Inc. as a sole source provided for additional DriveCams and Driving Feedback System products. The contract term will be one year with two City optional renewal periods. The estimated annual amount is $237,650.

STRATEGIC PLAN GOAL: DriveCams and Driving Feedback System products relates to the City's goal of "Service Excellence" and "Safe, Efficient Travel".

SUMMARY OF ITEM

The DriveCam and Driving Feedback System is a vehicle safety product that will improve driver and traffic safety for City operated vehicles. Due to compatibility requirements, as well as proprietary and licensing rights, DriveCam Inc. is a sole source provider, and therefore is exempt from competitive bid as provided for in V.T.C.A. Local Government Code Section 252.022(1) (7) (A). The contract term will be one year with two City optional renewal periods. The City estimates purchasing 175 systems per year in the estimated annual amount of $237,650.

CITY OF PLANO
COUNCIL AGENDA ITEM

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
Resolution Quote Sole Source Letter	

P-2

REV 08/98

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING AN ANNUAL CONTRACT WITH RENEWALS FOR THE PURCHASE OF ADDITIONAL DRIVECAMS AND DRIVING FEEDBACK SYSTEMS FOR IMPLEMENTATION ON CITY OPERATED VEHICLES IN AN ESTIMATED ANNUAL AMOUNT OF TWO HUNDRED THIRTY-SEVEN THOUSAND SIX HUNDRED FIFTY DOLLARS AND 00/100 ($237,650.00) FROM DRIVECAM INC., THE SOLE SOURCE VENDOR OF SUCH EQUIPMENT AND SERVICES; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO TAKE SUCH ACTION AND EXECUTE SUCH DOCUMENTS AS NECESSARY TO EFFECTUATE THE CONTRACT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has been presented with a quotation from DriveCam Inc. for the purchase and installation of vehicle safety products that improve driver and traffic safety on City vehicles, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Quote"); and

WHEREAS, DriveCam Inc. represents it has proprietary and licensing rights to the equipment desired, a substantial copy of which is attached hereto as Exhibit "B" and incorporated herein by reference (hereinafter called "Letter"); and

WHEREAS, the City relies on DriveCam to provide equipment that has complete compatibility and interface with previously acquired City equipment; and

WHEREAS, the City desires to establish an annual contract with two optional renewal periods based on the provided quote for the purchase of additional vehicle safety products that improve driver and traffic safety; and

WHEREAS, the City Council is of the opinion that the components, service and equipment needed is available from only one source, DriveCam Inc. as evidenced in the letter, and therefore the purchase is exempt from competitive bid as provided for in *V.T.C.A., Local Governmental Code, Section 252.022(a)(7)*; and

WHEREAS, upon full review and consideration of the City's need to purchase vehicle safety products that improve driver and traffic safety and all matters attendant and related thereto, the City Council is of the opinion that the required annual contract with two renewal options for the purchase of additional DriveCams and driving feedback systems should be approved, and that the City Manager or his designee should be authorized to take such action and execute such documents as necessary to effectuate the contract.

P-3

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

Section I. The City Council hereby finds and determines that DriveCam Inc. is the sole source provider for the vehicle safety products for City operated vehicles, and said purchase is exempt from competitive bid as provided for in *V.T.C.A., Local Government Code, Section 252.022(a)(7).*

Section II. The City Manager or his designee is hereby authorized to take such action and execute such documents with DriveCam Inc., the sole source provider, as necessary to effectuate the annual contract with two renewal options for the purchase of additional such safety products in an estimated annual amount of **TWO HUNDRED THIRTY-SEVEN THOUSAND SIX HUNDRED FIFTY DOLLARS AND 00/100 ($237,650.00)**.

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

DULY PASSED AND APPROVED this the _____ day of _____, 2006.

_____
Pat Evans, MAYOR

ATTEST:

_____
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

_____
Diane C. Wetherbee, CITY ATTORNEY

P-4

M:\Risk\Resolution for Sole Source with DriveCam Inc.doc

EXHIBIT "A" TO RESOLUTION NO. _____

Quotation

Today's Date: October 16, 2006

Quotation # PlanoOct122006
Valid Until: 09/30/2009***
Lead time*: 2-3 weeks ARO
Prepared by: Terry Scholl
F.O.B.: Destination

DriveCam Inc
3954 Murphy Canyon Road, #D205
San Diego, CA 92123
Phone 858.430.4000 Fax 858.430.4001

Salesperson: Terry Scholl National Acct M
Phone: 760-809-5309
Fax: 858-430-4001
Email: terry@drivecam.com

Prepared For: January Cook
Title: Purchasing Agent
Company: CITY OF PLANO TEXAS
Address: 1520 Avenue K
Address2:
City, State Zip: Plano TX 75024

***Quote valid for term shown provided Plano has executed an agreement with DriveCam. Discount is 16%.

QTY	PART #	DESCRIPTION	UNIT PRICE	DISC.	AMOUNT
525	DC-2002-64W	**DriveCam Event Recorder, dual lens, 64MB, USB and wireless** **Includes**: Windshield "H" bracket assembly with torx screws, VHB adhesive tape, and DC power cable with attachments. Two year warranty.**	$1,195.00	$0.16	$526,995.00
525	HS-4.0-SA	**HindSight 20/20 4.0 SE One time software license -** per recorder **Includes**: First year cost of maintenance releases, troubleshooting, & support.** *(Windows 2000 or XP operating system)*	$163.00	$0.16	$71,883.00
525**	HS-5.3-UP	**HindSight 20/20 EE 5.3 Upgrade charge - per recorder fee**	$50.00	$0.00	
525++	HS-5.2-UP	**HindSight 20/20 EE 5.3 One time license fee -- per recorder**	$295.00	$0.16	
250	UPGRADE	**Upgrade charge to replace existing DriveCam USB only for combo USB/Wireless Recorder -- $695 less $200 credit per return**	$495.00	$0.00	
0	INST-1	**Vehicle Installations -- excludes any travel/per diem if required**	$80.00	$0.00	
1	TRAIN-SWR	**WEBEX training rate applicable with HS EE 5.3**	$525.00		
NOTE		Quantities shown are projected total purchases 2006-07,2007-08,2008-09. Customer not required to take all. Estimated 2006-07 order -- Qty 175 w/ HS4.0 license. Discount 16%.			
				SUBTOTAL	
				Sales Tax	as applicable
				Shipping & Handling	FOB Destination
				TOTAL	

No Wireless Infrastructure for downloading included with Quote.
Please Note: ***Custom quote tbd for wireless infrastructure and installation***

1) * Quoted Lead Time is an estimate only and is subject to change.
2) ** Applicable to recorders already installed at time of upgrade to HS 5.3.
3) ++ Applicable to recorders purchased after upgrade to HS5.3.

DriveCam may offer a later release s of HS5.X which, will be priced the same as HS5.3 during the agreement term of 3 years.

*****Please help us process your order by providing all requested information*****

Payment Method : (Check One)

☐ *Credit Card* ☐ *Check* *(in advance)*

☐ *C.O.D.* ☐ *Net 30* *(O.A.C.)*

AMEX/MasterCard/Visa: _____

Expiration Date: _____

Cardholder Name: _____

Cardholder Signature: _____

Billing Address: _____

City, State, Zip: _____

Check #: _____

Purchase Order #: _____

(Please fax a copy of the P.O. along with a signed copy of this order form.)

Ship to (if different than above) : _____

Attention: _____

Address: _____

City, State, Zip: _____

Email: _____

Phone / Fax: _____

Requested Ship Date: _____

Special Instructions: _____

Acceptance Signature:

Date:

Please circle your Windows Operating System: 2000 XP

Please fax completed order form to 858.430.4001 and return original to DriveCam.

Thank you for your business!

P-5

DRIVECAM
TAKING RISK OUT OF DRIVING

DriveCam Inc.
3954 Murphy Canyon Rd – D205
San Diego, CA 92123 U.S.A
Phone (858) 430-4000
Fax (858) 430-4001
www.drivecam.com

October 16, 2006

Ms. January Cook
Purchasing Manager
CITY OF PLANO TEXAS
1520 Avenue K Suite 230
Plano Texas 75024

Dear Ms Cook:

DriveCam Inc., is the 'sole source' supplier for the DriveCam event recorders and HindSight 20/20 software products we engineer, manufacture, sell and support.

We appreciate the past business and our relationship with the City of Plano on the deployment of our DriveCam products and services. We look forward to servicing your needs with our support and continuing our business relationship with the City of Plano.

Let us know if we can answer any other questions or concerns.

Sincerely,

Terry Scholl
National Accounts Manager – Government
DriveCam Inc

CC: Spencer Spicker, Director of Sales

P-6

CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	☒ Yes	☐ Not Applicable
☐ Consent ☐ Regular ☐ Statutory		Reviewed by Budget	☐ Yes	☒ Not Applicable
Council Meeting Date:	10/23/06	Reviewed by Legal	☒ Yes	☐ Not Applicable
			Initials	Date
Department:	Purchasing			
Department Head	Mike Ryan	Executive Director		
Dept Signature:		City Manager		10/16/06
Agenda Coordinator (include phone #):	January M. Cook X7376			

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

CAPTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN INTERLOCAL COOPERATION AGREEMENT BY AND BETWEEN THE CITY OF PLANO, TEXAS, AND THE TEXAS MUNICIPAL LEAGUE FOR INTERGOVERNMENTAL INSURANCE POOL; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO TAKE SUCH ACTION AND EXECUTE SUCH DOCUMENTS AS NECESSARY TO EFFECTUATE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

FINANCIAL SUMMARY

☐ NOT APPLICABLE ☐ OPERATING EXPENSE ☐ REVENUE ☐ CIP

FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0

FUND(S):

COMMENTS:

SUMMARY OF ITEM

This is an Interlocal Agreement between the City of Plano, Texas and the Texas Municipal League, under which the City of Plano will participate in a joint self-insurance pool for the purpose of providing coverages against risks which are inherent in operating a political subdivision. The agreement will commence on the effective date and continue in force until terminated by either party. Participation will be limited to excess property coverage only.

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
Resolution Interlocal Agreement	

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN INTERLOCAL COOPERATION AGREEMENT BY AND BETWEEN THE CITY OF PLANO, TEXAS, AND THE TEXAS MUNICIPAL LEAGUE FOR INTERGOVERNMENTAL INSURANCE POOL; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO TAKE SUCH ACTION AND EXECUTE SUCH DOCUMENTS AS NECESSARY TO EFFECTUATE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Plano is a political subdivision and TML is a combination of political subdivisions within the meaning of Interlocal Cooperation Act, Texas Government Code, Chapter 791, as amended (the "Act"); and

WHEREAS, the Act provides authority for entities such as Plano and TML to enter into interlocal agreements with each other regarding governmental functions and services as set forth in the Act; and

WHEREAS, the City Council has been presented a proposed Interlocal Cooperation Agreement between the City of Plano, Texas, and the Texas Municipal League for Intergovernmental Insurance Pool, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and

WHEREAS, political subdivisions of this state desire to form a joint self-insurance pool to be named the Texas Municipal League Joint Self-Insurance Fund; and

WHEREAS, Plano wishes to protect the interest of the City by obtaining insurance coverage against risks which are inherent in operating a political subdivision; and

WHEREAS, Plano wishes to participate in the Texas Municipal League Joint Self-Insurance Fund and become one of the Pool Members of this self-insured pool; and

WHEREAS, upon full review and consideration of the City's need to insure itself against risks which are inherent in operating a political subdivision and all matters attendant and related thereto, the City Council is of the opinion that the required Agreement between the City of Plano, Texas, and Texas Municipal League be approved, and that the City Manager or his designee should be authorized to take such action and execute such documents as necessary to effectuate the Agreement.

Q-2

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

Section I. The City Council hereby finds and determines that the Agreement between the City of Plano, Texas, and Texas Municipal League is in accordance with the Interlocal Cooperation Act, Texas Government Code § 791.001, et.seq.

Section II. The City Manager or his designee is hereby authorized to take such action and execute such documents with Texas Municipal League, and provide an effective date.

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

DULY PASSED AND APPROVED this the _____ day of _____, 2006.

_____
Pat Evans, MAYOR

ATTEST:

_____
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

_____
Diane C. Wetherbee, CITY ATTORNEY

EXHIBIT "A" TO RESOLUTION NO. _____

Texas Municipal League Intergovernmental Risk Pool

1821 Rutherford Lane, First Floor • Austin, Texas 78754

LIABILITY/PROPERTY INTERLOCAL AGREEMENT

This Contract and Interlocal Agreement is entered into by and between political subdivisions of this state (hereinafter referred to as "Pool Members") to form a joint self-insurance pool to be named the Texas Municipal League Joint Self-Insurance Fund (hereinafter referred to as the "Fund") for the purpose of providing coverages against risks which are inherent in operating a political subdivision.

WITNESSETH:

The undersigned Pool Member, in accordance with the Interlocal Cooperation Act, Tex. Gov't Code § 791.001, et seq., and the interpretation thereof by the Attorney General of the State of Texas (Opinion #MW-347, May 29, 1981), and in consideration of other political subdivisions executing like agreements, does hereby agree to become one of the Pool Members of this self-insured pool. The conditions of membership agreed upon by and between the parties are as follows:

1. Definitions of terms used in this Interlocal Agreement.

   a. Board. Refers to the Board of Trustees of the Texas Municipal League Joint Self-Insurance Fund.

   b. Fund Year. 12:01 a.m. October 1 through 12:01 a.m. the following October 1.

   c. Manual Rates. The basic rates applicable to each liability classification promulgated by the Insurance Service Office or the Board of Trustees.

   d. TML Municipal Liability Self-Insurance Plan. The liability coverage document that sets forth in exact detail the coverages provided as part of the overall plan.

   e. Adjustments. Refers to any offsets to manual premium that may result from the Pool Member's election of deductibles, loss experience or Fund Modifier which reflects the savings to the Pool Member by entering into this Agreement.

   f. TML Municipal Property Self-Insurance Plan. The property coverage document that sets forth in exact detail the coverages provided as part of the overall plan.

   g. Premium and Contribution. Used interchangeably in some parts of this Interlocal Agreement. Any reference at any time in this Interlocal Agreement to an insurance term not ordinarily a part of self-insurance shall be deemed for convenience only and is not construed as being contrary to the self-insurance concept except where the context clearly indicates no other possible interpretation such as but not limited to the reference to "reinsurance."

   h. Reimbursable Deductible. The amount that was chosen by this Pool Member to be applicable to the first monies paid by the Fund to effect judgment or settlement of any claim or suit. The Pool Member, upon notification of the action taken, shall promptly reimburse the Fund for all or such part of the deductible amount as has been paid by the Fund. Further, however, the Fund's obligation to pay damages shall be subject to the Limits of Liability stated in the Declarations of Coverage or Endorsements to this Interlocal Agreement less the stated deductible amount.

   i. Fund Modifier. A percentage figure that is applied to the manual rates by the Fund to reflect the savings to the Pool Member by entering into the Interlocal Agreement.

   j. Agreement Period. The continuous period since the Pool Member first became a member of this Fund excluding, however, any period or periods of time therein that the member did not participate as a member of the Pool.

   k. Declarations of Coverage. The specific indication of the coverages, limits, deductibles, contributions and special provisions elected by each individual Pool Member. The Declarations of Coverages may be modified by Endorsement.

2. The Board of Trustees, acting through its agents and Fund staff, is responsible for the administration of all Fund business on behalf of the Pool Members.

Q-4

3. In consideration of the execution of this Agreement by and between the Pool Member and the Fund and of the contributions of the Pool Member, the coverage elected by the Pool Member is afforded according to the terms of the TML Liability Self-Insurance Plan and the TML Property Self-Insurance Plan. The affirmative declaration of contributions and limits of liability in the Declarations of Coverage and Endorsements determines the applicability of the Self-Insurance Plans.

Each Pool Member agrees to adopt and accept the coverages, provisions, terms, conditions, exclusions and limitations as further provided for in the TML Self-Insurance Plans or as specifically modified by the Pool Member's Declarations of Coverage. This Interlocal Agreement shall be construed to incorporate the TML Liability Self-Insurance Plan and/or the TML Property Self-Insurance Plan, Declarations of Coverage, and Endorsements and addenda whether or not physically attached hereto.

4. It is understood that by participating in this risk sharing mechanism to cover liability exposures, the Pool Member does not intend to waive any of the immunities that its officers or its employees now possess. The Pool Member recognizes the Texas Tort Claims Act and its limitations to certain governmental functions as well as its monetary limitations and that by executing this Agreement does not agree to expand those limitations.

The Pool Member, upon the execution of this Agreement, shall supply the Fund with a current copy of its charter provisions or ordinance that sets out its requirement as to the number of days in which a third party liability claim must be made against it.

If the Pool Member does not have such an ordinance provision that establishes a set number of days or if it has an ordinance provision which provides for less than sixty (60) days notice and for good cause shown up to six (6) months notice the Pool Member agrees to adopt an ordinance providing for such notice reasonably describing the damage or injury claimed and the time, manner and place of the incident from which it arose. The notice requirement shall not be changed by the Pool Member without first giving the Fund thirty (30) days written notice. Violation of this provision may, at the Fund's discretion, void this Interlocal Agreement.

5. The term of this Agreement and the self-insurance provided to the Pool Member shall be continuous commencing 12:01 a.m. on the date designated in this Agreement until terminated as provided below. Although the self-insurance provided for in this Agreement shall be continuous until terminated, the limit of liability of the Fund under the coverages that the Pool Member elects shall be limited during any Fund Year to the amount stated in the Declarations of Coverage for that Fund Year.

This Agreement may be terminated by either party giving to the other sixty (60) days prior written notice of intent to terminate except the Pool Member may terminate this Agreement and its coverages thereunder without giving the sixty (60) days notice if the reason is because of a change by the Fund in the Pool Member's contribution, coverage, or other change in the limits of liability, terms, conditions, exclusions and limitations provided for in the Texas Municipal League Self-Insurance Plans provided that no termination by the Member shall be effective prior to the date that written notice of termination is actually received in the offices of the Texas Municipal League Joint Self-Insurance Fund and provided that the Pool Member agrees to and shall pay the applicable premium and contribution for those coverages it is terminating until the date the notice of termination is actually received by the Fund.

The Fund shall provide the Pool Member with Declarations of Coverage and any Endorsements that determine the applicability of the Texas Municipal League Self-Insurance Plans annually by December 1. Such Declarations of Coverage shall include, but not be limited to, the coverage period which shall be the applicable Fund Year, limits, deductibles, contributions, special provisions and limitations. Changes made during the Fund Year, whether requested by the Pool Member or required by the Fund, will be handled by Endorsement.

It is the intention of the parties that the Pool Member's coverages under this Agreement shall remain in full force and effect from Fund Year to Fund Year, subject to the limits of liability that the Fund can provide each Fund Year and the terms, conditions, limitations that the Fund may require to protect its solvency and to comply with reinsurance requirements, until notice of termination is given as herein provided. Realizing that the Pool Member needs the earliest possible information concerning the Fund coverages, limits, and exclusions and the Pool Member's contribution that will be required for any new Fund Year, the Fund will endeavor to provide this information as soon as possible before the beginning of each Fund Year. The parties recognize, however, that conditions in the reinsurance industry are such that the Fund may not be able to provide this information to the Pool Member before the beginning of a Fund Year for various reasons including the failure of the Pool Member to timely submit the appropriate exposure summary or delays on the part of reinsurers in getting information to the Fund, and so, to protect the Pool Member from gaps in its coverage and to protect the solvency of the Fund, the parties agree as follows:

If, for any reason other than the Pool Member's failure to provide the information requested in the exposure summary, the Fund has not been able to provide the Pool Member with information concerning available coverages for a new Fund Year or advise the Pool Member of the amount of its contribution for the new Fund Year by the beginning of the Fund Year, the Fund shall nevertheless continue the Pool Member's coverages at the same limits of liability (if still available and if not, then at the highest limit of liability available for the new Fund Year) so that the Pool Member shall at all times remain covered as herein provided and the Pool Member's initial contributions for the new Fund Year shall be determined by a "tentative contribution" as determined by

Q-5

the Board with the Pool Member's actual annual contribution to be credited by the amount paid in accordance with the tentative contribution and adjusted during the Fund Year. In the event the Pool Member does not wish to have its coverages extended or renewed at the end of any Fund Year, the burden shall be upon the Pool Member to give written notice to the Fund as provided hereinabove and the Pool Member agrees to pay as hereinabove stated all contributions or pro rata contributions until the date such written notice is received in the offices of the Fund or the date of termination of this Agreement, whichever is later.

6. Commensurate with the execution of this Agreement and annually thereafter, the Pool Member shall complete the appropriate exposure summary and deliver it or cause it to be delivered to the Fund, or, if so instructed, to a designated contractor, no later than September 1 of each year and new annual contributions shall be calculated using manual rates times exposure, less any adjustments. Intentional or reckless misstatements on the exposure summary shall be grounds for cancellation. In the event that the Pool Member fails or refuses to submit the appropriate exposure summary, the Fund reserves the right to terminate such Pool Member by giving thirty (30) days written notice and to collect any and all contributions that are earned pro rata for the period preceding contract termination.

   The Pool Member agrees to pay the annual contribution to the Fund in four (4) equal quarterly installments, in advance, commencing at the beginning of this Agreement with subsequent installments due the first quarter thereafter. Pool Members who elect a deductible in excess of $25,000 shall comply with the monthly payment schedule outlined to them in advance of assuming such a large deductible. In the event this Agreement is terminated as herein provided, the Fund shall promptly repay to the Pool Member any such unearned annual contribution prorated as of the date of termination and the Pool Member agrees during the term of this Agreement to promptly pay all reimbursable deductibles upon receipt of statement.

   At the end of each and every Fund Year, the Fund may require the Pool Member to submit the actual data requested on the exposure summary as reflected by the books and records of the Pool Member. The Fund reserves the right to audit the records of any Pool Member and adjust contributions accordingly.

   In the event that the Pool Member fails or refuses to make the payments, including accrued interest, as herein provided, the Fund reserves the right to terminate such Pool Member by giving them ten (10) days written notice and to collect any and all amounts that are earned pro rata for the period preceding contract termination. If the amounts owed, including reimbursable deductibles, have to be collected by suit, the Pool Member agrees to pay attorneys' fees and costs incurred in such suit.

7. The Fund shall maintain adequate protection from catastrophic losses to protect its financial integrity. Aggregate protection shall also be maintained. The Member's contributions shall be limited to that amount as calculated under this Agreement.

8. Notwithstanding the provisions of the foregoing paragraph, it is agreed the Board shall have the right to adjust the financial protection outlined above and/or amend coverages as it finds available or deems necessary to maintain the fiscal soundness of the Fund at the beginning of or during any Fund Year.

9. The Fund will make available loss control services to the Pool Members to assist them in following a plan of loss control that may result in reduced losses. The Pool Member agrees that it will cooperate in instituting any and all reasonable loss control recommendations. In the event that the recommendations submitted seem unreasonable, the Pool Member has a right to appeal to the Board of Trustees. The Board shall hear the objections of the Pool Member at its next regularly scheduled meeting and its decisions will be final and binding on all parties. Any Pool Member who does not agree to follow the decision of the Board shall be withdrawn from the Fund immediately.

10. The Pool Member agrees that it will appoint a contact of department head rank, and the Fund shall not be required to contact any other individual except this one person. Any notice to or any agreements with the contact shall be binding upon the Pool Member. The Pool Member reserves the right to change the contact from time to time by giving written notice to the Fund.

11. The Fund agrees to handle all liability and property claims, and provide a defense for any and all liability claims covered under this Agreement after prompt notice has been given. The Pool Member hereby appoints the Fund staff and Contractors as its agents to act in all matters pertaining to processing and handling of claims covered under this Agreement and shall cooperate fully in supplying any information needed or helpful in settlement or defense of such claims. As respects liability claims, the Fund staff and Contractors shall carry on all negotiations with the claimant and his attorney and negotiate within authority previously granted by the Fund. If a personal appearance by the Pool Member or an employee is necessary, the expense of this appearance will not be the responsibility of the Fund. With the advice and consent of the Fund, the Fund staff and the Contractors will retain and supervise legal counsel for the prosecution and defense of any litigation. All decisions on individual cases shall be made by the Fund through the Fund staff and the Contractors, which includes the decision to appeal or not to appeal. However, any Pool Member shall have the right in any case to consult with the Fund on any decision made by the Fund staff or Contractors. The Board shall hear the objections of the Pool Member at its next regularly scheduled meeting and its decision will be final and binding on all parties. Any suit brought or defended by the Fund shall be brought or defended only in the name of the Pool Member and/or its officers or employees. There shall be supplied

Q-6

periodically to each Pool Member a computer printout involving a statement of claims. As respects the TML Municipal Liability Self-Insurance Plan, the Fund shall have priority in enforcing its subrogation claims against the claims of Pool Member except as to claims of the Texas Municipal League Workers' Compensation Joint Insurance Fund, which shall take preference.

12. The Pool Member acknowledges that it has received a copy of the Bylaws of the Fund and agrees to abide by the Bylaws and any amendments thereto.

13. The Fund agrees that all Fund transactions will be annually audited by a nationally recognized certified public accounting firm.

14. If legally required, the Fund shall cause to be filed the necessary tax forms with the Internal Revenue Service.

15. As the administrators of the Fund, the Board shall primarily and consistently keep foremost in their deliberations and decisions in operating the Fund that each of the participating Pool Members is a "self-insured." At least annually, the Board shall carefully review, study and consider the actual claims or loss experience (including reserves for future claims payments) of each of the Pool Members, the pro rata savings to the Fund resulting from overall loss experience attributed to each Pool Member, and the pro rata portion of the cost of all catastrophic loss protection and aggregate stop loss protection allocated to each Pool Member as well as the pro rata allocation, as determined by the Board of the other and necessary administrative expenses of the Pool, in order to reasonably determine the actual pro rata cost, expense and loss experience of each Pool Member in order to maintain as nearly as possible an equitable and reasonable self-insurance administration of the Fund as applied to each Pool Member.

    The Fund shall maintain case reserves and supplemental reserves computed in accordance with standard actuarial principles, taking into account historical and other data, designed to measure claims development and claims incurred but not yet reported, so that funds will be available to meet these claims as they become due. The Fund shall also establish and maintain a reserve for Return of Contributions to further ensure the fiscal integrity of the Fund in the event of a potential adverse loss development. Only current Pool Members may receive return of contribution.

16. The Pool Member may elect to participate in the Fund only to the extent of obtaining administrative services, and, if desired and available, reinsurance. In that event, the Pool Member shall not make contributions as provided in Paragraph 5 nor receive the coverages provided for in the TML Self-Insurance Plan, nor shall the TML Joint Self-Insurance Fund be liable for the payment of claims against the Pool Member. The Fund shall only handle and service claims for the Pool Member and pay same out of funds to be deposited by the Pool Member in a separate account administered by the Fund for the payment of claims and judgments only against that Pool Member as hereinafter provided.

    Notwithstanding the provisions of any other section of this Interlocal Agreement, a Pool Member who elects to receive Administrative Services Only as specified in the attached Declarations (hereinafter referred to as the "ASO Pool Member") shall be subject to the following requirements and conditions:

    A. Although the ASO Pool Member will receive coverage documents setting forth the coverages, provisions, terms, conditions, exclusions and limitations provided for in the TML Self-Insurance Plans, these documents are not intended to and shall not create an insured-insurer relationship between the Fund or any of its other Pool Members and the ASO Pool Member, but rather are provided solely for the purposes of: (1) defining the scope of claims the Fund will handle on behalf of the ASO Pool Member, and (2) defining the nature and scope of claims and conditions applicable thereto that will be covered by reinsurance, if available and obtained by the ASO Pool Member, beyond the ASO Pool Member's self-insured retention. The Fund shall not itself be liable for the payment of claims or judgments against the electing ASO Pool Member, nor to provide the electing ASO Pool Member with a defense of any such claims or suits at the expense of the Fund. The Fund will only make payments on behalf of the ASO Pool Member out of the ASO Pool Member's claims account. The ASO Pool Member shall comply with all requirements of any reinsurer including but not limited to furnishing timely claims reports, proposed settlements that would impact the reinsurer as well as progress reports involving litigation. The ASO Pool Member further agrees to hold the Fund harmless from any and all claims (including attorney fees) that may be asserted against the Fund for the non-payment of any claims due to the failure of the ASO Pool Member to maintain adequate reserves for the payment of claims as well as claims based upon breach of a duty of good faith and fair dealing because of the ASO Pool Member's or their agents' conduct toward the claimant.

    B. In connection with claims within the scope of the coverage documents, the Fund shall provide the following services or on behalf of the ASO Pool Member as confirmed specifically in the attached Declarations:

        1. Overall contract and claims administration;

        2. Loss control services to the ASO Pool Member to assist it in developing a plan of loss control to attempt to control or reduce the frequency and severity of claims against it;

Either party to this agreement may at any time terminate it upon sixty (60) days written notice for any reason as to either all pending and future claims, or alternatively, only as to future claims. In the event cancellation is with respect to both pending and future claims, the Fund will no longer be obligated to perform the services outlined in this Agreement and shall promptly and in an orderly manner forward to the ASO Pool Member or its designee all pending claim files. In the event termination is only as to future claims, this Agreement shall continue in full force and effect with respect to all pending claims and claims occurring but not reported prior to cancellation until concluded. In either event, the ASO Pool Member shall be entitled, if it so requests and at its own expense, to have the closed claim filed retrieved from storage and delivered to it. In the event the ASO Pool Member does not request closed files in the notice of cancellation, however, they will be retained or destroyed at the Fund's option and the ASO Pool Member shall have no recourse against the Fund for failure to retain them.

Member Fax Number: _____

Fund Contact Information (if different from member)
Address _____
Telephone _____ Fax _____
E-mail _____

TO BE COMPLETED BY MEMBER:

EMPLOYER MEMBERS' FUND CONTACT (See Section 10):

Member Name _____

Name of Contact _____ Title _____

Mailing Address _____

Street Address (if different from above) _____

City _____ Zip _____ Phone _____

_____
SIGNATURE OF AUTHORIZED MEMBER OFFICIAL

_____ _____
Title Date

Member's Federal Tax I.D. Number ___ ___ - ___ ___ ___ ___ ___ ___ ___
This Information is MANDATORY

APPROVED AS TO FORM:
BY Paige Mims
for Diane C. Wetherbee, City Attorney

TO BE COMPLETED BY FUND: (OFFICE USE ONLY)

Effective Date of This Agreement _____

Member Name _____

Contract Number _____

_____
SIGNATURE OF AUTHORIZED FUND OFFICIAL

_____ _____
Title Date

Q-8

3. Claims servicing including investigation and recommendation by the Fund's contractors; periodic meetings with the ASO Pool Member's claims official or claims committee attended by representatives of Contractors;

4. Claims administration including coordination and recommendation of defense; reserve recommendations; claims handling and defense recommendations by the Fund claims manager and assistants, as well as review of all files to monitor the ASO Pool Member's self-insurance exposure; participation by Fund staff member(s) in the periodic meetings to review claims with the ASO Pool Member's claims official or claims committee.

5. Storage and retention of claims records; periodic MIS reports detailing claims and loss information and history.

The Fund shall charge the ASO Pool Member its usual and customary charges for the aforesaid services based on actual services provided. Allocated claim expenses, including defense attorney's fees, discovery fees, expert and witness fees and court costs shall be paid by the Fund on behalf of the ASO Pool Member out of the ASO Pool Member's claims account as part of the administrative services provided by the Pool, but shall never be an expense or liability of the Fund but rather is solely that of the ASO Pool Member.

The Fund shall handle all liability and automobile physical damage claims and oversee, coordinate and make recommendations in connection with the defense of any and all liability lawsuits covered under this Agreement after prompt notice has been given. The ASO Pool Member hereby appoints Fund staff and Contractors as its agents to act in all matters pertaining to processing and handling of claims covered under this Agreement and shall cooperate fully in supplying any information needed or helpful in settlement or defense of such claims. As respects liability claims, the Fund staff and Contractors shall carry on all negotiations with the claimant or his attorney, but no settlement shall be made without express prior approval of the ASO Pool Member. All claims will be discussed with the ASO Pool Member's claims official or claims committee on a periodic basis. As information on each claim develops, the Fund staff and Contractors shall make recommendations concerning claim reserves, settlement and whether or not a case should be tried or settled or a judgment should be appealed, but all decisions on individual cases shall be made by the ASO Pool Member. In the event of litigation, the Fund staff and Contractors will retain on behalf of the ASO Pool Member legal counsel approved by the ASO Pool Member to represent it and will supervise the defense of the litigation, including any appeals.

The ASO Pool Member shall establish in its name a "claims account" at a bank designated by the Fund, out of which the Fund, through its agents, shall pay on behalf of the ASO Pool Member qualified claims or losses and allocated claims expense including court costs, fees and expenses of attorneys, independent investigators, experts and witnesses and all other costs, charges or expense properly chargeable to a qualified claim or loss. Funds shall be provided at the inception of the ASO Member's self-insurance program and promptly from time to time under the following formula based on estimates furnished by the Fund of the anticipated or actual level and volume of qualified claims or losses and allocated expenses: The ASO Pool Member shall deposit into the account initially an amount equal to one-fourth (¼) of the estimated volume of qualified claims or losses and allocated claim expenses during the first twelve (12) months of its self-insurance program and each month thereafter, or sooner if necessary, shall deposit into the account an amount sufficient to restore, maintain or increase the account balance to an amount equal to one-fourth (¼) of the estimated volume of qualified claims or losses and allocated claim expenses during the next twelve (12) months.

The Fund shall account to the ASO Pool Member monthly for all expenditures from the claims account. If at any time the claims account balance drops to below fifty percent (50%) of the balance currently called for under the above formula, the ASO Pool Member shall promptly deposit additional funds to restore the full balance. During any period of time that the claims account balance is fifty percent (50%) or less of that currently called from under the formula, only allocated claim expenses shall be paid out and the ASO Pool Member shall directly pay qualified claims or losses out of other funds until it deposits into the claims account the amount necessary to restore the account to its full balance. In the event payment of a qualified claim or loss would reduce the claims account balance to less than fifty percent (50%) of that called for under the formula, the ASO Pool Member shall be promptly notified and shall either pay the qualified claim or loss directly out of other funds or deposit into the claims account sufficient funds for its payment.

It is expressly understood that the Fund shall not be required to advance its own funds or those of the Joint Self-Insurance Fund to pay claims or losses or allocated expenses hereunder, or continue to perform any services hereunder if the ASO Pool Member fails to provide necessary and adequate funds as herein set forth.

It shall be the sole responsibility of the ASO Pool Member to establish and maintain adequate reserves in addition to the limited funds in the claims account for payment of all claims, including catastrophic claims. The Fund will provide reserve recommendations and estimates of liability exposures, but both parties realize that judges and juries have wide discretion in assessing damage awards and the award in any particular case may be greatly in excess of or greatly less than a recommended reserve.

Q-9

PROPOSAL ACCEPTANCE FORM
PROPERTY

Directions: This form and the Interlocal Agreement must be completed, signed and returned. If time is of the essence, you may wish to use an express mail service or a facsimile copier. In the event you submit these documents by facsimile, the originals must still be sent by regular mail. (Exception: Rural Fire Prevention Districts and Emergency Service Districts must provide other documents before coverage is effective.) Please indicate with [X] the coverages and method of payment that you are accepting.

RETURN TO:
Texas Municipal League Intergovernmental Risk Pool
Underwriting Department
P.O. Box 149194
Austin, Texas 78714-9194
Phone: 512-491-2300 or 1-800-537-6655
FAX: 512-491-2404

COVERAGE	DEDUCTIBLE	CONTRIBUTION	EFFECTIVE DATE	ANNIVERSARY DATE
[x] Real & Personal Property Limit $ 196,253,713 [ ] Actual Cash Value OR [x] Replacement Value	$ 250,000	$ 172,152	10-01-06	10-01-07
[x] Special Form OR [ ] Named Perils				
[x] Flood & Earthquake [x] Included OR [ ] Excluded				
[x] Mobile Equipment Total Value _____ [ ] Actual Cash Value OR [ ] Replacement Value	$	$		
[x] Electronic Data Processing [x] Included OR [ ] Excluded	$	$		
[x] Boiler & Machinery Accident Limit $ 50,000,000	$ 10,000	$ Included		
[ ]	$	$		
[ ]	$	$		
[ ]	$	$		

Method of Payment: [ ] *Quarterly* [x] *Annually (3% DISCOUNT)*

I, the undersigned, as an authorized representative of City of Plano
(Name of Political Subdivision)
do hereby accept on behalf of the above named political subdivision the portions of the proposal as indicated above.

Signature of Authorized Official: [signature]
Title: Risk manager
Date: September 28, 2006

The Signed Interlocal Agreement Must Accompany This Form	*OFFICE USE ONLY* Contribution: _____ Entity ID #_____ Verified by: _____ ( ) New ( ) Re-awarding ( ) Adding Coverage

TEXAS MUNICIPAL LEAGUE INTERGOVERNMENTAL RISK POOL

P307
01/29/03

Q-10

CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	☐ Yes	☒ Not Applicable
☐ Consent ☐ Regular ☐ Statutory		Reviewed by Budget	☐ Yes	☒ Not Applicable
Council Meeting Date:	10/23/06	Reviewed by Legal	☒ Yes	☐ Not Applicable
Department:	Public Safety & Technology		Initials	Date
Department Head	Bruce Glasscock	Executive Director		10.18.06
Dept Signature:		City Manager		10/18/06
Agenda Coordinator (include phone #):	Lynne Jones-7109			

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

CAPTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN AMENDMENT TO MUNICIPAL MAINTENANCE AGREEMENT FOR THE FURNISHING, INSTALLING, OPERATION AND MAINTENANCE OF CAMERAS ON STATE HIGHWAY RIGHTS-OF-WAY TO MONITOR COMPLIANCE WITH TRAFFIC-CONTROL SIGNALS BY AND BETWEEN THE STATE OF TEXAS AND THE CITY OF PLANO; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.

FINANCIAL SUMMARY

☒ NOT APPLICABLE ☐ OPERATING EXPENSE ☐ REVENUE ☐ CIP

FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0

FUND(S):

COMMENTS:

SUMMARY OF ITEM

This Resolution will set forth terms and conditions for the authority, installation and maintenance of camera monitoring equipment with regard to a prior Municipal Maintenance Agreement entered into on September 12, 1994 between the State of Texas and the City of Plano.

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
n/a	n/a

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R-1

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN AMENDMENT TO MUNICIPAL MAINTENANCE AGREEMENT FOR THE FURNISHING, INSTALLING, OPERATION AND MAINTENANCE OF CAMERAS ON STATE HIGHWAY RIGHTS-OF-WAY TO MONITOR COMPLIANCE WITH TRAFFIC-CONTROL SIGNALS BY AND BETWEEN THE STATE OF TEXAS AND THE CITY OF PLANO; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State of Texas ("State") and the City of Plano ("City") previously entered into a Municipal Maintenance Agreement on September 12, 1994 relating to the maintenance, control, supervision and regulation of State Highway routes within the City, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter "Municipal Maintenance Agreement"); and

WHEREAS, the City has requested permission to install cameras on state highway rights-of-way to monitor compliance with traffic-control signals (hereinafter referred to as "camera monitoring equipment"); and

WHEREAS, the State has determined that when the City's installation of camera monitoring equipment will not damage the highway facility, impair safety, impede maintenance, or in any way restrict the operation of the highway, the proposed camera monitoring equipment may be installed by the City or its contractor; and

WHEREAS, the City Council has been presented a proposed Amendment to Municipal Maintenance Agreement for the Furnishing, Installing, Operation and Maintenance of Cameras on State Highway Rights-of-Way to Monitor Compliance with Traffic-Control Signals between the State of Texas and the City of Plano, a substantial copy of which is attached hereto as Exhibit "B" and incorporated herein by reference (hereinafter called "Amendment"); and,

WHEREAS, the purpose of this Amendment is limited to setting the terms and conditions for the authority, installation and maintenance of camera monitoring equipment and does not omit or amend the other obligations that are set forth in the original Municipal Maintenance Agreement entered into on September 12, 1994; and

WHEREAS, the City Council finds that other than the new obligations and conditions for the installation and maintenance of camera monitoring equipment, all other terms and conditions of the original Municipal Maintenance Agreement entered into by and between the State and City on September 12, 1994, shall remain in full force and effect; and

WHEREAS, upon full review and consideration of the 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, in his absence, an Executive Director, 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 Amendment, 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. This Resolution approves the terms and conditions of the Amendment regarding the furnishing, installing, operation and maintenance of the camera monitoring equipment and provides that all other terms of the original Municipal Maintenance Agreement dated September 12, 1994 shall remain in full force and effect.

Section III. The City Manager, or in his absence, an Executive Director, is hereby authorized to execute the 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 Amendment.

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

DULY PASSED AND APPROVED this the _____ day of _____, 2006.

_____
Pat Evans, MAYOR

ATTEST:

_____
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

_____
Diane C. Wetherbee, CITY ATTORNEY

N:\ORD&RES\Res-approve amendment-camera monitoring.doc(10/17/06-DW)

R-3

Form 1038 Rev. 3/94
Previous versions are obsolete.
DHT ± 122504

Municipal Maintenance Agreement

STATE OF TEXAS *

COUNTY OF TRAVIS *

THIS AGREEMENT made this 12th day of September, 19 94, by and between the State of Texas, hereinafter referred to as the "State", party of the first part, and the City of PLANO, COLLIN/DENTON County, Texas (population 149,100, 19 90, Federal Census) acting by and through its duly authorized officers, hereinafter called the "City", party of the second part.

WITNESSETH

WHEREAS, the City has requested the State to assist in the maintenance of State Highway routes within such City; and

WHEREAS, the Executive Director, acting for and in behalf of the Texas Transportation Commission, has made it known to the City that the State will assist the City in the maintenance, control, supervision and regulation of State Highway routes within such City, conditioned that the City will enter into agreements with the State for the purpose of determining the responsibilities of the parties thereto:

AGREEMENT

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto to be by them respectively kept and performed, it is agreed as follows:

Coverage

1. This agreement is intended to cover and provide for State participation in the maintenance of the following classification of State Highway routes within the City:

   A. Non-Controlled Access routes or portions thereof which are described and/or graphically shown as "State Maintained" routes in Exhibit "A", which is attached hereto and made a part hereof.

   B. All State Highway routes or portions thereof which have been designated by the Texas Transportation Commission as Controlled Access Highways and which are described and/or graphically shown in Exhibit "B", which is attached hereto and made a part hereof.

R-4

m 1038 Rev. 3/94
ious versions are obsolete.

2. In the event that the present system of State Highway routes within the City is changed by cancellation, modified routing, new routes or change in the City's corporate limits, the State shall terminate maintenance and this agreement shall become null and void on that portion of the routes which are no longer routes of a State Highway; and the full effect and all conditions of this agreement shall apply to the changed routes or new routes of the State Highways within the City and shall be classified as "State Maintained" under paragraph 1 above, unless the execution of a new agreement on the changed portion of the routes is requested by either the City or the State.

General Conditions

1. The City hereby agrees and does hereby authorize the State to maintain the State Highway routes covered by this agreement in the manner set out herein.

2. The City shall retain full responsibility for all items that affect property rights, life, health, etc., of property owners and dwellers adjacent to the State Highway routes and portions thereof.

3. This agreement shall supplement any special agreements between the State and the City for the maintenance and/or construction of the highways covered herein and this agreement shall supersede any existing Municipal Maintenance Agreements.

4. Traffic regulations, including speed limits, will be established after traffic and engineering surveys have been conducted.

5. The State will erect and maintain all traffic signs necessary to regulate, warn and guide traffic on highway routes in a safe and efficient manner.

6. It is mutually agreed that, subject to approval by the State, any street lighting system may be installed by the City provided the City shall pay all cost of installation, maintenance and operation except in those installations specifically covered by separate agreements between the City and State.

7. It is understood and agreed that this agreement is for the purpose of defining the authority and responsibility of both parties for maintenance of highway routes through the City and shall in no way be considered to cover any present or past obligation either real or anticipated concerning such State Highway routes through the City.

8. The City shall prohibit the movement of loads over State Maintained streets which exceed the legal limits for either weight, length, height or width, as prescribed by State law for public highways outside corporate limits of cities, except those having proper permits from the State for such movements. The City shall also, by ordinance and enforcement, prescribe and enforce lower weight limits when mutually agreed by the City and the State that such restrictions are needed to avoid damage to the street and/or for traffic safety.

9. The City shall prevent future encroachments within the right of way of the highway routes and assist in removal of any present encroachments when requested by the State except where specifically authorized by separate agreement; and prohibit the planting of trees or shrubbery or the creation or construction of any other obstruction within the right of way without prior agreement with the State.

R-5

1038 Rev. 3/94
bus versions are obsolete.

10. The City agrees that traffic control devices, such as signs, traffic signals and pavement markings, in respect to type of device, points of installation and necessity will be determined by traffic and engineering surveys. The City agrees that it will not install, maintain or permit the installation of any type of traffic control device which will affect or influence the utility of the State Highway routes unless approved in writing by the State. Traffic control devices installed prior to the date of this Agreement are hereby made subject to the terms of this Agreement and the City agrees to the removal of such devices which affect or influence the utility of the State Highway routes unless their continued use is approved in writing by the State. It is understood that approval for future installations of traffic control signals by the State or as a joint project with the City, will be indicated by signature of the plans.

11. The City agrees to assure the grantee's conformance, for proper construction and maintenance of access driveway facilities, in accordance with "Regulations for Access Driveways to State Highways" adopted by the Texas Department of Transportation or in accordance with other standards and specifications for the design, construction and maintenance details subject to approval by the Texas Department of Transportation.

12. It is understood that the use of unused right of way and areas beneath structures will be as determined by a separate agreement.

13. On those State Highway routes and portions thereof which are listed and/or graphically shown on Exhibit "A" as "City Maintained" routes, the City agrees to provide bridge inspection and inventory data to the State in accordance with National Bridge Inspection Standards.

Non-Controlled Access Highways

The following specific conditions and responsibilities shall be applicable to non-controlled access highways in addition to the "General Conditions" contained herein above. Routes of non-controlled access highways or portions thereof covered by this section are those listed and/or graphically shown in Exhibit "A".

State's Responsibilities

1. Maintain the traveled surface and foundation beneath such traveled surface necessary for the proper support of same under vehicular loads encountered and maintain the shoulders.
2. Assist in mowing and litter pickup.
3. Assist in sweeping and otherwise cleaning the pavement.
4. Assist in snow and ice control.
5. Maintain drainage facilities within the limits of the right of way.
6. Install and maintain normal regulatory warning and guide signs and normal markings for directing highway traffic in a safe and efficient manner. This includes school safety devices, school crosswalks and crosswalks installed in conjunction with pedestrian signal heads. It does not include other pedestrian crosswalks. Any other traffic striping desired by the City may be placed and maintained by the City subject to the approval of the State.

R-6

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7. Install, operate and maintain traffic signals in cities with less than 50,000 population.

8. Install all Federally-funded, off-system traffic signals and on-system traffic signals in cities greater than 50,000 population.

City's Responsibilities

1. Prohibit angle parking, except upon written approval by the State after traffic and engineering surveys have been conducted to determine that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

2. Install and maintain all parking restriction signs, pedestrian crosswalks, parking stripes and special guide signs when agreed to by the State and traffic signals in cities with over 50,000 population. Signing and marking of intersecting city streets to State Highway routes will be the full responsibility of the City.

3. Require installations, repairs, removals or adjustments of publicly or privately owned utilities or services to be performed in accordance with Texas Department of Transportation specifications and subject to approval of the State.

4. Maintain highway drainage facilities outside the limits of the right of way.

5. Retain all functions and responsibilities for maintenance, control, supervision and regulation which are not specifically described as the responsibility of the State. The assistance by the State in maintenance of roadway ditches does not relieve the City of its responsibility for drainage of the highway facility within its corporate limits except where participation by the State other than above is specifically covered in a separate agreement between the City and the State.

6. Maintenance and operation of all Federally-funded, off-system traffic signals and on-system traffic signals in cities greater than 50,000 population.

Controlled Access Highways

The following specific conditions and responsibilities shall be applicable to controlled access highways in addition to the "General Conditions" contained herein above. Routes of controlled access highways or portions thereof covered by this section are those listed and/or graphically shown in Exhibit "B".

State's Responsibilities

1. Maintain the traveled surface of the through lanes, ramps and frontage roads and foundations beneath such traveled surface necessary for the proper support of same under vehicular loads encountered.

2. Mow and clean up litter within the outermost curbs of the frontage roads or the entire right of way width where no frontage roads exist, and assist in performing these operations between the right of way line and the outermost curb or crown line of the frontage roads in undeveloped areas.

R-7

Form 1038 Rev. 3/94
Previous versions are obsolete.

3. Sweep and otherwise clean the through lanes, ramps, separation structures or roadways and frontage roads.

4. Remove snow and control ice on the through lanes and ramps and assist in these operations as the availability of equipment and labor will allow on the frontage roads and separation structures or roadways.

5. Install and maintain all normal markings and signs on the main lanes and frontage roads necessary for the proper use of the facility and direction of traffic thereon. This includes school safety devices, school crosswalks and crosswalks installed on frontage roads in conjunction with pedestrian signal heads. It does not include other pedestrian crosswalks.

6. Install, operate and maintain traffic signals at ramps and frontage road intersections.

7. Maintain all drainage facilities within the limits of the right of way.

City's Responsibilities

1. Restrict parking on frontage roads to parallel parking on one side only and prohibit all parking on main lanes and ramps and at such other places where such restriction is necessary for satisfactory operation of traffic, by passing and enforcing ordinances and taking other appropriate action in addition to full compliance with current laws on parking.

2. When considered necessary and desirable by both the City and the State, the City shall pass and enforce an ordinance providing for one-way traffic on the frontage roads except as may be otherwise agreed to by separate agreements with the State.

3. Secure or cause to be secured the approval of the State before any utility installation, repair, removal or adjustment is undertaken, crossing over or under the highway facility or entering the right of way. In the event of an emergency, it being evident that immediate action is necessary for protection of the public and to minimize property damage and loss of investment, the City, without the necessity of approval by the State, may at its own responsibility and risk make necessary emergency utility repairs, notifying the State of this action as soon as practical.

4. Pass necessary ordinances and retain its responsibility for enforcing the control of access to the freeway facility.

Termination

1. It is understood and agreed between the parties hereto that all obligations of the State created herein to maintain the State Highway routes covered by this agreement shall terminate if and when they are no longer routes of State Highways; and further, that should either party fail to properly fulfill its obligations as herein outlined, the other party may terminate this agreement upon 30 days written notice.

Said State assumption of maintenance shall be effective the date of execution of this agreement by the Texas Department of Transportation.

R-8

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ious versions are obsolete.

IN WITNESS WHEREOF, the parties have hereunto affixed their signatures, the City of PLANO on the 12th day of Sept, 19 94, and the Texas Department of Transportation on the 6th day of October, 19 94.

ATTEST:

CITY OF PLANO

By

City Manager
(Title of Signing Official)

THE STATE OF TEXAS

Certified as being for the purpose and effect of activating and/or carrying out the orders, established policies, or work programs heretofore approved and authorized by the Texas Transportation Commission under the authority of Minute Order No. 100002.

By Walter W Chamberlain
Director, Construction and Maintenance

APPROVAL RECOMMENDED:

District Engineer

DALLAS District

NOTE: To be executed in triplicate and supported by Municipal Maintenance Ordinance and Certificate of City Secretary.

R-9

EXHIBIT "A"

NON-CONTROLLED ACCESS HIGHWAY

I. STATE MAINTAINED

A. State Highway 121:

From the West City Limit to the intersection of F.M. 2478 (Base, pavement, highway markings, assist in mowing and cleaning up litter, sweeping and assist in maintenance of roadway ditches).

B. State Highway 289:

From the North City Limit (intersection of S.H. 121) to the South City Limit (Base and pavement, excluding all dedicated right turn lanes, route markers and destination signs for through traffic).

II. CITY MAINTAINED

A. S.H. 289:

From the North City Limit to the South City Limit - Base, pavement and drainage structures in all dedicated right turn lanes.

R-10

EXHIBIT "B"

CONTROLLED ACCESS HIGHWAY

I. STATE MAINTAINED

A. U.S. 75

From the North City Limit to the South City Limit.

B. S.H. 190

From the West City Limit to the East City Limit.

II. CITY MAINTAINED

None

city of plano

NOTICE OF CERTIFICATION

I, Jackie Blakely, City Secretary, City of Plano, Texas do hereby certify that the attached document is a true and correct copy of Resolution No. 94-9-3(R) duly passed and adopted on September 12, 19 94 by the Plano City Council, as the same appears of record and filed among the official records in the Office of the City Secretary, and that I am the official custodian of same.

WITNESS MY HAND AND OFFICIAL SEAL this 15th day of September, 19 94.

Billie Clayton
for: Jackie Blakely, City Secretary

N. Muns
nyor
ongstreet
nyor Pro Tem
Perry
eputy Mayor Pro Tem
Van Maele
lace 2
lones
lace 4
Akers
'lace 5
'M. Smith
'la
3o
'la
nas H. Muehlenbeck
City Manager

r-12

P.O. Box 860358
Plano, Texas 75086-0358

RESOLUTION NO. 94-9-3(R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, PROVIDING FOR THE MAINTENANCE OF CERTAIN STATE HIGHWAYS AND/OR PORTIONS OF STATE HIGHWAYS IN THE CITY OF PLANO, COUNTY OF COLLIN, TEXAS, HEREBY REFERRED TO AS THE MUNICIPAL MAINTENANCE PROJECT ("PROJECT"); AUTHORIZING THE CITY MANAGER, OR IN HIS ABSENCE AN ASSISTANT CITY MANAGER, TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF PLANO AND THE STATE OF TEXAS, STATE DEPARTMENT OF HIGHWAYS AND TRANSPORTATION, PROVIDING FOR THE MAINTENANCE AND USE OF THE SAID PROJECT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the public convenience, safety and necessity of the citizens of Plano require that the State Highway routes within the City of Plano be adequately maintained; and

WHEREAS, the City of Plano and the State of Texas have previously entered into a Municipal Maintenance Agreement authorized by Resolution No. 86-1-18(R), providing for maintenance of state highway routes within the City; and

WHEREAS, in order to continue the required degree of maintenance of state highway routes within the City, it has become necessary for the City and State to enter into a new Municipal Maintenance Agreement, superceding the previously executed Municipal Maintenance Agreement dated January 27, 1986, in order to meet the current concerns and maintenance operations of the parties; and

WHEREAS, the City of Plano has requested that the State of Texas again enter upon and contribute financially to the maintenance of said Project; and

WHEREAS, the State of Texas has made it known to the City of Plano that it will, with its own forces and equipment and it its sole cost and expense, enter upon and maintain a portion of said Project, conditioned upon the provisions concerning liabilities and responsibilities for maintenance, control, supervision and regulation which are set out in the Municipal Maintenance Agreement ("Agreement") attached hereto, made a part hereof, and marked Exhibit "A"; and

WHEREAS, said Project consists of those state highways and/or portions thereof which are described and included in the attached Agreement;

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

Section I. The public convenience, safety and necessity of the City of Plano and the citizens of the City of Plano require the Project set out in the Agreement be adequately maintained; and this Agreement serves a valid public purpose.

Section II. The State of Texas is hereby authorized to enter upon and maintain all portions of the state highway system which the attached Agreement indicates will be maintained by the State of Texas.

Section III. The City Manager, or in his absence an Assistant City Manager, is hereby authorized to execute, on behalf of the City of Plano, an agreement with the State of Texas, in accordance with and for the purpose of carrying out the terms and conditions of this Resolution. Such agreement shall be in the form attached hereto as Exhibit "A".

Section IV. All ordinances and resolutions, or parts thereof, in conflict with this Resolution are hereby rescinded and repealed to the extent of such conflict.

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

DULY PASSED AND APPROVED this the 12 day of September, 1994.

James N. Muns, MAYOR

ATTEST:

Jackie Blakely, CITY SECRETARY

APPROVED AS TO FORM:

Gary F. Chatham, CITY ATTORNEY

R-14

RES-SOT

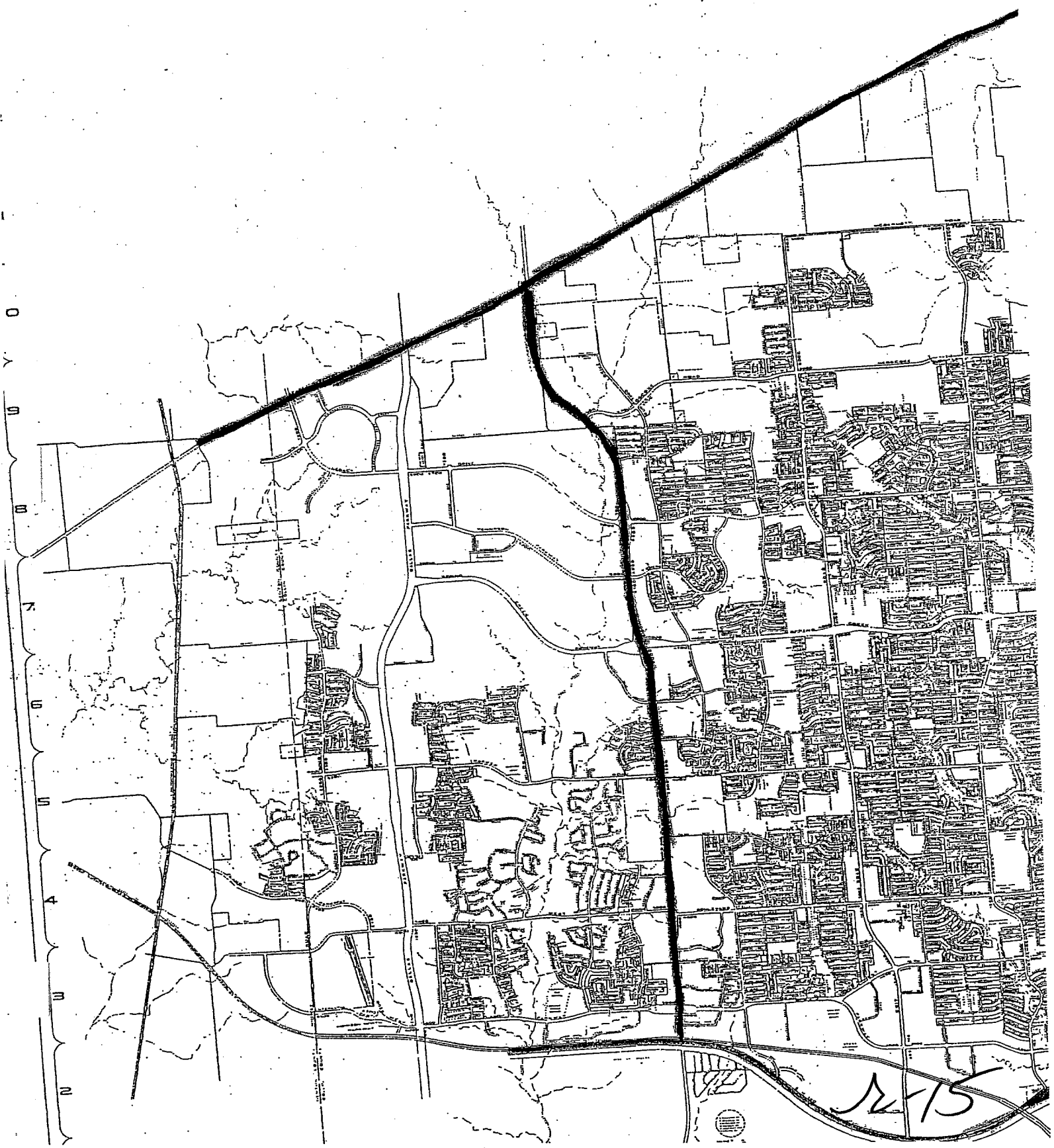

R-15

EXHIBIT "A"

NON-CONTROLLED ACCESS HIGHWAY

I. STATE MAINTAINED

A. State Highway 121:

From the West City Limit to the intersection of F.M. 2478 (Base, pavement, highway markings, assist in mowing and cleaning up litter, sweeping and assist in maintenance of roadway ditches).

B. State Highway 289:

From the North City Limit (intersection of S.H. 121) to the South City Limit (Base and pavement, excluding all dedicated right turn lanes, route markers and destination signs for through traffic).

II. CITY MAINTAINED

A. S.H. 289:

From the North City Limit to the South City Limit - Base, pavement and drainage structures in all dedicated right turn lanes.

CONTROLLED ACCESS HIGHWAY

I. STATE MAINTAINED

A. U.S. 75

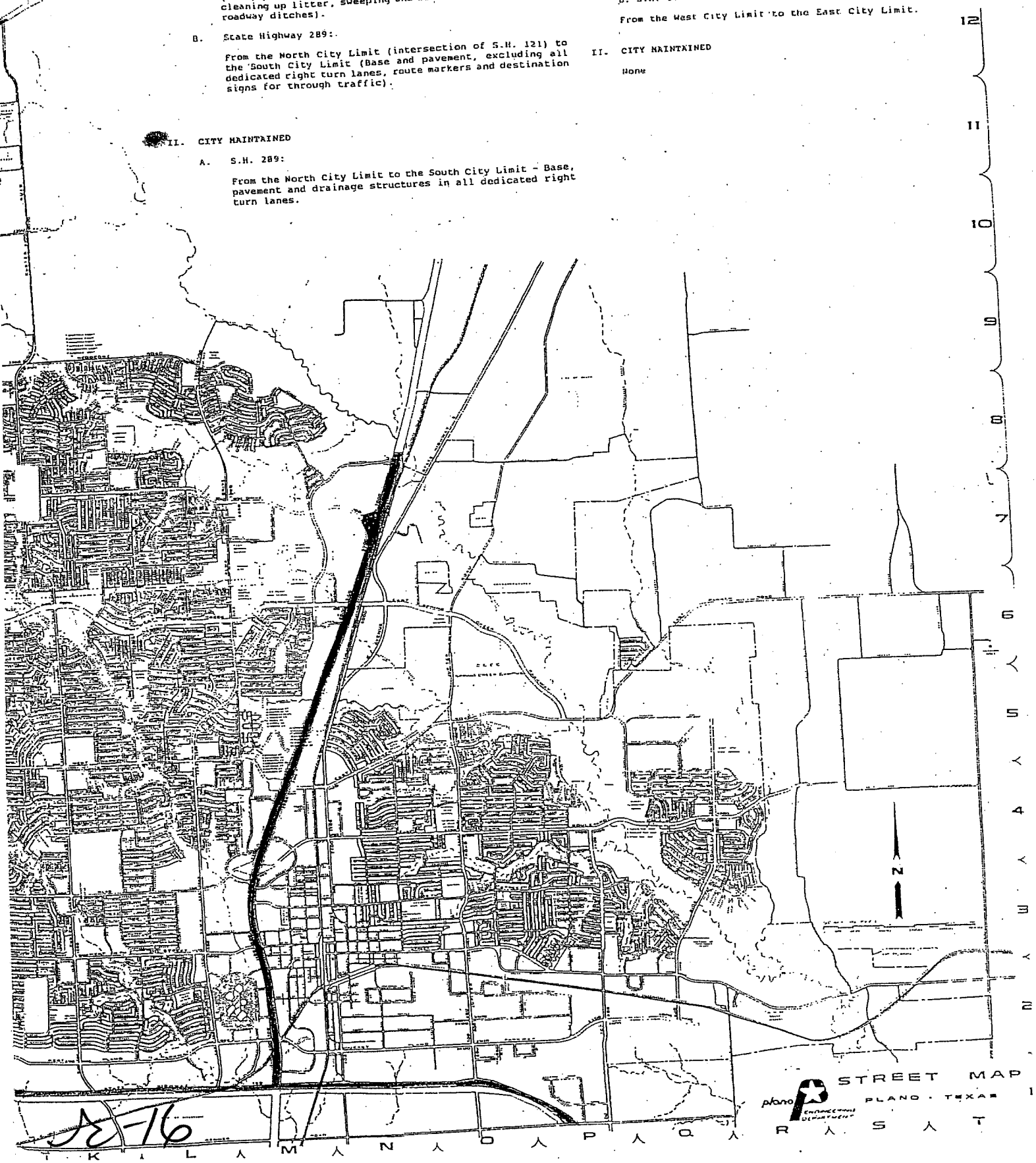
From the North City Limit to the South City Limit.

B. S.H. 190

From the West City Limit to the East City Limit.

II. CITY MAINTAINED

None



AE-76

THE STATE OF TEXAS §

THE COUNTY OF TRAVIS §

AMENDMENT TO MUNICIPAL MAINTENANCE AGREEMENT FOR THE FURNISHING, INSTALLING, OPERATION AND MAINTENANCE OF CAMERAS ON STATE HIGHWAY RIGHTS-OF-WAY TO MONITOR COMPLIANCE WITH TRAFFIC-CONTROL SIGNALS

THIS AMENDMENT is made by and between the State of Texas, acting through the Texas Department of Transportation, hereinafter called the "State", and the City of Plano, hereinafter called the "City", acting by and through its duly authorized officers.

W I T N E S S E T H

WHEREAS, the State owns and maintains a system of highways and roadways in the City of Plano pursuant to Transportation Code, Section 201.103; and

WHEREAS, the State and the City executed a Municipal Maintenance Agreement on September 12, 1994 ; and

WHEREAS, the City has requested permission to install cameras on state highway rights-of-way to monitor compliance with traffic-control signals, hereinafter referred to as "camera monitoring equipment", at the locations listed on Exhibit A attached hereto and made a part of hereof; and

WHEREAS, the State has determined that when the City's installation of camera monitoring equipment will not damage the highway facility, impair safety, impede maintenance, or in any way restrict the operation of the highway, the proposed camera monitoring equipment may be installed by the City or its contractor;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto to be by them respectively kept and performed as hereinafter set forth, it is agreed as follows:

A M E N D M E N T

ARTICLE 1. CONTRACT PERIOD

This amendment becomes effective on final execution by the State and shall remain in effect as long as said camera monitoring equipment is in operation at the described locations.

ARTICLE 2. TERMINATION

This amendment may be terminated by one of the following conditions:

1) By mutual agreement of both parties;
2) By the State giving written notice to the City as consequence of failure by the City or its contractor to satisfactorily perform the services and obligations set forth in this amendment, with proper allowances being made for circumstances beyond the control of the City or its contractor. The State's written notice to the City shall describe the default and the proposed termination date. If the City cures the default before the proposed termination date, the proposed termination is ineffective; or

R-17

3) By either party upon thirty (30) days written notice to the other.

Termination of this amendment shall not serve to terminate the underlying Municipal Maintenance Agreement between the State and the City.

ARTICLE 3. COMPENSATION

No compensation shall be paid for this amendment.

ARTICLE 4. PERSONNEL, EQUIPMENT, AND MATERIAL

A. The City will use labor and supervisory personnel employed directly by the City or its contractor, and use City owned or contractor owned machinery, equipment, and vehicles necessary for the work. In the event that the City or its contractor does not have the machinery, equipment, and vehicles necessary to perform the work, the machinery, equipment, and vehicles may be rented or leased as necessary.

B. No reimbursement shall be paid for any materials supplied by the City or its contractor.

C. Any adjustment, replacement, or reinstallation of the camera monitoring equipment due to reconstruction or alteration of the intersection shall be performed by the City at the City's expense. The State will work with the City to provide adequate notice of any planned work to allow for the necessary modification or removal.

D. All installation or maintenance work performed by the City or its contractor requiring traffic control shall be performed in accordance with the *Texas Manual on Uniform Traffic Control Devices*.

ARTICLE 5. INSPECTION OF WORK

A. The City or its contractor will furnish the State a complete set of design drawings and installation plans for review. The installation plans shall include all electrical, electronics, signing, civil and mechanical work pertaining to the camera monitoring equipment.

B. The State reserves the right to inspect and request modification of any camera monitoring equipment under this agreement both prior to and after installation. No installation may occur until the State has approved the proposed installation.

C. The State reserves the right to inspect and approve the completed installation.

D. The State will promptly notify the City or its contractor of any failure of materials, equipment, or installation methods, and the City or its contractor will take such measures necessary to obtain acceptable systems components and installation procedures without delay.

ARTICLE 6. RESPONSIBILITIES OF THE PARTIES

The parties agree that neither party is an agent, servant, or employee of the other party and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents. The State shall <u>not</u> be held responsible for the operation (or non-operation) of the camera monitoring equipment or for any effect it may have.

The City is responsible for any damage that may occur to state equipment during the installation, maintenance or operation of the camera monitoring equipment. The City is responsible for maintaining the camera monitoring equipment and related signing in good working order and keeping such equipment free from graffiti.

ARTICLE 7. DE-ACTIVATION OF CAMERA MONITORING EQUIPMENT

The State reserves the right to disconnect and remove camera monitoring equipment from the traffic signals should any problem arise affecting the State. The State will notify the appropriate

R-18

City office of the de-activation of the camera monitoring equipment. Upon correction of the problem, the City may reconnect the camera monitoring equipment.

ARTICLE 8. INSTALLATION REQUIREMENTS
The City or its contractor shall furnish and install all equipment related to the camera monitoring equipment installation. This includes, but is not limited to, camera equipment, camera housing and supporting structure, intersection lighting, vehicle detection system, communications equipment, electrical service and connections, roadway signing, and any interconnection with the signal. The City or its contractor will be responsible for all power costs associated with the operation of the camera monitoring equipment.

Electrical connections made to the State's signal equipment shall be optically or otherwise isolated as approved by the State and shall not affect the operation of any component of the traffic signal system including both the signal controller and the conflict monitor/malfunction management unit.

ARTICLE 9. REPORTS
Upon written request, the City will be required to supply the State with data related to the operation of the camera monitoring equipment.

ARTICLE 10. REMEDIES
Violation or breach of contract terms by the City shall be grounds for termination of the amendment, and any increased cost arising from the City default, breach of contract, or violation of terms shall be paid for by the City. This amendment shall not be considered as specifying the exclusive remedy for default, but all remedies existing at law and in equity may be availed of by either party and shall be cumulative.

ARTICLE 11. INSURANCE
Before beginning work, the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately.

ARTICLE 12. SUCCESSORS AND ASSIGNS
The City shall not assign or otherwise transfer its rights or obligations under this amendment except with the prior written consent of the State.

ARTICLE 13. LEGAL CONSTRUCTION
In case 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 any other provision thereof and this amendment shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

R-19

ARTICLE 14. NOTICES
All notices to either party by the other required under this amendment shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to such party at the following respective addresses:

CITY:
City of Plano
Attn: City Manager
P.O. Box 860358
Plano, TX 75086-0358

STATE:
Texas Department of Transportation
Attn: District Engineer
P.O. Box 133067
Dallas, TX 75313-6615

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either party hereto may change the above address by sending written notice of such change to the other in the manner provided herein.

ARTICLE 15. GOVERNING LAWS AND VENUE
This amendment shall be construed under and in accordance with the laws of the State of Texas. Any legal actions regarding the parties' obligations under this agreement must be filed in Travis County, Texas.

ARTICLE 16. EFFECTIVE AMENDMENT
This amendment revises the Original Municipal Maintenance Agreement to authorize and set forth the obligations for the installation and maintenance of camera monitoring equipment by the City. All other remaining terms and conditions of the Original Municipal Maintenance Agreement shall remain in full force and effect.

ARTICLE 17. REVISIONS TO EXHIBIT A
Revision to the locations listed in Exhibit A may be made if submitted in writing by the City and initialed by both parties.

IN WITNESS WHEREOF, the State and the City have signed duplicate counterparts of this agreement.

CITY OF PLANO, TEXAS,
a home rule municipal corporation

By: _____
Thomas H. Muehlenbeck
City Manager

APPROVED AS TO FORM:

Diane C. Wetherbee
Diane C. Wetherbee, City Attorney

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

By:_____ Date: _____
District Engineer

r-20

EXHIBIT A

SH 289 (Preston Road) at Plano Parkway
SH 289 (Preston Road) at Spring Creek Parkway
SH 121 at Dallas Parkway
SH 121 at Custer Road

R-21

CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	☐ Yes	☒ Not Applicable
☐ Consent ☐ Regular ☐ Statutory		Reviewed by Budget	☒ Yes	☐ Not Applicable
Council Meeting Date:	10/23/06	Reviewed by Legal	☐ Yes	☒ Not Applicable
			Initials	Date
Department:	Budget			
Department Head	Karen Rhodes	Executive Director		
Dept Signature:		City Manager		10/18/06
Agenda Coordinator (include phone #):	Casey Srader x5152			

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

CAPTION

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, APPROVING THE CARRYING FORWARD OF FISCAL YEAR 2005-06 FUNDS TO FISCAL YEAR 2006-2007; AND APPROVING AN EFFECTIVE DATE.

FINANCIAL SUMMARY

☐ NOT APPLICABLE ☒ OPERATING EXPENSE ☐ REVENUE ☐ CIP

FISCAL YEAR: 2006-07	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	-2,957,513	0	-2,957,513
BALANCE	0	-2,957,513	0	-2,957,513

FUND(S): GENERAL FUND; CATV FUND; WATER & SEWER FUND; SUSTAINABILITY & ENVIRONMENTAL SERVICES FUND; CONVENTION & TOURISM FUND; OFFICE SERVICES FUND; PROPERTY/LIABILITY LOSS FUND; ECONOMIC DEVELOPMENT FUND.

COMMENTS:

SUMMARY OF ITEM

This ordinance approves the FY 2005-2006 Carry Forward list to FY 2006-2007 and sets the level of transfers for the various funds, as reviewed by City Council.

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
Carry Forward Requests Log	

A-1

REV 08/98

ORDINANCE NO._____

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, APPROVING THE CARRYING FORWARD OF FISCAL YEAR 2005-2006 FUNDS TO FISCAL YEAR 2006-2007; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on September 12, 2005, the City Council approved the budget for fiscal year 2005-2006 by passing Ordinance 2005-9-8; and

WHEREAS, State law provides that cities have the authority to carry forward funds from the previous fiscal year to the current fiscal year; and

WHEREAS, the City Council, upon full consideration of the matter, is of the opinion that it is in the best interest of the City and its citizens to carry forward remaining funds from fiscal year 2005-2006 to fiscal year 2006-2007.

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

Section I. Subject to the applicable provisions of State law and the City Charter, the City Council hereby approves carrying forward the funds listed below from the fiscal year budget 2005-2006 to the fiscal year budget 2006-2007:

A.	General Fund	$2,174,776
B.	CATV Fund	49,000
C.	Water & Sewer Fund	294,286
D.	Sustainability & Environmental Services Fund	181,891
E.	Convention & Tourism Fund	5,000
F.	Office Services Fund	76,000
G.	Property/Liability Loss Fund	104,860
H.	Economic Development Fund	71,700

S-2

Section II. This Ordinance shall become effective immediately upon its passage.

DULY PASSED AND APPROVED this the _____day of _____.

_____
Pat Evans, MAYOR

ATTEST:

_____
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

_____
Diane C. Wetherbee, CITY ATTORNEY

CARRY FORWARD REQUESTS
2005-06 FUNDS TO 2006-07

Cost Center	Department Name	Description	Total Amount Requested	Reason	Object Codes: From	Object Codes: To	Approval Amount
	BUDGETED PROJECTS/ITEMS						
116	Public Information	Furniture/Office Remodel	$19,000	Public Information was unable to order the furniture before the end of the fiscal year because the remodel must first be completed.	116.8411	116.8411	$9,000
					116.8231	116.8231	$10,000
116	Public Information	Web Development & Spanish Translations	$60,000	Public Information has requested remaining funds be carry forward for Web Development & Spanish Translations.	116.6204	116.6312	$900
					116.6205	116.6312	$513
					116.6208	116.6312	$1,978
					116.6251	116.6312	$1,847
					116.6302	116.6312	$1,097
					116.6306	116.6312	$2,625
					116.6307	116.6312	$1,208
					116.6309	116.6312	$6,610
					116.6312	116.6312	$33,298
					116.6348	116.6312	$9,924
195	Publishing	Dallas Society of Visual Communications Association	$585	For 3 staff members to join the Dallas Society.	195.6201	195.6443	$585
195	Publishing	Training	$600	To make training funds available so that Publishing staff can attend some local meetings on visual arts.	195.6201	195.6309	$600
215	Non-Departmental	Salary Market Adjustments	$442,268	Human Resources requested funds available from 2005-06 Market Adjustments be reserved and carried forward in 2006-07 to be used where appropriate for hiring in order to recruit and bring certain salaries to current market levels	Various	215.6103	$442,268
215	Non-Departmental	Retirement Payouts for 2006-07	$500,000	To offset Retiree payouts during FY 2006-07	215.6199	215.6199	$500,000
215	Non-Departmental	Street Light Audit	$104,475	In progress, Audit to be done in FY 2006-07	215.6331	215.6331	$104,475
215	Non-Departmental	Fourth of July Celebration ad	$805	Funds required to cover the cost of the 4th of July ad as appeared in the Plano Star Courier. Current charges are being disputed.	215.6499	215.6499	$805
228	Downtown/East Advocacy	Lighting project for Haggard Park/Interurban Railway Museum	$4,000	Project unable to be completed in 2005-06.	228.6306	228.6312	$4,000
321	Records	Attend annual conferences for Association of Records Managers	$5,000	To keep up-to-date with new technology and new laws affecting these areas and to keep up certification.	321.6201	321.6307	$5,000
321	Records	Replace Retainer Vehicle	$34,467	Having major problems with current retainer vehicles. Staff is not comfortable driving due to major brake failure. Maintenance costs have become high.	321.6319	321.8421	$28,000
				Garage Charges	321.6319	321.6344	$1,800
				Depreciation	321.6319	321.6345	$4,667

CARRY FORWARD REQUESTS
2005-06 FUNDS TO 2006-07

Cost Center	Department Name	Description	Total Amount Requested	Reason	Object Codes: From	Object Codes: To	Approval Amount
321	Records	Scanner	$5,500	Scanner would be used by several departments instead of each department purchasing their own and then just letting it set when their initial scanning is completed.	321.6201	321.8416	$5,500
353	Facilities Services	Contract Services	$250,000	Carry forward balance of $250K to 2006-07 per KR	353.6312	353.6312	$250,000
532	Police	Mobile Data Computers & Mobile Video Recorders	$33,259	Evaluation of various replacement equipment solutions cannot be completed in 2005-06	532.6312	532.6312	$33,259
552	Fire	Equipment for Fire Station #11	$42,440	Remaining funds from 2005-06 supplement #552001 to be used for Equipment when station is opened late 4th QTR 2006	552.6208	552.6208	$25,340
					552.6301	552.6301	$500
					552.6321	552.6321	$3,500
					552.6322	552.6322	$1,200
					552.6325	552.6325	$3,200
					552.6327	552.6327	$7,200
					552.8441	552.8441	$1,500
552	Fire	Video Conferencing Equipment for Homeland Security	$44,062	Currently out for bid, planned purchase in October 2006, carried forward from FY 2002-03 Supplement #552037	552.8452	552.8452	$44,062
552	Fire	SCBA equipment upgrade	$30,000	Funds available from ambulance/medical supplies	552.6211	552.6208	$30,000
552	Fire	SUV for new Fire Chief	$35,000	New Fire Chief has requested a vehicle rather than a car allowance	552.6211	552.8421	$35,000
556	Homeland Security	Office furniture	$1,500	Misc items to be purchased after the new director of Homeland Security takes office in 2006-07	556.6307	556.6208	$1,500
583	Animal Services	Food	$5,000	Due to the shelter receiving more animals than normal, the shelter needs more food.	583.6208	583.6204	$5,000
583	Animal Services	Wearing Apparel	$6,000	Animal Services has continuously had five or six positions open and did not prepare a bid request. With current salary upgrades, are now getting many applicants.	583.6205	583.6205	$6,000
583	Animal Services	Minor Apparatus	$10,000	Laptops for four new vehicles in the fleet, purchase of new traps, and a new refrigerator for ship and test samples.	583.6208	583.6208	$10,000
583	Animal Services	Travel/Professional Development	$10,000	Due to staffing shortages, many officers were unable to attend continuing training.	583.6307	583.6307	$10,000
583	Animal Services	Medical Examinations	$3,000	This is needed for new officer's pre-exposure rabies shots, however the positions are still vacant and no funding was requested in the 2006-07 budget.	583.6444	583.6444	$3,000
583	Animal Services	Computer Hardware	$5,500	Hardware needed by field officers to use Chameleon software while out in the field. Currently, Animal Services is working with web licensing and once completed staff will test the dispatch module and determine what hardware is needed.	583.8452	583.8452	$5,500

CARRY FORWARD REQUESTS
2005-06 FUNDS TO 2006-07

Cost Center	Department Name	Description	Total Amount Requested	Reason	Object Codes: From		To	Approval Amount
619	Property Standards	Contractual - Professional Services - open contract abatement work orders	$23,586	Funds will be used to pay contractor's costs for services on open contract work orders submitted to abatement services contractors during the last months of FY 05-06. Remaining service request work orders have been forwarded to contractors that have not yet been completed, not yet invoiced or where disputes in billed amounts are being resolved. A portion of the requested funds are needed to compensate for adjustment increases incurred by the instability of labor costs and estimated increases in service contracts that are currently under bid. Nuisance abatement costs incurred by the city will continue to be billed for reimbursement.	619.6312		619.6312	$23,586
622	Planning	Zoning Ordinance Update	$100,000	Short-staffing and implementation delays - but anticipate execution in October 2006 - this project goes to City Council on Oct. 9	622.6312		622.6312	$100,000
623	Rental Registration & Inspection	Hardware - Non-Capital - Sony Vaio Micro personal computer	$9,765	Purchase of full-functioning lightweight and portable computer hardware with integrated wireless capability was delayed pending the deferred release of the 1GB Sony Vaio Micro personal computer later this year. The estimated cost of the personal computers, including port replicator, AC adapter, power cord and carrying case is approximately $2,441.19 each. The funding needs to be carried forward to purchase four (4) units for use by the rental property field inspection staff.	623.6252		623.6252	$9,765
623	Rental Registration & Inspection	Minor Apparatus - DVD RAM drives, memory sticks, batteries, etc.	$2,500	Funds are needed to purchase DVD-RAM drives, memory sticks, extended life batteries and other related accessories needed to be used with the mobile portable computer hardware described above.	623.6208		623.6208	$2,500
624	Building Inspections	Accreditation	$14,100	The Bldg. Insp Dept is pursuing accreditation through IAS. The evaluation team is expected on October 16-20, 2006; the carry-forward request is based on the estimated fee for evaluator visit. IAS accreditation will verify competency, recognize set standards, and enhance our performance measures and much more. This process will allow us to become the first accredited Bldg Insp Dept in the State.	624.6309		624.6446	$14,100
632	Creative Arts	Lighting for Monument Signs at Courtyard Theater	$5,000	More cost effective to purchase and install lights during winter months.	632.6319	#	632.6319	$5,000
632	Creative Arts	Security Enhancements for Douglass Community Mural	$3,700	Implementation will require Council Action after community input, so project cannot be completed during FY 2005-2006.	632.6319		632.6319	$3,700

CARRY FORWARD REQUESTS
2005-06 FUNDS TO 2006-07

Cost Center	Department Name	Description	Total Amount Requested	Reason	Object Codes: From	Object Codes: To	Approval Amount
634	Park Field Services	Drought Recovery Operations	$38,000	Savings due to drought conditions reducing the need for normal mowing rotations will be needed for irrigation line repair, removal of dead plant materials, etc.	634.6312	634.6312	$38,000
635	Park Planning	Printing of Parks Master Plan and Comp Plan	$1,765	Plan graphics will not be complete until after the start of the new budget year.	635.6301	635.6301	$1,765
637	Athletic Field Maintenance	Contractual Assistance for Sports Field recovery from drought conditions.	$35,000	Savings due to reduced trimming and mowing as a result of drought are requested to be rolled forward for contractual assistance in recovery of sports fields affected by drought. (Addressing cracks, unlevel playing conditions, etc.)	637.6312	637.6312	$35,000
637	Athletic Field Maintenance	Materials for Sports Field recovery from drought conditions	$20,000	Savings as a result of drought and water conservation are requested to be rolled forward for contractual assistance in recovery of sports fields affected by drought. (Addressing cracks, unlevel playing conditions, etc.)	637.6223	637.6312	$20,000
639	Courtyard Theater	Video Monitor System	$16,308	Contractor filed for bankruptcy. Have to re-bid project.	639.6312	639.6312	$16,308
643	Park Support services	Certification of new Playground Tech.	$850	Certification course was not located within a reasonable distance this FY.	643.6309	643.6309	$850
643	Park Support services	Certification of new Playground Tech.	$1,000	Certification course was not located within a reasonable distance this FY.	643.6111	643.6111	$1,000
643	Park Support services	Drought Recovery Operations	$9,000	Savings due to drought will be needed to assist with repair projects resulting from drought.	643.6312	643.6312	$9,000
645	Public Art	Maintenance of "Trails in Legacy" bronze sculptures	$6,500	Conditions have allowed for a delay in the annual maintenance until Spring 2007.	645.6319	645.6319	$6,500
645	Public Art	Administrative Costs for Library Public Art Projects	$2,450	Due to complexity of project and current work load of Public Art Committee, certain projects must be postponed until FY 2006-2007.	645.6319	645.6319	$2,450
646	Landscape Services	Post Drought Turf Restoration	$25,500	Extensive chemical supplements will be needed to restore turf after drought breaks.	646.6212	646.6212	$25,500
646	Landscape Services	Drought Recovery Operations	$12,500	Replacement of plant materials lost during drought	646.6216	646.6216	$12,500
646	Landscape Services	Performance Failure by Current Contractor	$24,000	Performance problems with current forestry service contractor resulted in withholding some payments. If performance is not improved, contract will be re-bid requiring the use of savings.	646.6312	646.6312	$24,000
648	Ground Maint. Svcs. Dist. #2	Drought Recovery Operations	$5,000	Savings due to drought conditions reducing the need for normal mowing rotations will be needed for irrigation line repair, removal of dead plant materials, etc.	648.6208	648.6229	$5,000
648	Ground Maint. Svcs. Dist. #2	Post Drought Turf Restoration	$9,500	Extensive chemical supplements will be needed to restore turf after drought breaks.	648.6216	648.6216	$9,500
651	Recreation Administration	Promotional Supplies	$5,084	Promotional $'s needed for opening of Tom Muehlenbeck Center	651.6306	651.6306	$5,084
664	Oak Point Center	Fitness Equipment	$12,000	Purchase of equipment was delayed to obtain better pricing with concurrent purchase of equipment for new Center.	664.8416	664.8416	$12,000

CARRY FORWARD REQUESTS
2005-06 FUNDS TO 2006-07

Cost Center	Department Name	Description	Total Amount Requested	Reason	Object Codes: From	Object Codes: To	Approval Amount
682	Library Technical Services	Library Database	$3,764	With the transfer of library computer staff to Technology Services and various personnel changes, libraries has been unable to send out authority records, which allow patrons to search and find titles that deal with a specific person. These records are the basis for the information seen in the online library catalog by staff and patrons. This will allow a company to work with each record and import the authority records from the Library of Congress.	682.6319	682.6319	$3,764
687	Davis Library	Furniture	$6,600	Furniture would provide comfortable seating for parents and children reading together. The current wooden furniture has been used hard, is splitting and is too small for parents trying to read to their children.	687.6208	687.6208	$6,600
719	Neighborhood Maintenance	Traffic Management Devices	$85,343	In addition to the approved $210,000 supplement for traffic management devices and the $85,500 supplement for contract installation for the Fiscal Year 2006-2007, the carried forward will fund the anticipated device orders and installations for the projects	719.6208	719.8416	$85,343
			$28,500		719.6312	719.8416	$28,500
721	Engineering	Traffic Count Turning Movement Contract	$15,000	Funds are for a traffic count turning movement contract for 15 City intersections.	721.6312	721.6312	$15,000
01	Subtotal General Fund		$2,174,776				$2,174,776
181	PTN	New Character Generator	$29,000	Funds will be used to purchase a new Character Generator. This CG will be used to display PTN's bulletin board (City Watch). PTN carried forward $14,900 in 2005-06 for this purchase and are in the process of putting out an RFP but it will be impossible to get through the process before October 1.	181.8452	181.8452	$14,900
					181.6306	181.8452	$14,100
281	Innovative Solutions Group	Web Development & Spanish Translations	$20,000	Innovative Solutions Group has requested remaining funds be carry forward for Web Development & Spanish Translations.	281.6312	281.6312	$20,000
18	Subtotal CATV		$49,000				$49,000
421	Customer & Utility Services	Training	$25,000	IVR training implementation delayed until 2006-07, to be combined with Navaline and THE system upgrade	421.6309	421.6309	$25,000

CARRY FORWARD REQUESTS
2005-06 FUNDS TO 2006-07

Cost Center	Department Name	Description	Total Amount Requested	Reason	Object Codes: From	Object Codes: To	Approval Amount
422	Customer & Utility Field Operations	AMR Maintenance parts & supplies	$269,286	Funds required for change of meter box lids and meter interface units delayed until FY 2006-07 due to technology changes and upgrades	422.6229	422.6229	$269,286
41	Subtotal Water & Sewer		$294,286				$294,286
712	Environmental Education &CO	Direct mail postcards, postage and mail processing fee, utility bill insert, signs and banners, and promotional items for Live Green in Plano public awareness.	$15,117	The cost of developing and producing these items was included as part of the City of Plano's in-kind contribution to the NCTCOG grant. The grant included design and graphics by EnviroMedia, which must be finalized before these items can be produced. The artwork is scheduled for focus group second week in October	712.6348	712.6348	$5,800
					712.6319	712.6319	$3,540
					712.6301	712.6301	$5,777
714	Compost Marketing & Operation	Flatbed Truck with Piggyback	$125,000	Equipment Services has not completed the specification and bidding process.	714.8421	714.8421	$108,854
					752.6348	714.8421	$680
					714.6314	714.8421	$7,825
					752.6301	714.8421	$2,934
					752.6306	714.8421	$2,450
					752.6307	714.8421	$2,257
714	Compost Marketing & Operation	Radio for Flatbed Truck	$3,070	Radio for Flatbed Truck	752.6208	714.6234	$3,070
714	Compost Marketing & Operation	Compost Bagger Upgrade	$29,000	Equipment Services has not completed the specification and bidding process.	714.8416	714.8416	$10,000
					748.6312	714.8416	$11,423
					752.6208	714.8416	$1,457
					751.6319	714.8416	$4,951
					714.6447	714.8416	$1,169
749	SS&ES Administration	Postage for Environmental News	$8,004	This issue was budgeted in 2005-06 and is in print now.	749.6202	749.6202	$8,004
752	Commercial Diversion	Sponsorship for Plano Chamber of Commerce Business in Excellence Luncheon.	$1,700	Next years budget includes $1,300 for co-sponsorship of event in November. We have funds this year to make up the difference between co-sponsorship and sole sponsorship, which was approved by Tom 8/25/06. According to Accounting, these funds must be carried forward in order to pay for an event scheduled in 06/07	752.6306	752.6306	$1,700
45	Subtotal Sustainability & Environmental Services		$181,891				$181,891
125	Convention & Visitors Bureau	CVB Display Booth	$5,000	New artwork for the booth has taken longer than expected.	125.8411	125.8411	$5,000
46	Subtotal Convention & Tourism		$5,000				$5,000

CARRY FORWARD REQUESTS
2005-06 FUNDS TO 2006-07

Cost Center	Department Name	Description	Total Amount Requested	Reason	Object Codes: From	Object Codes: To	Approval Amount
322	Print Shop	Replace Hamada Press	$70,000	Starting to get bad registration and the maintenance costs and frequency of down time are increasing. This press is used for utility billing inserts.	322.6301	322.8416	$70,000
322	Print Shop	Print Smith Consultant	$5,000	To help set up new pricing modules on Print Shop's software.	322.6301	322.6312	$5,000
322	Print Shop	Conference	$1,000	For Graphics Communications Supervisor to attend Print Smith Conference.	322.6201	322.6307	$1,000
63	Subtotal Office Services		$76,000				$76,000
117	Risk Management	Drive Cam Event Recorders	$95,060	To purchase 70 Drive Cam Event Recorders and the required software licenses. Cameras are used to help in the investigation of accidents involving motor vehicles.	117.6305	117.6312	$95,060
117	Risk Management	Safety Photo Contest	$2,000	Purchase of photo displays, mounts, frames, printing and related items. Risk will promote a citywide photo contest on Safety and Well-Being. Displays to be placed at various City Facilities to help raise awareness of the role of the employee to live a healthier life and by doing so can help reduce the cost of accidents and healthcare.	117.6309	117.6309	$2,000
117	Risk Management	Overtime	$1,800	Overtime was incurred due to staff time on weekends on-site during special events making sure events were safe and accident free.	117.6348	117.6111	$1,800
119	Self-Insurance	1099 Software	$6,000	To purchase software for Accounting necessary to issue 1099's to providers who were paid as a result of job related injuries.	119.6312	119.6312	$6,000
65	Subtotal Property/Liability Loss Fund		$104,860				$104,860
226	Economic Development	Equipment and Signage	$17,700	To establish new proposed PEDB office.	226.6208	226.6208	$17,700
		Video/CD	$34,000	Fund work-in-progress on Video/CD.	226.6306	226.6306	$34,000
		Economic Impact Studies	$20,000	Fund economic impact studies.	226.6312	226.6312	$20,000
76	Subtotal for Economic Development		$71,700				$71,700
	GRAND TOTAL CARRY FORWARDS REQUESTED		$2,957,513	GRAND TOTAL CARRY FORWARDS APPROVED			$2,957,513

CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	☐ Yes	☒ Not Applicable
☐ Consent ☐ Regular ☐ Statutory		Reviewed by Budget	☐ Yes	☒ Not Applicable
Council Meeting Date:	10/23/06	Reviewed by Legal WS	☒ Yes	☐ Not Applicable
Department:	Engineering		Initials	Date
Department Head	Alan L. Upchurch	Executive Director		10/13/06
Dept Signature:		City Manager		10/13/06
Agenda Coordinator (include phone #):	Irene Pegues (7198)			

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

CAPTION

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, ABANDONING ALL RIGHT, TITLE AND INTEREST OF THE CITY, IN AND TO A PORTION OF THOSE CERTAIN EASEMENTS BEING A FIFTEEN FOOT (15') SANITARY SEWER EASEMENT RECORDED IN VOLUME 4111, PAGE 2589, A FIFTEEN FOOT (15') SANITARY SEWER EASEMENT RECORDED IN VOLUME 4565, PAGE 0031 AND A SIXTY FOOT (60') TEMPORARY DRAINAGE EASEMENT RECORDED IN VOLUME 4111, PAGE 2605 OF THE LAND RECORDS OF COLLIN COUNTY, TEXAS AND BEING SITUATED IN THE COLLIN COUNTY SCHOOL LAND SURVEY NO. 7 SURVEY, ABSTRACT NUMBER 153 AND BEING LOCATED NORTH OF MCDERMOTT ROAD AND EAST OF OHIO DRIVE; WHICH IS LOCATED WITHIN THE CITY LIMITS OF PLANO, COLLIN COUNTY, TEXAS; QUITCLAIMING ALL RIGHT, TITLE AND INTEREST OF THE CITY IN SUCH RIGHT-OF-WAY TO THE ABUTTING PROPERTY OWNER, PASQUINELLI PORTRAIT HOMES–THE ENCLAVE AT WILLOW CREST LP, TO THE EXTENT OF ITS INTEREST; AUTHORIZING THE CITY MANAGER, OR IN HIS ABSENCE AN EXECUTIVE DIRECTOR, TO EXECUTE ANY DOCUMENTS DEEMED NECESSARY; AND PROVIDING AN EFFECTIVE DATE.

FINANCIAL SUMMARY

☒ NOT APPLICABLE ☐ OPERATING EXPENSE ☐ REVENUE ☐ CIP

FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0

FUND(S):

COMMENTS:

SUMMARY OF ITEM

The existing sanitary sewer main is being relocated and permanent drainage facilities and easements are being provided with the development of the Willow Crest Subdivision.

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
Location Map	n/a

M:\private development\agendas\2006\102306-Willow Cres-aband (eh)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, ABANDONING ALL RIGHT, TITLE AND INTEREST OF THE CITY, IN AND TO A PORTION OF THOSE CERTAIN EASEMENTS BEING A FIFTEEN FOOT (15') SANITARY SEWER EASEMENT RECORDED IN VOLUME 4111, PAGE 2589, A FIFTEEN FOOT (15') SANITARY SEWER EASEMENT RECORDED IN VOLUME 4565, PAGE 0031 AND A SIXTY FOOT (60') TEMPORARY DRAINAGE EASEMENT RECORDED IN VOLUME 4111, PAGE 2605 OF THE LAND RECORDS OF COLLIN COUNTY, TEXAS AND BEING SITUATED IN THE COLLIN COUNTY SCHOOL LAND SURVEY NO. 7 SURVEY, ABSTRACT NUMBER 153 AND BEING LOCATED NORTH OF MCDERMOTT ROAD AND EAST OF OHIO DRIVE; WHICH IS LOCATED WITHIN THE CITY LIMITS OF PLANO, COLLIN COUNTY, TEXAS; QUITCLAIMING ALL RIGHT, TITLE AND INTEREST OF THE CITY IN SUCH RIGHT-OF-WAY TO THE ABUTTING PROPERTY OWNER, PASQUINELLI PORTRAIT HOMES–THE ENCLAVE AT WILLOW CREST LP, TO THE EXTENT OF ITS INTEREST; AUTHORIZING THE CITY MANAGER, OR IN HIS ABSENCE AN EXECUTIVE DIRECTOR, 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 a portion of those certain easements being two (2) fifteen foot (15') sanitary sewer easements and a sixty foot (60') temporary drainage easement (hereinafter called "easements") being situated in the Collin County Land Survey No. 7 Survey, Abstract Number 153 within the City Limits of Plano, Collin County, Texas, and which is 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 interests. 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 in his absence an Executive Director, is hereby authorized to execute on behalf of the City of Plano, Texas, any instruments necessary to complete the abandonment and quitclaim of the easements 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 Right-of-Way.

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 _____ day of _____, 2006.

_____
Pat Evans, MAYOR

ATTEST:

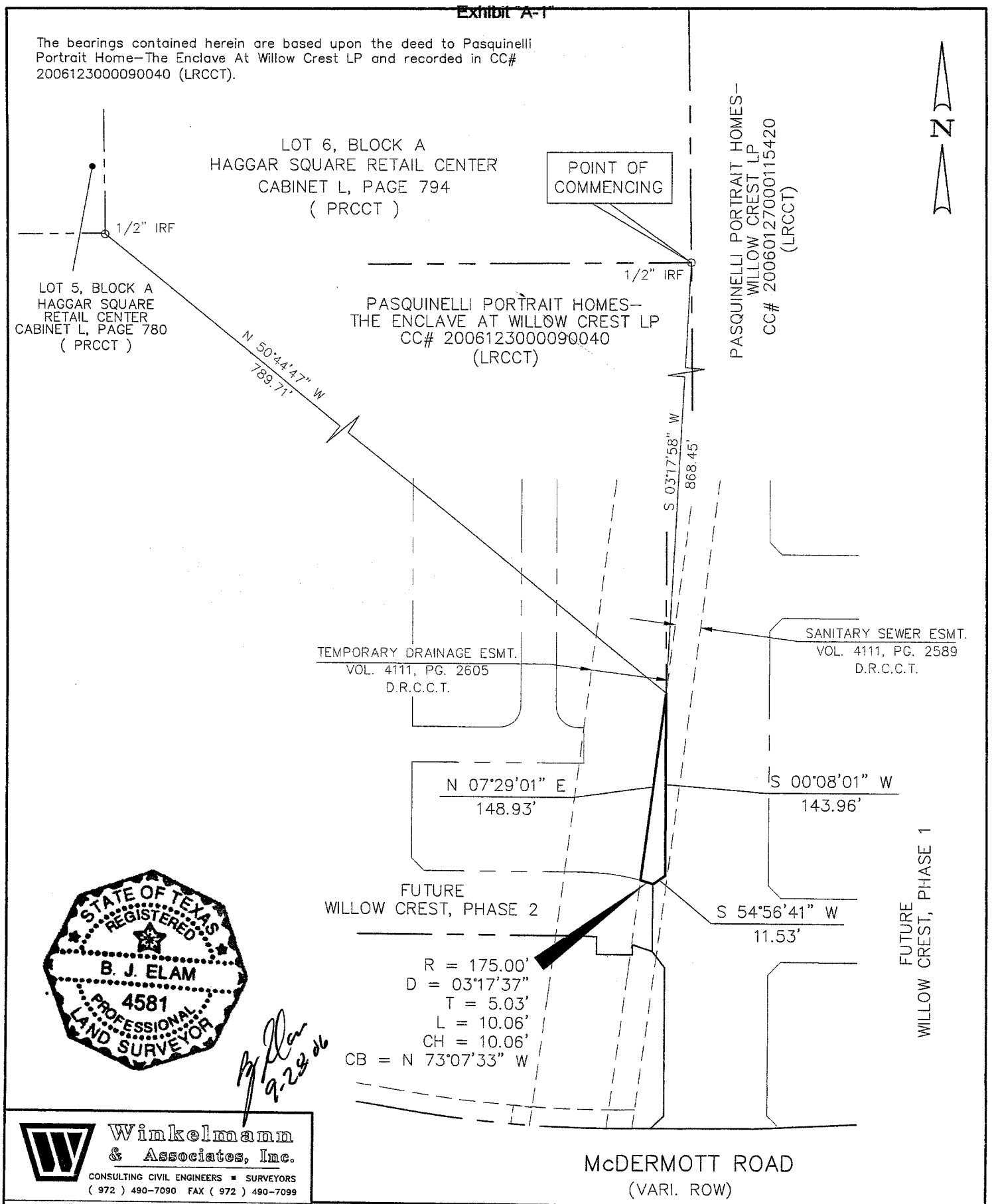
_____
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

_____
Diane C. Wetherbee, CITY ATTORNEY

Exhibit "A-1"

The bearings contained herein are based upon the deed to Pasquinelli Portrait Home—The Enclave At Willow Crest LP and recorded in CC# 2006123000090040 (LRCCT).



STATE OF TEXAS
REGISTERED
B. J. ELAM
4581
PROFESSIONAL
LAND SURVEYOR

B. Elam 9-28-06

Winkelmann & Associates, Inc.
CONSULTING CIVIL ENGINEERS ■ SURVEYORS
(972) 490-7090 FAX (972) 490-7099

Scale : 1"=100' Date : 5-3-06	PASQUINELLI PORTRAIT HOMES— THE ENCLAVE AT WILLOW CREST LP	15' SANITARY SEWER EASEMENT ABANDONMENT EXHIBIT "B" 0.033 ACRES (1,416 SQ. FT.)	SHEET 1 OF 1
Design : MK			
Drawn : M.K.			
Dwg. File : 45805EAS2.DWG			
Project No. : 45805.01			

E-4

Exhibit "A-1"

FIELD NOTE DESCRIPTION
15' SANITARY SEWER EASEMENT ABANDONMENT

STATE OF TEXAS
COUNTY OF COLLIN

BEING a tract of land situated in the Collin County School Land Survey No. 7, Abstract No. 153, Collin County, Texas, and being a portion of a tract of land conveyed to Pasquinelli Portrait Home–The Enclave At Willow Crest LP and recorded in CC# 2006123000090040 of the Land Records of Collin County, Texas (LRCCT) and being more particularly described as follows:

COMMENCING at a 1/2 inch iron rod found for the most southeasterly corner of Lot 6, Block A of Haggar Square Retail Addition, an addition to the City of Plano a recorded in Cabinet L, Page 794 of the Plat Records of Collin County, Texas (PRCCT);

THENCE South 03 deg 17 min 58 sec West a distance of 868.45 feet to the Point of Beginning, from whence a 1/2 inch iron rod found for the most southeasterly corner of Lot 5, Block A of Haggar Square Retail Center bears North 50 deg 44 min 47 sec West a distance of 789.71 feet;

THENCE South 00 deg 08 min 01 sec West a distance of 143.96 feet to a point;

THENCE South 54 deg 56 min 41 sec West a distance of 11.53 feet to a point for the beginning of a non–tangent curve to the left having a radius of 175.00 feet, a chord bearing North 73 deg 07 min 33 sec West and a chord distance of 10.06 feet;

THENCE along said non–tangent curve to the left through central angle of 03 deg 17 min 37 sec for an arc length of 10.06 feet to a 1/2 inch iron rod with a red plastic cap stamped W.A.I. set for corner;

THENCE North 07 deg 29 min 01 sec East a distance of 148.93 feet to the Point of Beginning;

Containing within these metes and bounds 0.033 acres or 1,416 square feet of land more or less.

The bearings contained herein are based upon the deed to Pasquinelli Portrait Home–The Enclave At Willow Crest LP and recorded in CC# 2006123000090040 (LRCCT).

STATE OF TEXAS
REGISTERED
B. J. ELAM
4581
PROFESSIONAL
LAND SURVEYOR

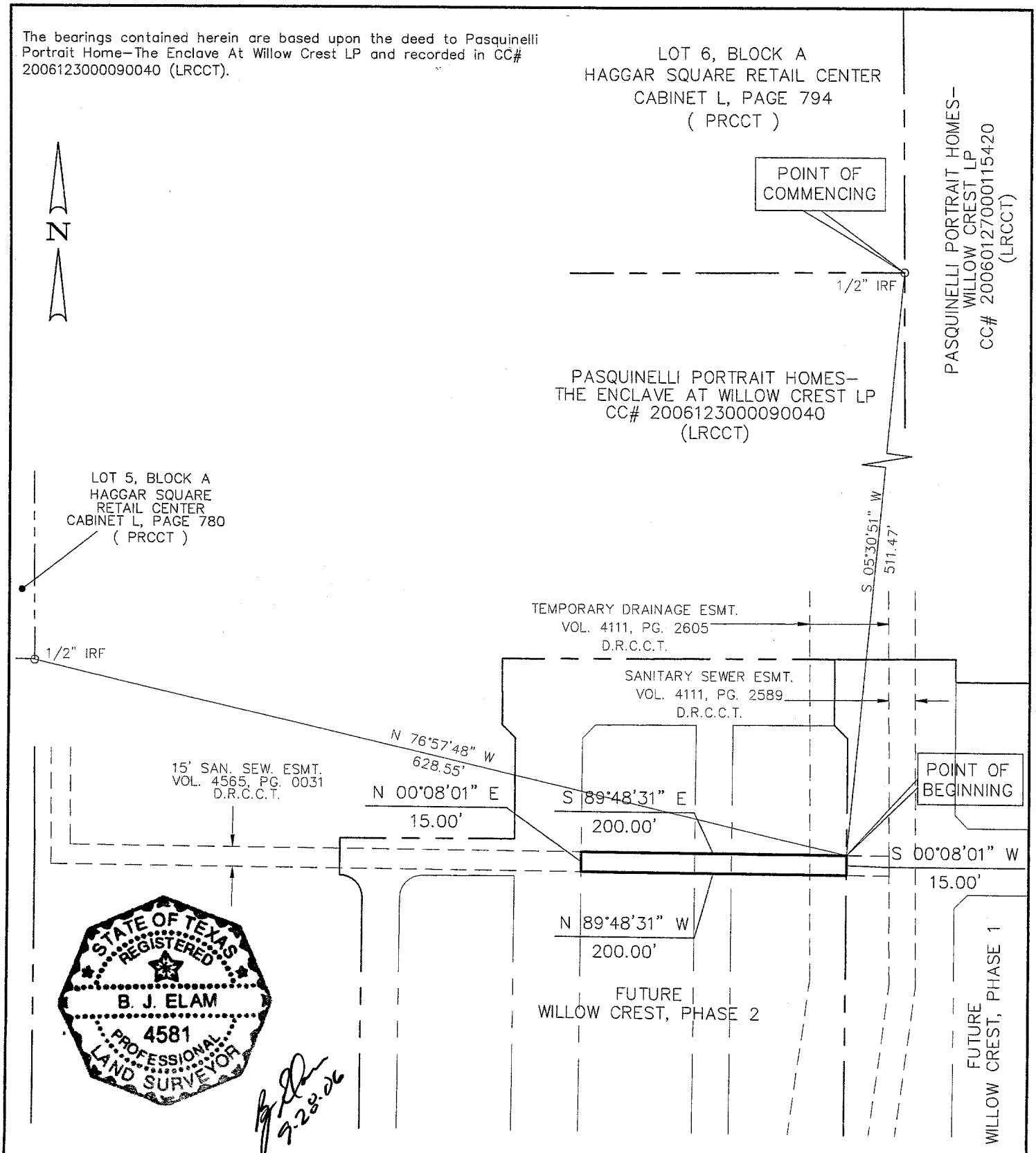
t-5
9-28-06

Winkelmann & Associates, Inc.
CONSULTING CIVIL ENGINEERS ■ SURVEYORS
(972) 490–7090 FAX (972) 490–7099

Scale : 1"=100' Date : 5–3–06	PASQUINELLI PORTRAIT HOMES– THE ENCLAVE AT WILLOW CREST LP	15' SANITARY SEWER EASEMENT ABANDONMENT EXHIBIT "A" 0.033 ACRES (1,416 SQ. FT.)	SHEET 1 OF 1
Design : MK			
Drawn : M.K.			
Dwg. File : 45805EAS2.DWG			
Project No. : 45805.01			

Exhibit "A-2"

The bearings contained herein are based upon the deed to Pasquinelli Portrait Home–The Enclave At Willow Crest LP and recorded in CC# 2006123000090040 (LRCCT).



Winkelmann & Associates, Inc.
CONSULTING CIVIL ENGINEERS ■ SURVEYORS
(972) 490–7090 FAX (972) 490–7099

Scale : 1"=100' Date : 5–3–06	PASQUINELLI PORTRAIT HOMES– THE ENCLAVE AT WILLOW CREST LP	15' SANITARY SEWER EASEMENT ABANDONMENT EXHIBIT "B" 0.069 ACRES (3,000 SQ. FT.)	SHEET 1 OF 1
Design : MK			
Drawn : M.K.			
Dwg. File : 45805EAS2.DWG			
Project No. : 45805.01			

Exhibit "A-2"

FIELD NOTE DESCRIPTION
15' SANITARY SEWER EASEMENT ABANDONMENT

STATE OF TEXAS
COUNTY OF COLLIN

BEING a tract of land situated in the Collin County School Land Survey No. 7, Abstract No. 153, Collin County, Texas, and being a portion of a tract of land conveyed to Pasquinelli Portrait Home–The Enclave At Willow Crest LP and recorded in CC# 2006123000090040 of the Land Records of Collin County, Texas (LRCCT) and being more particularly described as follows:

COMMENCING at a 1/2 inch iron rod found for the most southeasterly corner of Lot 6, Block A of Haggar Square Retail Addition, an addition to the City of Plano a recorded in Cabinet L, Page 794 of the Plat Records of Collin County, Texas (PRCCT);

THENCE South 05 deg 30 min 51 sec West a distance of 511.47 feet to the Point of Beginning, from whence a 1/2 inch iron rod found for the most southeasterly corner of Lot 5, Block A of Haggar Square Retail Center bears North 76 deg 57 min 48 sec West a distance of 628.55 feet;

THENCE South 00 deg 08 min 01 sec West a distance of 15.00 feet to a point;

THENCE North 89 deg 48 min 31 sec West a distance of 200.00 feet to a point;

THENCE North 00 deg 08 min 01 sec East a distance of 15.00 feet to a point;

THENCE South 89 deg 48 min 31 sec East a distance of 200.00 feet to the Point of Beginning;

Containing within these metes and bounds 0.069 acres or 3000 square feet of land more or less.

The bearings contained herein are based upon the deed to Pasquinelli Portrait Home–The Enclave At Willow Crest LP and recorded in CC# 2006123000090040 (LRCCT).

STATE OF TEXAS
REGISTERED
B. J. ELAM
4581
PROFESSIONAL
LAND SURVEYOR

E-7

9-28-06

Winkelmann & Associates, Inc.
CONSULTING CIVIL ENGINEERS ■ SURVEYORS
(972) 490-7090 FAX (972) 490-7099

Scale : 1"=100' Date : 5-3-06	PASQUINELLI PORTRAIT HOMES–THE ENCLAVE AT WILLOW CREST LP	15' SANITARY SEWER EASEMENT ABANDONMENT EXHIBIT "A" 0.069 ACRES (3,000 SQ. FT.)	SHEET 1 OF 1
Design : MK			
Drawn : M.K.			
Dwg. File : 45805EAS2.DWG			
Project No. : 45805.01			

Exhibit "A-3"

FIELD NOTE DESCRIPTION
TEMPORARY DRAINAGE EASEMENT ABANDONMENT

STATE OF TEXAS
COUNTY OF COLLIN

BEING a tract of land situated in the Collin County School Land Survey No. 7, Abstract No. 153, Collin County, Texas, and being a portion of a tract of land conveyed to Pasquinelli Portrait Home–The Enclave At Willow Crest LP and recorded in CC# 2006123000090040 of the Land Records of Collin County, Texas (LRCCT) and a portion of a Temporary Drainage Easement as recorded in Volume 4111, Page 2605 of the Deed Records of Collin County, Texas (DRCCT) and being more particularly described as follows:

BEGINNING at a point for the intersection of the westerly line of said Temporary Drainage Easement and the northerly right–of–way line of McDermott Road (a variable width right–of–way), from whence an "X" cut set bears South 85 deg 09 min 14 sec West a distance of 733.43 feet and a 1/2 inch iron rod found bears South 35 deg 46 min 46 sec East a distance of 115.07 feet;

THENCE departing the northerly right–of–way line of McDermott Road and along the westerly line of said Temporary Drainage Easement as follows:

North 07 deg 29 min 01 sec East a distance of 611.88 feet to a point;

North 00 deg 24 min 05 sec West a distance of 241.15 feet to a point;

THENCE departing the westerly line of said Temporary Drainage Easement North 89 deg 35 min 54 sec East a distance of 60.00 feet to a point in the easterly line of said Temporary Drainage Easement;

THENCE along the easterly line of said Temporary Drainage Easement as follows:

South 00 deg 24 min 05 sec East a distance of 245.28 feet to a point;

South 07 deg 29 min 01 sec West a distance of 610.04 feet to a point for the intersection of the easterly line of said Temporary Drainage Easement and the northerly right–of–way line of McDermott Road, said point also being the beginning of a non–tangent curve to the right having a radius of 954.00 feet, a chord bearing North 88 deg 12 min 21 sec West and a chord distance of 60.30 feet;

THENCE along the northerly right–of–way line of McDermott Road and along said non–tangent curve to the right through central angle of 03 deg 37 min 19 sec for an arc length of 60.31 feet to the Point of Beginning;

Containing within these metes and bounds 1.177 acres or 51,270 square feet of land more or less.

The bearings contained herein are based upon the deed to Pasquinelli Portrait Home–The Enclave At Willow Crest LP and recorded in CC# 2006123000090040 (LRCCT).

STATE OF TEXAS REGISTERED B. J. ELAM 4581 PROFESSIONAL LAND SURVEYOR

9-28-06

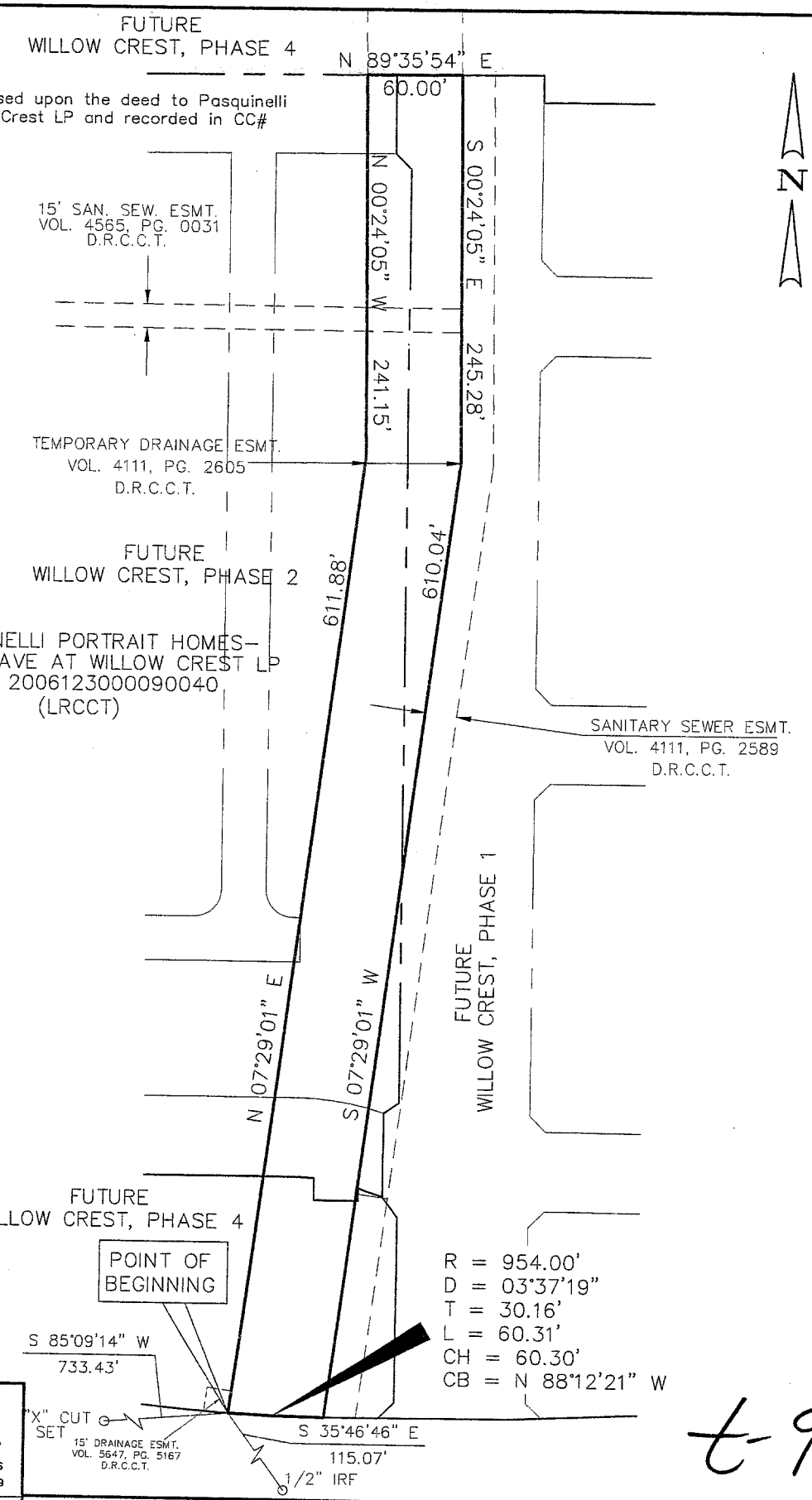
t-8

Winkelmann & Associates, Inc.
CONSULTING CIVIL ENGINEERS ▪ SURVEYORS
(972) 490–7090 FAX (972) 490–7099

Scale : 1"=100' Date : 5–3–06	PASQUINELLI PORTRAIT HOMES–THE ENCLAVE AT WILLOW CREST LP	TEMP. DRAINAGE EASEMENT EASEMENT ABANDONMENT EXHIBIT "A" 1.177 ACRES (51,270 SQ. FT.)	SHEET 1 OF 1
Design : MK			
Drawn : M.K.			
Dwg. File : 45805EAS2.DWG			
Project No. : 45805.01			

Exhibit "A-3"

The bearings contained herein are based upon the deed to Pasquinelli Portrait Home–The Enclave At Willow Crest LP and recorded in CC# 2006123000090040 (LRCCT).



STATE OF TEXAS
REGISTERED
B. J. ELAM
4581
PROFESSIONAL
LAND SURVEYOR

9-28-06

t-9

Winkelmann & Associates, Inc.
CONSULTING CIVIL ENGINEERS ■ SURVEYORS
(972) 490-7090 FAX (972) 490-7099

Scale : 1"=100' Date : 5-3-06	PASQUINELLI PORTRAIT HOMES– THE ENCLAVE AT WILLOW CREST LP	TEMP. DRAINAGE EASEMENT EASEMENT ABANDONMENT EXHIBIT "B" 1.177 ACRES (51,270 SQ. FT.)	SHEET 1 OF 1
Design : MK			
Drawn : M.K.			
Dwg. File : 45805EAS2.DWG			
Project No. : 45805.01			

EXHIBIT "B"

PETITION FOR ABANDONMENT

[For Easement Abandonment]

We, the undersigned, (hereinafter "Owners"), being all of the owners of real property abutting McDermott Drive (hereinafter called "Easement"), more particularly described by metes and bounds in the field note description attached hereto and incorporated herein as **Exhibits "A-1", "A-2" and "A-3"** do hereby request that the City of Plano, Texas (called "City") abandon the Easements.

1. The Owners are requesting the abandonment of the Easement for the following reasons:

   THE EXISTING SANITARY SEWER MAIN IS BEING RELOCATED AND PERMANENT DRAINAGE FACILITIES AND EASEMENTS ARE BEING PROVIDED WITH THE DEVELOPMENT OF THE WILLOW CREST SUBDIVISION.

2. The following public interest will be served as a result of the abandonment:

   THE ELIMINATION OF THE UNNECESSARY EASEMENTS WILL AID IN THE DEVELOPMENT OF THE SUBDIVISION

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**

t-10

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:

_____

_____

8. Owners shall also prepare a map or drawing showing the Easement to be abandoned along with a designation of all abutting property owners. This map or drawing shall be attached hereto and incorporated herein as **Exhibit "C-1"**.

9. Owners shall also prepare a separate field note description for each portion of the Easement to be released to each abutting property owner. This description shall be attached hereto and incorporated herein as **Exhibit "D-1"**.

[Remainder of page blank]

t-11

EXHIBIT "B"

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.

___Pasquinelli Portrait Homes-The Enclaves at Willow Crest LP__
Typed Name of Owner

__4949 Hedgcoxe Road, Suite 110_____
Address

_Plano, TX 75024_____
City, State and Zip

Dated: 9-25-06 _____
Signature of Owner

Contact Person for Property Owners:

Name: ___Scot Whitwer_____

Phone No: ___972-335-8922_____

t-12

EXHIBIT "B"

FOR DEPARTMENTAL USE ONLY

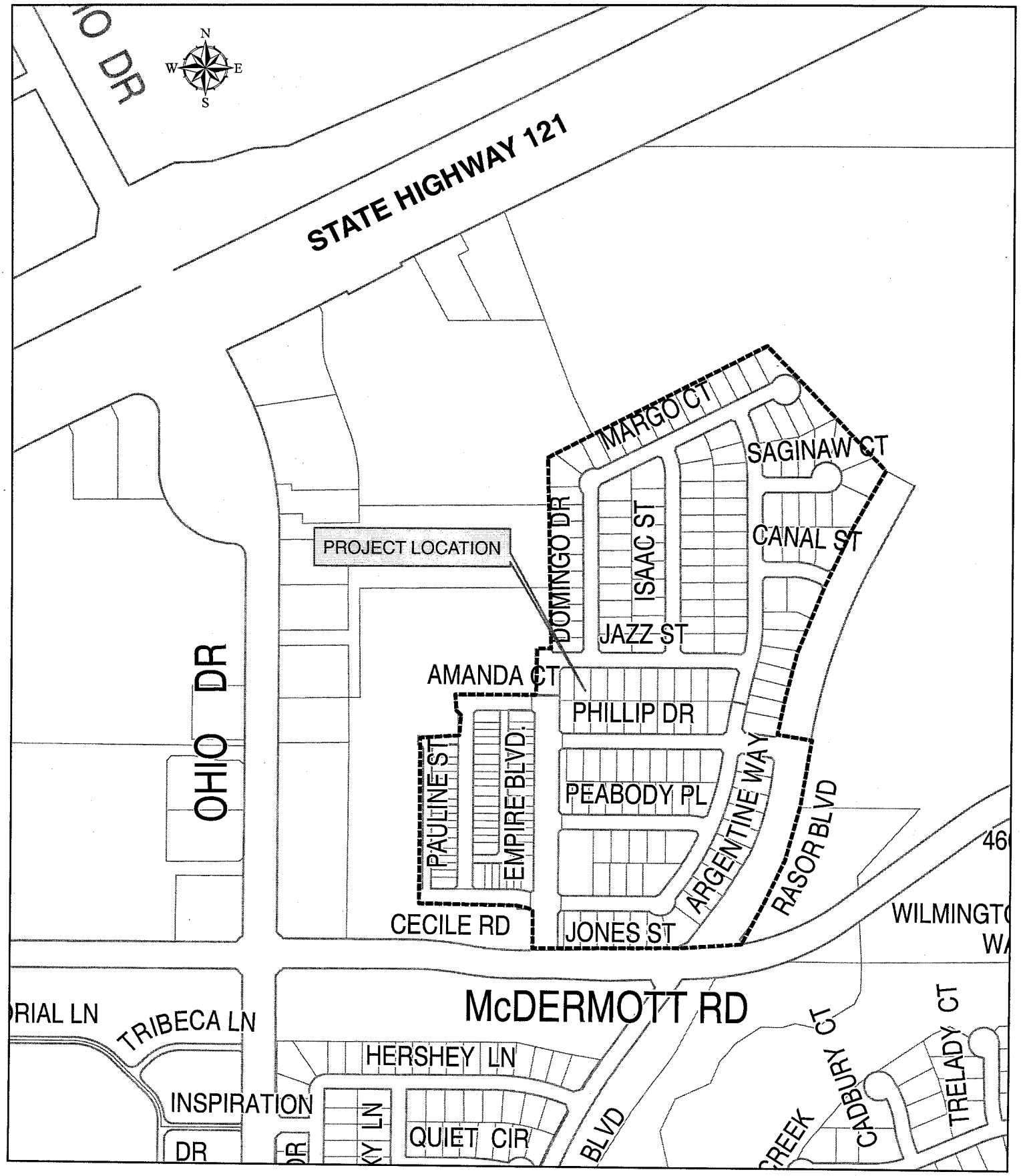
The Easement to be abandoned is to one or more abutting property owners and is exempt from the requirement that fair market value be paid for the following reason(s):

- ☐ 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.

Engineering Department
City of Plano, Texas

t-13

WILLOW CREST SUBDIVISIONS



t-14

LOCATION MAP

10/10/06

CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	☐ Yes	☒ Not Applicable
☐ Consent ☐ Regular ☐ Statutory		Reviewed by Budget	☐ Yes	☒ Not Applicable
Council Meeting Date:	10/23/06	Reviewed by Legal	☒ Yes	☐ Not Applicable
Department:	Engineering		Initials	Date
Department Head	Alan Upchurch	Executive Director		10/16/06
Dept Signature:		City Manager		10/16/06
Agenda Coordinator (include phone #):	I. Pegues 7198			

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

CAPTION

An Ordinance of the City of Plano, Texas, amending the Plano Code of Ordinances, Chapter 12, Motor Vehicles and Traffic, Article V, Stopping, Standing, and Parking, Section 12-101, Prohibited on certain streets at all times, to prohibit stopping, standing, or parking of motor vehicles on both sides of Alliance Boulevard between Preston Road and Allied Drive within the city limits of the City of Plano; declaring it unlawful and a misdemeanor to stop, stand, or park motor vehicles upon such sections of such roadway within the limits herein defined; providing a fine for criminal penalties not to exceed $200.00 for each offense; and providing a repealer clause, a severability clause, a savings clause, and an effective date.

FINANCIAL SUMMARY

☒ NOT APPLICABLE ☐ OPERATING EXPENSE ☐ REVENUE ☐ CIP

FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0

FUND(S):

COMMENTS:

SUMMARY OF ITEM

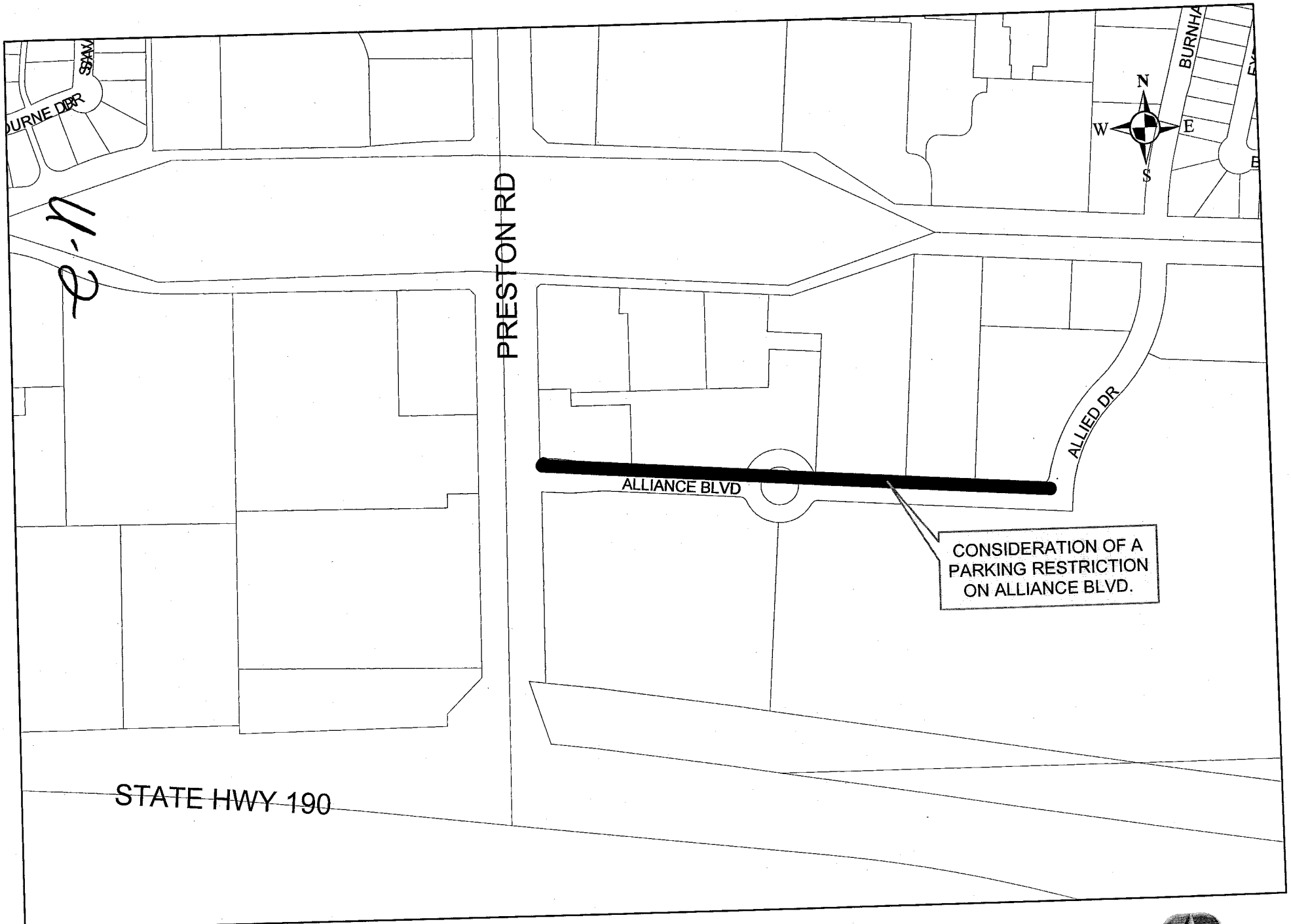
The Transportation Engineering Division reviewed parking, traffic operation, pedestrian activity, and traffic safety issues in the area and recommends approval of an Ordinance to prohibit Parking, Stopping, or Standing at all times along specified portions of Alliance Boulevard as shown on the attached map.

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

U-1

Z:CC/ALLIANCEBOULEVARD (JG)

REV 08/98



CONSIDERATION OF A PARKING RESTRICTION ON ALLIANCE BLVD.

Transportation Division

10-3-06

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, AMENDING THE PLANO CODE OF ORDINANCES, CHAPTER 12, MOTOR VEHICLES AND TRAFFIC, ARTICLE V, STOPPING, STANDING, AND PARKING, SECTION 12-101, PROHIBITED ON CERTAIN STREETS AT ALL TIMES, TO PROHIBIT STOPPING, STANDING, OR PARKING OF MOTOR VEHICLES ON BOTH SIDES OF ALLIANCE BOULEVARD BETWEEN PRESTON ROAD AND ALLIED DRIVE WITHIN THE CITY LIMITS OF THE CITY OF PLANO; DECLARING IT UNLAWFUL AND A MISDEMEANOR TO STOP, STAND, OR PARK MOTOR VEHICLES UPON SUCH SECTIONS OF SUCH ROADWAY WITHIN THE LIMITS HEREIN DEFINED; PROVIDING A FINE FOR CRIMINAL PENALTIES NOT TO EXCEED $200.00 FOR EACH OFFENSE; AND PROVIDING A REPEALER CLAUSE, A SEVERABILITY CLAUSE, A SAVINGS CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, on street parking of large vehicles occurring along both sides of Alliance Boulevard between Preston Road and Allied Drive creates traffic flow problems and impacts visibility for drivers exiting the driveways; and

WHEREAS, following review and study of traffic flow, visibility, on street parking patterns, and other safety issues along Alliance Boulevard, the Transportation Engineering Division of the City of Plano recommends to the City Council that certain parking restrictions be implemented along Alliance Boulevard; and

WHEREAS, the City Council of the City of Plano finds it necessary to prohibit stopping, standing, or parking of motor vehicles along and upon both sides of Alliance Boulevard between Preston Road and Allied Drive within the city limits of the City of Plano in order to provide for the safety of the general public within the area.

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

Section I. It shall be unlawful for any person to stop, stand, or park a motor vehicle along both sides of Alliance Boulevard between Preston Road and Allied Drive, except when necessary to avoid conflict with other traffic or in compliance with law or directions of a police officer.

Section II. Chapter 12, Motor Vehicles and Traffic, Article V, Stopping, Standing, and Parking, Section 12-101, Prohibited on certain streets at all times of the City of Plano Code of Ordinances is hereby amended by the addition of the following:

"*Alliance Boulevard*, along both sides of Alliance Boulevard between Preston Road and Allied Drive."

Section III. The Traffic Engineer of Plano is hereby authorized and directed to cause placement of traffic control signs to the sections of the roadway described herein, and such signs shall give notice to all persons of the prohibition against stopping, standing, or parking in this area.

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

Section VI. Any person, firm, or corporation violating any of the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction in the Municipal Court, shall be subject to a fine not to exceed **TWO HUNDRED AND NO/100 DOLLARS ($200.00)** for each offense. Each and every violation shall be deemed to constitute a separate offense.

Section VII. The repeal of any ordinance or part of an ordinance affectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinances at the time of passage of this Ordinance.

Section VIII. This Ordinance shall become effective from and after its passage and publication as required by law.

DULY PASSED AND APPROVED this _____ day of _____, 2006.

_____
Pat Evans, MAYOR

ATTEST:

_____
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

_____
Diane C. Wetherbee, CITY ATTORNEY

U-4

Z:ORD\TRAFFIC\ALLIANCE BOULEVARD (JG)

CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	☐ Yes	☒ Not Applicable
☐ Consent ☐ Regular ☐ Statutory		Reviewed by Budget	☒ Yes	☐ Not Applicable
Council Meeting Date:	10/23/06	Reviewed by Legal	☒ Yes	☐ Not Applicable
Department:	Sustainability & Environmental Services		Initials	Date
Department Head	Nancy Nevil	Executive Director		10-16-06
Dept Signature:		City Manager		10/16/06
Agenda Coordinator (include phone #):	Tiffany Stephens x4264			

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

CAPTION

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, REPEALING ORDINANCE NO. 2003-9-44, CODIFIED AS SECTIONS 18-32, 18-33, AND 18-34 OF ARTICLE II, COLLECTION CHARGES, OF CHAPTER 18, SOLID WASTE OF THE CODE OF ORDINANCES OF THE CITY OF PLANO, TEXAS; ESTABLISHING A REVISED SCHEDULE OF RATES AND CHARGES FOR SOLID WASTE DISPOSAL AND COLLECTION APPLICABLE TO RESIDENTIAL AND COMMERCIAL ACCOUNTS; AND PROVIDING A REPEALER CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

FINANCIAL SUMMARY

☐ NOT APPLICABLE ☐ OPERATING EXPENSE ☒ REVENUE ☐ CIP

FISCAL YEAR: 2006-07	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	**0**
Encumbered/Expended Amount	0	0	0	**0**
This Item	0	976,895	0	**976,895**
BALANCE	0	976,895	0	**976,895**

FUND(S): SUSTAINABILITY & ENVIRONMENTAL SERVICES

COMMENTS: This rate increase will generate approximately $976,895, which has been included in the 2006-07 Budget.

STRATEGIC PLAN GOAL: Rate increases in commercial and residential rates relates to the City's goal of "Service Excellence."

SUMMARY OF ITEM

The commercial rate increase reflects a disposal increase from the North Texas Municipal Water District (NTMWD) and the annual escalation included in the commercial franchise agreement. The annual escalation is based upon the net percentage of increase or decrease in the Consumer Price Index (CPI) – Urban Wage Earners and Clerical Workers, Dallas-Fort Worth metropolitan area by the Bureau of Labor Statistics of the U.S. Department of Labor. The annual CPI adjustment is 2.65%. The disposal has increased from $29.86 per ton to $30.58 per ton. Total revenue $92,495

The residential rate increase of $1.10 per month reflects an increase in disposal, equipment maintenance and depreciation, personnel, and funding towards the environmental education building and sustainability program. Total revenue $884,400

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

V-1

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, REPEALING ORDINANCE NO. 2003-9-44, CODIFIED AS SECTIONS 18-32, 18-33, AND 18-34 OF ARTICLE II, COLLECTION CHARGES, OF CHAPTER 18, SOLID WASTE OF THE CODE OF ORDINANCES OF THE CITY OF PLANO, TEXAS; ESTABLISHING A REVISED SCHEDULE OF RATES AND CHARGES FOR SOLID WASTE DISPOSAL AND COLLECTION APPLICABLE TO RESIDENTIAL AND COMMERCIAL ACCOUNTS; AND PROVIDING A REPEALER CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, on September 22, 2003, the City Council of the City of Plano enacted Ordinance No. 2003-9-44 establishing a schedule of rates and charges for the collection and disposal of solid waste from residential and commercial customers within and outside the City; and

WHEREAS, Ordinance No. 2003-9-44 was codified as Sections 18-32, 18-33, and 18-34 of Article II, Collection Charges, of Chapter 18, Solid Waste of the Code of Ordinances of the City of Plano; and

WHEREAS, the schedule of rates and charges for solid waste collection and disposal must be reviewed annually in connection with preparation of the City budget and those rates and charges must be adjusted periodically to address increased operational costs and/or increased services being provided; and

WHEREAS, the City Council hereby finds and determines that it is necessary to revise the schedule of rates and charges for solid waste collection and disposal, as hereinafter provided, and that such revised schedule of rates and charges is reasonable and in the best interest of the City of Plano and its citizens.

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

Section I. Ordinance No. 2003-4-99 duly passed and approved by the City Council of the City of Plano, Texas, on September 22, 2003 and codified as Sections 18-32, 18-33, and 18-34 of Article II, Collection Charges, of Chapter 18, Solid Waste of the Code of Ordinances of the City of Plano, Texas, is hereby repealed and shall be replaced to read in its entirety as follows:

"Sec. 18-31. Rates applicable to residential and non-franchisee commercial customers.

Except for Section 18-34, the rates established in this Article apply only to residential and non-franchisee commercial rates for collection and disposal of solid waste, landscape waste, bulky waste, and household hazardous waste and the collection and processing of recyclable

V-2

materials. Such provisions shall in no way affect the rates charged by the City's Exclusive Franchisee for commercial solid waste collection and recycling services. All rates for solid waste services are subject to the appropriate state sales tax.

Sec. 18-32. Collection within city limits.

(a) *Rates for collection and disposal.* The following schedule of rates for the collection and disposal of solid waste, landscape waste, bulky waste, household hazardous waste collection and the collection and processing of recyclable materials for residential and non-franchisee commercial customers is hereby adopted:

(1) Residential rates. To provide an economic incentive for recycling, the City of Plano has implemented a variable rate system that charges residential and non-franchisee commercial customers based on the size of their residential solid waste container, as follows:

a. Single-family residence utilizing a 95-gallon residential solid waste container: $13.85 per month
b. Single family residence utilizing a 68-gallon residential solid waste container: $11.25 per month
c. Duplex, per unit:$13.85 per month

(2) Non-Franchisee commercial rate per month $25.20

(3) Non-Franchisee commercial customers generating no more solid waste than can be contained in one City provided ninety-five (95) gallon residential solid waste container per week may receive collection from the Environmental Waste Services Division. This service may also be available to those non-franchisee commercial customers whose physical location prohibits the use of two cubic yard or larger containers.

(4) Downtown Non-Franchisee Commercial Customers. Special collection services are provided to downtown non-franchisee commercial customers in the following categories: small generator, medium generator, and large generator. The rates and charges associated with these services are determined by the Environmental Waste Services Division.

(5) All other commercial customers, regardless of the amount generated, shall be serviced only by the City's authorized commercial contractor. Mobile homes and trailer parks shall also be serviced by the City's authorized commercial contractor, either by container or through the collection of disposable containers.

(6) Residential and non-franchisee commercial customers requesting additional bulky waste collections, over and above the one bulky waste collection per month, shall be charged a minimum of fifteen dollars ($15.00) per collection or six dollars ($6.00) per cubic yard, whichever is greater. Volume of the bulky waste collection will be based on the dimensions of the pile as estimated by the Director or their designee.

(7) If a residential or non-franchisee commercial account serviced by the City shall continually generate more solid waste than can be placed in one 95-gallon residential container on a weekly basis, an additional container shall be obtained from the City. That residential or non-franchisee commercial account will be charged an additional twelve dollars and fifty cents ($12.50) per month for each additional container plus a fifteen-dollar ($15.00) delivery fee for each additional 95-gallon containers.

(8) If any residential container is lost or damaged beyond repair as a result of the occupant's neglect or misuse, the Director of Sustainability & Environmental Services or his/her designee will determine the replacement fee based on the current cost of a replacement container from the vendor. A fifteen-dollar ($15.00) delivery fee will also be charged.

(9) The type of solid waste collection service for new customers shall be determined by the Director of Sustainability & Environmental Services or his/her designee, in accordance with the requirements of this section.

(10) Upon approval from the Director of Sustainability & Environmental Services or his/her designee and in accordance with the guidelines for providing service to undeveloped areas, the City shall provide solid waste collection service to property within the City that has not previously received such services. Once a previously un-served area within the City is approved for service, all residential customers in such area shall receive collection services by the Environmental Waste Services Division and shall pay solid waste collection and disposal rates in accordance with this section.

(11) The fee for biodegradable bags is hereby established at seven dollars and fifty cents ($7.50) per twenty (20) bags including state and municipal sales tax. Biodegradable bags may only be purchased from the City in bundles of twenty (20). Biodegradable bags may also be made available for sale at retail stores as secured by the City.

(12) The delivery fee for Compost and compost-related products is hereby established at Thirty-Five Dollars ($35.00). A minimum order of three (3) cubic yards is required.

V-4

(b) *Continuous Service.* In accordance with this Section, all property located within the corporate city limits of the City of Plano with an active utility account shall be required to pay the monthly solid waste collection and disposal rate as set out herein.

Sec. 18-33. Collection outside city limits.

(a) Upon approval by Director of Sustainability & Environmental Services or his/her designee, the City may provide solid waste collection service to property outside and contiguous to the corporate city limits of the City of Plano in accordance with the following:

(b) Residential rates

(1) Single-family residence, per month.....$25.20

(2) Duplex, per unit, per month.... .....$25.20

(c) The above-mentioned rates are established as minimum charges. Customers requesting additional collections shall be charged a minimum of twenty dollars ($20.00) per collection or eight dollars ($8.00) per cubic yard, whichever is greater. Volume will be based on the quantity actually collected, as estimated by the Director of Sustainability & Environmental Services or his/her designee.

Sec. 18-34. Commercial container rates.

(a) The collection and disposal of solid waste from commercial accounts in the City of Plano shall only be performed by those commercial contractors authorized by the City Council to conduct such business within the City of Plano.

(b) The following rates and charges as set forth in the schedule below are hereby established as the maximum rates that may be charged by an authorized commercial contractor for collection, transportation and disposal of solid waste pursuant to that commercial contractor's contract with the City:

(1) Rates for commercial container service for containers with a volume between two (2) cubic yards and eight (8) cubic yards shall be as follows plus a $46.14 one-time delivery charge:

SIZE OF CONTAINER	SERVICE	MONTHLY CHARGE
2 Cu. Yd.	1 x Week	$45.98
	2 x Week	70.45

V-5

	3 x Week	105.63
	Extras	39.42
3 Cu. Yd.	1 x Week	59.57
	2 x Week	109.03
	3 x Week	151.76
	Extras	42.20
4 Cu. Yd.	1 x Week	71.84
	2 x Week	126.02
	3 x Week	180.19
	Extras	46.39
6 Cu. Yd.	1 x Week	97.72
	2 x Week	176.20
	3 x Week	255.99
	4 x Week	343.82
	5 x Week	436.63
	6 x Week	542.00
	Extras	52.24
8 Cu. Yd.	1 x Week	126.83
	2 x Week	221.96
	3 x Week	333.30
	4 x Week	451.64
	5 x Week	538.25
	6 x Week	638.90
	Extras	59.06

(2) Rates for commercial compactors with a volume between six (6) cubic yards and eight (8) cubic yards shall be as follows plus a $46.14 one-time delivery charge

COMPACTORS

Size of Container	Service	Monthly Charge
6 Cu.Yd., Compactor	1 x week	255.48
	2 x week	510.96
	3 x week	766.45
	4 x week	1,021.92
	5 x week	1,277.39
	6 x week	1,532.87
	Extras	58.91
8 Cu.Yd., Compactor	1 x week	340.61

V-6

2 x week	681.21
3 x week	1,021.81
4 x week	1,362.41
5 x week	1,703.02
6 x week	2,043.63
Extras	78.54

(3) Rates for container service for open top containers and compactors with a volume in excess of eight (8) cubic yards will be determined and paid based on haul charges plus a per ton disposal charge that is established annually by the North Texas Municipal Water District (NTMWD). Haul charges are determined based on established zones that reflect the contractor's transportation costs using time/distance from the service location to the disposal site, with a minimum haul charge of $104.21. Customers renting containers will be charged a delivery fee and per day rental fee. Haul rates and associated fees shall be as follows:

Zone 1	Zone 2	Zone 3	Zone 4	Delivery	Rental
$104.21	$138.65	$173.32	$208.45	70.37	4.67

Disposal Fee: $32.72 per ton

(4) Rates for commercial recycling container service shall be as follows:

SIZE OF CONTAINER	SERVICE	MONTHLY CHARGE
2 Cu. Yd.	Every Other Week	37.98
	1 x Week	50.64
	2 x Week	88.62
	3 x Week	126.60
	Extras	30.00
3 Cu. Yd.	Every Other Week	38.17
	1 x Week	50.89
	2 x Week	89.06
	3 x Week	127.23
	Extras	30.00
4 Cu. Yd.	Every Other Week	38.36
	1 x Week	51.14
	2 x Week	89.50
	3 x Week	127.86
	Extras	30.00

V-7

6 Cu. Yd.	Every Other Week	38.72
	1 x Week	51.63
	2 x Week	90.35
	3 x Week	129.07
	4 x Week	167.79
	5 x Week	206.51
	6 x Week	245.23
	Extras	30.00
8 Cu. Yd.	Every Other Week	39.10
	1 x Week	52.13
	2 x Week	91.23
	3 x Week	130.33
	4 x Week	169.43
	5 x Week	208.53
	6 x Week	247.63
	Extras	30.00

These monthly commercial recycling container service rates are not subject to the City's Commercial Franchise Fee.

(5) In addition to the rates specified in subsections (b)(1) and (b)(3) above, there will be a delivery charge of $50.00 for each temporary or on-call container delivered. "Temporary service" shall be defined as service of duration of less than one year.

(6) In addition to the rates specified in subsection (b) (1) above, there will be a $25.00 fee for extra service. "Extra service" shall be defined as collection of commercial container(s) outside of the regular service schedule, upon request of the commercial customer.

(7) All rates for solid waste services are subject to the appropriate state taxes.

(8) Charges for damages to commercial solid waste containers not caused by the authorized commercial contractor, and charges for replacement of such containers at more frequent intervals than approved by the City Council shall be set forth in the performance standards for the authorized commercial contractor as referenced in the Commercial Franchise Agreement.

(9) In addition to the charges hereinabove specified, the following additional fees and charges are authorized:

V-8

Casters	$3.52 per lift
Locks	$1.18 per lift
Gates	$1.18 per lift
Return Check Charge	$15.00
Fee for late payment	1.5% per month for balance due over 30 days."

Section II. The rates established in Section 18.31 and 18-32 shall be effective for all billings rendered on and after November 1, 2006. The rates established in Section 13-84 shall be effective for all billings rendered on and after December 1, 2006.

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

V-9

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

Section V. This Ordinance shall become effective immediately upon its passage.

PASSED AND APPROVED this 23rd day of October, 2006.

_____
Pat Evans, MAYOR

ATTEST:

_____
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

_____
Diane C. Wetherbee, CITY ATTORNEY

V-10

CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY			
☐ Consent ☐ Regular ☐ Statutory	Reviewed by Purchasing	☐ Yes	☐ Not Applicable
	Reviewed by Budget C.S.	☒ Yes	☐ Not Applicable
Council Meeting Date: 10/23/06	Reviewed by Legal	☒ Yes	☐ Not Applicable
		Initials	Date
Department: Finance			
Department Head: John McGrane	Executive Director		
Dept Signature: John McGrane	City Manager		10/12/06
Agenda Coordinator (include phone #): Brianna Alvarado x7479			

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

CAPTION

Public Hearing and consideration of an Ordinance of the city of Plano, Texas, designating a certain area within the City of Plano as Reinvestment Zone No. 94 for a tax abatement consisting of a 4.0782 acre tract of land located at the west right-of-way line of Preston road and the north right-of way line of headquarters drive, in the City of Plano; establishing the boundaries of such zone; ordaining other matters relating thereto; and providing an effective date.

FINANCIAL SUMMARY

☐ NOT APPLICABLE ☐ OPERATING EXPENSE ☐ REVENUE ☐ CIP

FISCAL YEAR: 2007-2008	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0

FUND(S): GENERAL

COMMENTS: The NYLO Hotel is a business that will be new to Plano. The Business Personal Property is estimated to have an approximate taxable value of not less than $4,714,195. Currently the Real Property is estimated to have an approximate taxable value of not less than $8,989,953. The proposed Real Property and Business Property tax abatement will be begin January 1, 2007 and continue through 2011, and will be equal to 25% for five (5) years.

SUMMARY OF ITEM

This is related to NYLO Hotels, LLC, request for tax abatement. This ordinance creates the geographical zone on which Council will hold a Public Hearing earlier on the same Agenda and date. Notice of Public Hearing to be published on October 12,2006, Prior to Public Hearing on the Council date of October 23, 2006.

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
Ordinance and Public Hearing Notice	Joint Committee on Tax Abatement, CCCD, Collin County Community College

NOTICE OF PUBLIC HEARING

The City Council of the City of Plano will hold a Public Hearing in the Council Chamber of the Municipal Building, 1520 Avenue K, at 7:00 p.m. on Monday, October 23, 2006, to consider the creation of Reinvestment Zone No. 94 in accordance with V.T.C.A., Tax Code §312.201, as amended for the purpose of considering tax abatement. Said Reinvestment Zone No. 94 being a 4.0782 acre tract of land located at the west right-of-way line of Preston Road and the north right-of-way line of Headquarters Drive, Plano, TX and situated in the Samuel Brown Survey, Abstract No. 108, City of Plano, Collin County, Texas, being all of a 4.0782 acre tract of land as described in deed to EDS Information Services,L.L.C., recorded in Volume 4853, Page 2202 of the Land Records of Collin County, Texas, and recorded in Cabinet M, Page 327 of the Maps Records of Collin County Texas, with said premises being more particularly described by metes and bounds on file in the Finance Department.

1-2

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, DESIGNATING A CERTAIN AREA WITHIN THE CITY OF PLANO AS REINVESTMENT ZONE NO. 94 FOR A TAX ABATEMENT CONSISTING OF A 4.0782 ACRE TRACT OF LAND LOCATED AT THE WEST RIGHT-OF-WAY LINE OF PRESTON ROAD AND THE NORTH RIGHT-OF WAY LINE OF HEADQUARTERS DRIVE, IN THE CITY OF PLANO; ESTABLISHING THE BOUNDARIES OF SUCH ZONE; ORDAINING OTHER MATTERS RELATING THERETO; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Plano, Texas (the "City"), desires to promote the development or redevelopment of a certain contiguous geographic area within its jurisdiction by the creation of a reinvestment zone for retail tax abatement, as authorized by V.T.C.A. Tax Code Chapter 312 (referred to as the "Property Redevelopment and Tax Abatement Act" or the "Act"); and

WHEREAS, a public hearing before the City Council was set for 7:00 p.m. on the 23rd day of October, 2006, such date being at least seven (7) days after the date of publication of the notice of such public hearing; and

WHEREAS, the City held such public hearing after giving written notice of said hearing to all taxing units overlapping the territory inside the proposed reinvestment zone; and

WHEREAS, the City at such hearing invited any interested person or his representative to appear for or against the creation of the reinvestment zone, the boundaries of the proposed reinvestment zone, whether all or part of the territory described in the notice calling such public hearing should be included in such proposed reinvestment zone, and the concept of tax abatement; and

WHEREAS, the proponents of the reinvestment zone offered evidence, both oral and documentary, in favor of all matters relating to the creation of the reinvestment zone.

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

Section I. The facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct.

Section II. Definitions. For the purposes of this Ordinance, the following terms and phrases shall have the following meanings ascribed to them:

a) Improvements - Improvements shall include, for the purpose of establishing eligibility under the Act, any activity at the location, including, but not limited to, new construction.

b) Taxable Real Property - Taxable real property shall be as defined in the Texas Property Tax Code and shall not include personal property as defined in said code, nor shall it include land.

c) Taxable Tangible Personal Property - Shall be defined, for purposes of this Ordinance, as tangible personal property, such as office machines and office furnishings, but shall specifically exclude inventory or supplies.

d) Base Year - The base year for determining increased value shall be the taxable real property value assessed the year in which the agreement is executed.

Section III. The City, after conducting the above-mentioned hearing and having heard such evidence and testimony, has made the following findings and determinations based on the testimony presented to it:

a) That a public hearing on the adoption of the reinvestment zone has been properly called, held and conducted and that notices of such hearings have been published as required by law and mailed to all taxing units overlapping the territory inside the proposed reinvestment zone; and

b) That the boundaries of the reinvestment zone should be the area as described in the metes and bounds description attached hereto as Exhibit "A"; and

1-4

c) That creation of the reinvestment zone for commercial/industrial tax abatement with boundaries as described in Exhibit "A" will result in benefits to the City and to the land included in the zone and the improvements sought are feasible and practical; and

d) That the reinvestment zone as defined in Exhibit "A" meets the criteria for the creation of a reinvestment zone as set forth in Section 312.202 of the Act in that it is "reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the City"; and

e) That the reinvestment zone as defined in Exhibit "A" meets the criteria for the creation of a reinvestment zone as set forth in the City of Plano Revised Policy Statement for Tax Abatement.

Section IV. Pursuant to Section 312.201 of the Act, the City hereby creates a reinvestment zone for commercial/industrial tax abatement encompassing only the area described by metes and bounds in Exhibit "A" attached hereto and such reinvestment zone is hereby designated and shall hereafter be designated as Reinvestment Zone No. 94, City of Plano, Texas.

Section V. The zone shall be effective as of January 1, 2007.

Section VI. To be eligible for tax abatement a retail project shall:

a) Be located wholly within the zone as established herein.

b) Have a minimum expenditure on personal property improvements equal to or greater than **Six Hundred Thousand and No/100 Dollars ($600,000.00)** and have a minimum expenditure on real property improvements equal to or greater than **Eleven Million and No/100 Dollars ($11,000,000.00).**

c) Not include property that is owned or leased by a member of the City Council of the City of Plano or by a member of the Planning and Zoning Commission.

d) Conform to the requirements of the City's Zoning Ordinance and all other applicable laws and regulations.

e) Have and maintain all land located within the designated zone, appraised at market value for tax purposes.

Section VII. Written tax abatement agreements with property owner(s) located within the zone shall provide the terms regarding duration of exemption and share of taxable real property (and personalty) value from taxation as approved hereunder as shown below:

a) Duration of Exemption - five (5) consecutive tax years beginning with and including the January 1, 2007 assessment date.

b) Share of taxes abated - percentage of taxes on total value of appraised Personal Property and Improvements at the rate of: 25% for the years 2007, 2008, 2009, 2010, 2011.

Section VIII. Any written agreements authorized under this Ordinance must include provisions for:

a) Listing the kind, number and location of all proposed improvements of the property;

b) Access to and inspection of property by municipal employees to ensure that the improvements or repairs are made according to the specification and conditions of the agreements;

c) Limiting the use of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect; and

d) Recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements or repairs as provided by the agreement.

1-6

Section IX. If any portion of this Ordinance shall, for any reason, be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions hereof.

Section X. This Ordinance shall become effective from and after its date of passage.

DULY PASSED AND APPROVED this _____ day of October, 2006.

_____
Pat Evans, MAYOR

ATTEST:

_____
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

_____
Diane C. Wetherbee, CITY ATTORNEY

EXHIBIT "A"
LEGAL DESCRIPTION
REINVESTMENT ZONE NO. 94
Real Property
Metes and Bounds

BEING of a tract of land out of the Samuel Brown Survey, Abstract No. 108 in the City of Plano, Collin County, Texas, being in part of the 88.43 acre tract of land described in the deed to EDS Information Services, L.L.C., recorded in Volume 4853, Page 2202 of the Land Records of Collin County, Texas and being more Particularly described as follows;

BEGINNING at a 5/8" iron rod set with a red plastic cap stamped "KHA" (hereinafter called 5/8" iron rod set) for the northeast corner of a corner clip for the Intersection of the west right-of-way line of Preston Road (State Highway 289- variable width ROW)and the north right-of-way line of Headquarters Drive dedicated to the City of Plano according to the plat recorded in Cabinet M, Page327 of the Map Records of Collin County, Texas;

THENCE with said north right-of-way line, the following courses and distances to wit: South 32°19'08" West, a distance of 32.17 feet to a 5/8" iron rod set for corner; South 76°55'34" West, a distance of 175.00 feet to 5/8" iron rod set for corner; South 75°11'41" West, a distance of 148.94 feet to a 5/8" iron rod set for corner; South 76°55'34" West, a distance of 107.84 feet to a 5/8" iron rod set for corner;

THENCE leaving the north right-of-way line of Headquarters Drive, North 00°15'08" East, a distance of 488.98 feet to a 5/8" iron rod set in the south line of a tract of land described in deed to Preston 121 Partners, LTD. Recorded in Volume 4646, Page 1820 of the Land Record of Collin County, Texas;

THENCE with said south line, South 89°44'42" East, a distance of 377.42 feet to a 5/8" iron rod set in the west right-of-way line of said Preston Road from which ½" iron Rod found bears North 89°27'53" West, 0.4' said 5/8" iron rod being the beginning of a non-tangent curve to the left with a radius of 3364.20 feet, a central angle of 6°10'43, and a chord bearing and distance of South 09°03'52" East, 362.61 feet;

THENCE southeasterly, with said west right-of-way line and with said curve an arc Distance of 362.79 feet to the POINT OF BEGINNING and containing 177,647 square Feet or 4.0782 acres of land.

1-8

CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	☐ Yes	☐ Not Applicable
☐ Consent ☐ Regular ☐ Statutory		Reviewed by Budget C.S.	☒ Yes	☐ Not Applicable
Council Meeting Date:	10/23/06	Reviewed by Legal	☒ Yes	☐ Not Applicable
			Initials	Date
Department:	Finance			
Department Head	John McGrane	Executive Director		
Dept Signature:	John McGrane	City Manager		10/2/06
Agenda Coordinator (include phone #):	Brianna Alvarado x7479			

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

CAPTION

A resolution of the city council of the City of Plano, Texas, approving the terms and conditions of an agreement by and between the City of Plano, Texas, the County of Collin, Texas, the Collin County Community College District and NYLO Hotels, LLC., a Delaware limited liability company, and providing for a business personal property and real property tax abatement, and authorizing its execution by the City Manager, or in his absence an Executive Director; and providing an effective date.

FINANCIAL SUMMARY

☐ NOT APPLICABLE ☐ OPERATING EXPENSE ☒ REVENUE ☐ CIP

FISCAL YEAR: 2007-2008	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0

FUND(S): GENERAL

COMMENTS: The NYLO Hotel is a business that will be new to Plano. The Business Personal Property is estimated to have an approximate taxable value of not less than $4,714,195. Currently the Real Property is estimated to have an approximate taxable value of not less than $8,989,953. The proposed Real Property and Business Property tax abatement will be begin January 1, 2007 and continue through 2011, and will be equal to 25% for five (5) years.

SUMMARY OF ITEM

A request by NYLO Hotels for a Tax Abatement. Reinvestment Zone 94

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
Resolution and Tax Abatement Agreement	Joint Committee on Tax Abatement, CCCCD, Collin County Community College

REV 08/98

2-1

THE STATE OF TEXAS §
§
COUNTY OF COLLIN §

TAX ABATEMENT AGREEMENT

This Agreement is entered into by and between the **City of Plano, Texas**, a home rule municipal corporation of Collin and Denton Counties, Texas, duly acting herein by and through its City Manager, hereinafter referred to as "**City**;" the County of Collin, Texas, duly acting herein by and through its County Judge, and the Collin County Community College District, duly acting herein by and through its President, hereinafter collectively referred to as "**Taxing Units**," and **NYLO Hotels LLC,** a Delaware limited liability company, hereinafter referred to as "**Owner**."

WITNESSETH:

WHEREAS, on the _____ day of_____, 2006, the City Council of the City of Plano, Texas, passed Ordinance No. _____ establishing **Reinvestment Zone No. 94** , for commercial/industrial tax abatement, hereinafter referred to as the "Ordinance," as authorized by V.T.C.A. Tax Code, Chapter 312.001, et seq., cited as the Property Redevelopment and Tax Abatement Act, hereinafter referred to as "Act"; and

WHEREAS, the **City** has adopted a revised policy statement for Tax Abatement by Resolution No. 2006-9-22 (R) stating that it elects to be eligible to participate in tax abatement (the "Policy Statement"); and

WHEREAS, the Policy Statement sets forth appropriate guidelines and criteria governing tax abatement agreements to be entered into by the **City** as contemplated by the Act; and

WHEREAS, the tax abatement will maintain and enhance the commercial/industrial economic and employment base of the Plano area thereby benefiting both the **City** and the **Taxing Units** in accordance with the said Ordinance and Act; and

WHEREAS, the contemplated use of the Real Property, as hereinafter defined, the contemplated improvements to the Real Property in the amount as set forth in this Agreement and the other terms hereof are consistent with encouraging development of said **Reinvestment Zone No. 94** in accordance with the purposes for its creation and are in compliance with the intent of the Policy Statement and the Ordinance and similar guidelines and criteria adopted by the City of Plano and all applicable law.

NOW THEREFORE, the parties hereto do mutually agree as follows:

2-2

1. The real property subject to this Agreement is described by metes and bounds in **EXHIBIT "A"** (the "Real Property") attached hereto and made a part hereof. At the time of this Agreement, **NYLO Hotels, LLC** is the **Owner** of the Real Property. This Agreement shall be terminated should the Real Property not be occupied by **Owner**, its successor or its affiliate.

2. The tangible personal property subject to this Agreement shall be personal property, excluding inventory and supplies, used within **Reinvestment Zone No. 94**, which shall be hereinafter referred to as the "Personalty." The Personalty will have an approximate taxable value of **Six Hundred Thousand Dollars ($600,000)** and will be owned by **Owner** or its affiliates. **Owner** shall timely render its personal property value each year to the Central Appraisal District

3. **Owner**, as owner of the Personalty, may not relocate, for purposes of maintaining taxable situs of tangible personal property, the Personalty on the Real Property in other Reinvestment Zones in the City.

JOBS

4. **Owner** estimates the proposed development of the Real Property as shown in **EXHIBIT "B"** (the "Development") will result in at least 68 full-time equivalent jobs ("Full-Time Jobs") (i.e., scheduled work of at least 40 hours per week by employees and/or independent contractors; for illustration purposes only, if one person is scheduled to work 22 hours per week at the Real Property and another person is scheduled to work 18 hours at the Real Property, then such persons combined would equal one Full-Time Job) at the Development in Plano when the new building is completed. This number is only an estimate. During the term of this Agreement, for purposes of paragraph 7(f), the number of Full-Time Jobs at the Development will be established on January 1 of each year.

IMPROVEMENTS

5. The **Owner** shall complete construction of improvements and/or repairs to the Real Property (hereinafter referred to as Improvements) consisting primarily of a new building consisting of not less than 88,500 gross square feet to include a 176 room hotel with a restaurant, bar, gym and meeting rooms, with an initial expenditure of not less than **Eight Million Nine Hundred and Eleven Million Dollars ($11,000,000)** on or before December 31, 2006; provided that **Owner** shall have such additional time to complete the Improvements as may be required in the event of "force majeure" if **Owner** is diligently and faithfully pursuing the completion of the Improvements, or if in the reasonable opinion of the **City**, the **Owner** has made substantial progress toward completion of the initial phase of the Improvements. For this purpose, "force majeure" shall mean any contingency or cause beyond the reasonable control of **Owner** including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, governmental or de facto governmental action (unless caused by acts or omissions of **Owner**), fire, shortages of material and/or labor, explosion or flood, and labor disturbances. The date of completion of the Improvements shall be defined as the date a Certificate of Occupancy is issued by the City of Plano.

6. The **Owner** agrees and covenants that it will diligently and faithfully in a good and workmanlike manner pursue the substantial completion of the Improvements as a good and valuable consideration of this Agreement. **Owner** further covenants and agrees that all construction of the Improvements will be in accordance with all applicable federal, state and local laws and regulations or valid waiver thereof. In further consideration, **Owner** shall from the date a Certificate of Occupancy is issued until the expiration or termination of this Agreement, operate and maintain the Real Property (or cause the same to be operated and maintained) for the following described purposes: office building where **Owner** or its affiliates will employ at least an additional 100 full-time equivalent positions, referred to herein as the "Purposes."

DEFAULT

7. Any of the following events shall be deemed a breach of this agreement resulting in default:

(a) The Improvements are not materially completed in accordance with this Agreement;

(b) **Owner** allows its real or personal property taxes owed the **City** or **Taxing Units** on the Real Property, Improvements, or Personalty to become delinquent;

(c) **Owner** fails to occupy the Improvements for the Purposes set forth in paragraph 6 above on or before December 31, 2006; or

(d) The appraised value of the Improvements to Real Property as of December 31, 2006 is less than the minimum amount set forth in paragraph 5 above;

(e) The appraised value as of January 1, 2007 and on January 1 of each year thereafter during the term of the Personalty located on the Real Property is less than the minimum amount set forth in paragraph 2 above; or

(f) **Owner** fails to meet 75% of its commitment with respect to Full-Time Jobs as provided in paragraph 4 above for any year during the term; or

(g) **Owner** fails to provide annual certification as required in paragraph 10 below.

8. In the event that the **Owner** defaults under this Agreement then the **City** or **Taxing Units** shall give the **Owner** written notice of such default and if the **Owner** has not cured such default, or obtained a waiver thereof from the appropriate authority, within thirty (30) days of said written notice, this Agreement may be terminated by the **City** and **Taxing Units**. Notice shall be in writing as provided below. Upon the occurrence of an event of default other than under Paragraph

2-4

7(b) above and after **Owner** fails to cure same in accordance herewith, this Agreement shall immediately terminate and all taxes due after the event of default shall be paid in full without the benefit of any abatement. The parties acknowledge that actual damages in the event of default and termination would be speculative and difficult to determine.

9. Upon the occurrence of an event of default under Paragraph 7(b) above and after **Owner** fails to cure same in accordance herewith, this Agreement shall immediately terminate with respect to the tax abatements attributable to the Improvements and/or Personalty and all taxes, including previously abated taxes which would have been paid to the **City** and **Taxing Units** without the benefit of this Agreement, shall become due and owing to the **City** and **Taxing Units**, together with interest charged from the date of this Agreement at the statutory rate for delinquent taxes as determined by V.T.C.A., Tax Code § 33.01, but without the addition of penalty other than that mandated by V.T.C.A., § 33.01 or 33.07.

ANNUAL CERTIFICATION

10. On or before the 1st day of November of each calendar year during the term of this Agreement, the **Owner** must provide annual certification (substantially in the form attached as **EXHIBIT "C"** hereto) to the Governing Body of the **City** certifying compliance with each applicable term of the Agreement.

ASSIGNMENT

11. The terms and conditions of this Agreement are binding upon the successors and assigns of all parties hereto. This Agreement cannot be assigned by **Owner** unless written permission is first granted by the **City** and **Taxing Units**, which permission shall be at the reasonable discretion of the **City** and **Taxing Units**, except under the following conditions:

(a) A transfer or assignment of the Real Property and Improvements, or an assignment of this Agreement, by **Owner** to one or more affiliates of **Owner** is permissible without the prior written consent of either the **City** or the **Taxing Units**;

(b) A transfer or assignment of the Real Property and Improvements, or an assignment of this Agreement, by **Owner** to successors or assigns is permitted without the prior written consent of either the **City** or the **Taxing Units** if the successors or assigns agree to be bound by the terms of this Agreement and **Owner** shall continue to conduct business on the subject premises, and shall remain the primary tenant.

Owner agrees to give written notice to the **City** and **Taxing Units** of any assignment or transfer of interest permitted pursuant to subparagraphs (a) and (b) thereof. Upon an assignment or transfer permitted pursuant to subparagraphs (a) or (b), such affiliate, successor or assign shall become "Owner" for all purposes under this Agreement.

2-5

ABATEMENT PROVISIONS

12. Subject to the terms and conditions of this Agreement, and subject to the rights of holders of any outstanding bonds of the **City** and **Taxing Units**, a portion of ad valorem real and personal property taxes from the Improvements and Personalty otherwise owed to the **City** and **Taxing Units** shall be abated as follows:

(a) The tax abatements as to the Improvements and Personalty, as provided for herein, shall be for a period of five (5) tax years, from January 1, 2007, through December 31, 2011.

(b) In accordance with all applicable federal, state, and local laws and regulations, the abatement shall be based on amounts equal to twenty five percent (25%) of the value of the Improvements and twenty five percent (25%) of the value of the Personalty for each tax year from January 1, 2007 through December 31, 2011.

(c) The **Owner** shall have the right to protest and/or contest any assessment of ad valorem taxes with respect to the Improvements or Personalty, and the abatement shall be applied to the amount of taxes finally determined to be due as a result of any such protest and/or contest.

NOTICE

13. Notices required to be given to any party to this Agreement shall be given personally or by registered or certified mail, return receipt requested, postage prepaid, addressed to the party at its address as set forth below, and, if given by mail, shall be deemed delivered as of the date deposited in the United States mail:

For City by notice to:

City of Plano
Attention: Mr. Thomas H. Muehlenbeck
City Manager
P.O. Box 860358
Plano, Texas 75086-0358

With copy to:

City of Plano
Attention: Ms. Diane C. Wetherbee
City Attorney
P.O. Box 860358
Plano, Texas 75086-0358

2-6

For Taxing Units by notice to:

County of Collin, Texas
Attention: The Honorable Ron Harris
County Judge
Collin County Commissioners' Court
210 S. McDonald, Ste. 626
McKinney, Texas 75069

Collin County Community College District
Attention: Dr. Cary A. Israel
President
4800 Preston Park Blvd.
Plano, Texas 75093

For Owner by notice to:

NYLO Hotels LLC
Attention: Mr. Michael Mueller
President
260 Peachtree Sr. N.W. Suite 2301
Atlanta , Georgia 30303

Any party may change the address to which notices are to be sent by giving the other parties written notice in the manner provided in this paragraph.

MISCELLANEOUS PROVISIONS

14. The **Owner** further agrees that the **City** and **Taxing Units**, their agents and employees, shall have reasonable right (upon reasonable prior notice to **Owner**) to access the Real Property to inspect the Improvements and Personalty in order to insure that the construction of the Improvements and locations of the Personalty are in accordance with this Agreement and all applicable federal, state, and local laws and regulations. After completion of the Improvements, **City** and **Taxing Units** shall have the continuing right (upon reasonable prior notice to **Owner)** to inspect the Improvements and Personalty to insure that the Improvements and Personalty are thereafter maintained, operated and occupied in accordance with this Agreement.

15. It is understood and agreed between the parties that the **Owner**, in performing their obligations hereunder, is acting independently, and the **City** and **Taxing Units** assume no responsibilities or liabilities in connection therewith to third parties and **Owner** agrees to indemnify and hold harmless **City** and **Taxing Units** from any and all claims, suits, and causes of actions,

including attorneys' fees, of any nature whatsoever arising out of **Owner's** default of their obligations hereunder.

16. The **City** and the **Taxing Units** each represent and warrant that the Improvements and Personalty do not include any property that is owned by a member of their respective councils or boards, agencies, commissions, or other governmental bodies approving, or having responsibility for the approval of this Agreement.

17. This Agreement was authorized by Resolution of the City Council at its Council meeting on the _____ day of _____, 2006, authorizing the City Manager to execute the Agreement on behalf of the City.

18. This Agreement was authorized by the minutes of the Commissioners' Court of Collin County, Texas, at its meeting on the _____ day of _____, 2006, whereupon it was duly determined that the County Judge would execute the Agreement on behalf of Collin County.

19. This Agreement was authorized by the Board Minutes of the Board of Trustees of Collin County Community College District at its Board Meeting on the _____ day of _____, 2006, whereupon it was duly determined that the Chairman would execute the Agreement on behalf of Collin County Community College District.

20. This Agreement was entered into by **Owner** pursuant to authority granted by its Board of Directors, whereby an authorized officer was authorized to execute this Agreement on behalf of Owner.

21. This instrument shall constitute a valid and binding agreement between the **City** and **Owner** when executed in accordance herewith, regardless of whether any other **TAXING UNIT** executes this Agreement. This shall constitute a valid and binding Agreement between such **TAXING UNIT**, and the **Owner** when executed on behalf of said parties, for the abatement of such **TAXING UNIT's** taxes in accordance therewith.

22. Severability. If any term or provision of this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement (or the application of such term or provision, to persons or circumstances other than those in respect of which it is invalid or unenforceable) except those terms or provisions, which are made subject to or conditioned upon such invalid or unenforceable term or provision, shall not be affected thereby, and each other term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

2-8

23. Applicable Law. This Agreement shall be construed in accordance with the laws of the State of Texas.

24. Counterparts. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

This Agreement is performable in Collin County, Texas.

Signed this ____ day of _____, 2006.

ATTEST:

CITY OF PLANO, TEXAS

_____
Elaine Bealke, CITY SECRETARY

_____
Thomas H. Muehlenbeck, CITY MANAGER

APPROVED AS TO FORM:

_____
Diane C. Wetherbee, CITY ATTORNEY

ATTEST:

COMMISSIONERS' COURT OF
COLLIN COUNTY

_____

_____
COUNTY JUDGE

ATTEST:

COLLIN COUNTY COMMUNITY
COLLEGE DISTRICT

_____

_____
CHAIRMAN

ATTEST:

_____

NYLO HOTELS, LLC

_____

Michael Mueller
PRESIDENT

2-10

EXHIBIT "A"
LEGAL DESCRIPTION
REINVESTMENT ZONE NO. 94

Metes and Bounds
88.43 Acres
Lot 1R, Block A
Samuel Brown Survey, Abstract No. 108
City of Plano, Collin County, Texas

BEING of a tract of land out of the Samuel Brown Survey, Abstract No. 108 in the City of Plano, Collin County, Texas, being in part of the 88.43 acre tract of land described in the deed to EDS Information Services, L.L.C., recorded in Volume4853, Page 2202 of the Land Records of Collin County, Texas and being more Particularly described as follows;

BEGINNING at a 5/8" iron rod set with a red plastic cap stamped "KHA"(hereinafter called 5/8" iron rod set) for the northeast corner of a corner clip for the Intersection of the west right-of-way line of Preston Road (State Highway 289- variable width ROW)and the north right-of-way line of Headquarters Drive dedicated to the City of Plano according to the plat recorded in Cabinet M, Page327 of the Map Records of Collin County, Texas;

THENCE with said north right-of-way line, the following courses and distances to wit: South 32°19'08" West, a distance of 32.17 feet to a 5/8" iron rod set for corner; South 76°55'34" West, a distance of 175.00 feet to 5/8" iron rod set for corner; South 75°11'41" West, a distance of 148.94 feet to a 5/8" iron rod set for corner; South 76°55'34" West, a distance of 107.84 feet to a 5/8" iron rod set for corner;

THENCE leaving the north right-of-way line of Headquarters Drive, North 00°15'08"East, a distance of 488.98 feet to a 5/8" iron rod set in the south line of a tract of land described in deed to Preston 121 Partners, LTD. Recorded in Volume 4646, Page 1820 of the Land Record of Collin County, Texas;

THENCE with said south line, South 89°44'42" East, a distance of 377.42 feet to a 5/8" iron rod set in the west right-of-way line of said Preston Road from which ½" iron Rod found bears North 89°27'53" West, 0.4' said 5/8" iron rod being the beginning of a non-tangent curve to the left with a radius of 3364.20 feet, a central angle of 6°10'43,and a chord bearing and distance of South 09°03'52" East, 362.61 feet;

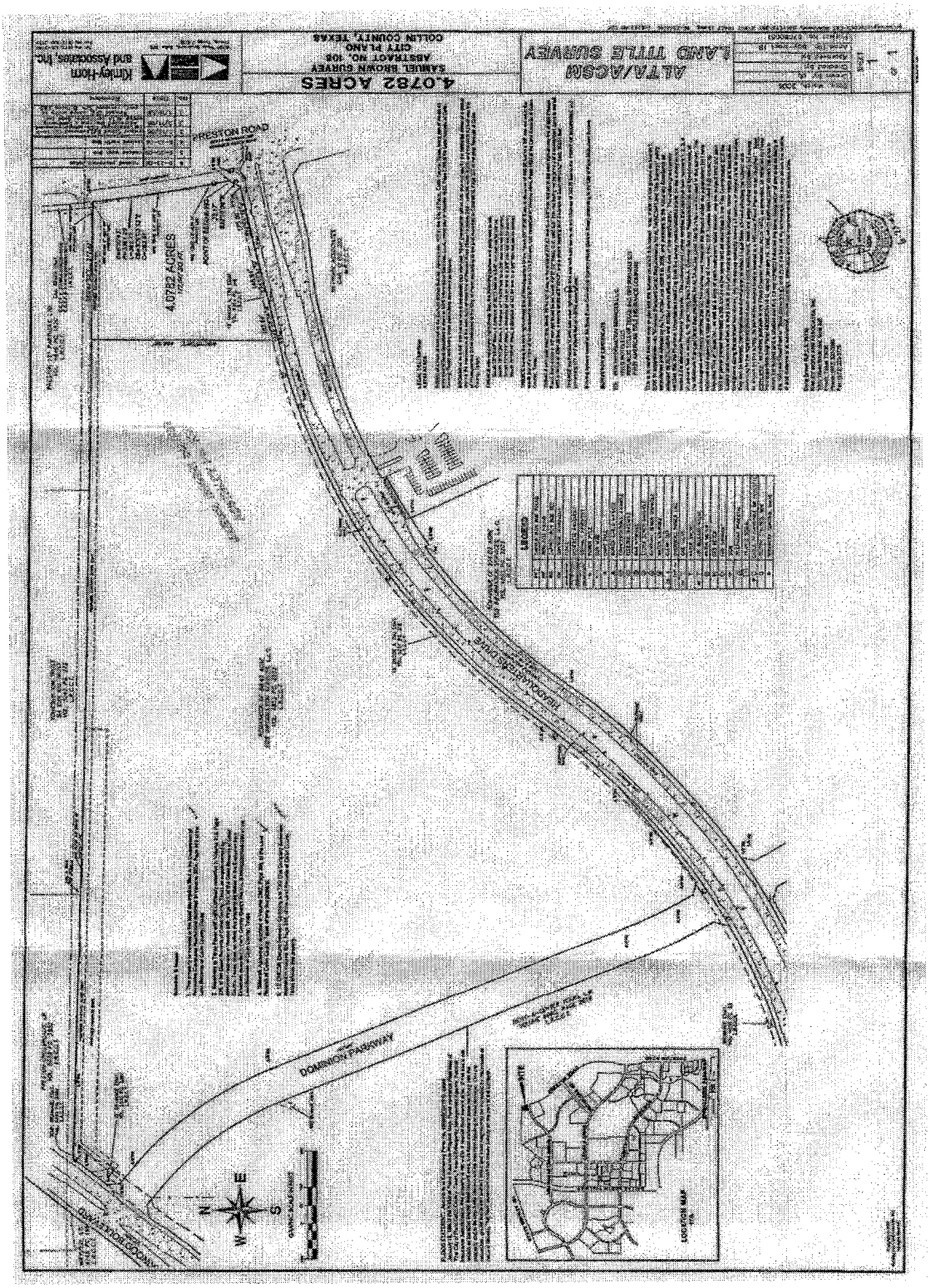
THENCE southeasterly, with said west right-of-way line and with said curve an arc Distance of 362.79 feet to the POINT OF BEGINNING and containing 177,647 square feet or 4.0782 acres of land.

2-11

EXHIBIT "B"
THE DEVELOPMENT
REINVESTMENT ZONE NO. (94)

SEE ATTACHED

2-12


ALTA/ACSM
LAND TITLE SURVEY
4.0782 ACRES
SAMUEL BROWN SURVEY
ABSTRACT NO. 102
CITY PLANO
COLLIN COUNTY, TEXAS
Kimley-Horn and Associates, Inc.
PRESTON ROAD
4.0782 ACRES
DOMINION PARKWAY
LEGEND
LOCATION MAP
N
E
S
W

2-13

EXHIBIT "C"
CERTIFICATION FORM
REINVESTMENT ZONE NO. ( )

This letter certifies that NYLO Hotels, LLC. is in compliance with each applicable term as set forth in the Agreement to Resolution No. _____(R) as of _____2006. The term of this agreement is January 1, 2007, through December 31, 2011. This form is due on November 1 of each year this tax abatement is in force.

ATTEST:

NYLO HOTELS, LLC

_____

_____
Michael Mueller
President

_____
DATE

NOTE: This certification form should be mailed to: City of Plano
Finance Department
P.O. Box 860358
Plano, Texas 75086-0358

2-14

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF AN AGREEMENT BY AND BETWEEN THE CITY OF PLANO, TEXAS, THE COUNTY OF COLLIN, TEXAS, THE COLLIN COUNTY COMMUNITY COLLEGE DISTRICT AND NYLO HOTELS, L.LC., A DELAWARE LIMITED LIABILITY COMPANY, AND PROVIDING FOR A BUSINESS PERSONAL PROPERTY AND REAL PROPERTY TAX ABATEMENT, AND AUTHORIZING ITS EXECUTION BY THE CITY MANAGER, OR IN HIS ABSENCE AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has been presented a proposed Tax Abatement Agreement by and between the City of Plano, Texas, the County of Collin, the Collin County Community College District and NYLO Hotels, LLC, a Delaware Limited Liability Company, 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 in his absence an Executive Director, shall be authorized to execute it on behalf of the City of Plano.

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

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

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

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

DULY PASSED AND APPROVED this the 23rd day of October, 2006.

_____
Pat Evans, MAYOR

ATTEST:

_____
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

_____
Diane C. Wetherbee, CITY ATTORNEY

M:Resolution NYLO Hotels, L.LC..(94)

2-16

Exhibit "A" to Resolution No. _____(R)

THE STATE OF TEXAS §
§
COUNTY OF COLLIN §

TAX ABATEMENT AGREEMENT

This Agreement is entered into by and between the **City of Plano, Texas**, a home rule municipal corporation of Collin and Denton Counties, Texas, duly acting herein by and through its City Manager, hereinafter referred to as "**City**;" the County of Collin, Texas, duly acting herein by and through its County Judge, and the Collin County Community College District, duly acting herein by and through its President, hereinafter collectively referred to as "**Taxing Units**," and **NYLO Hotels LLC,** a Delaware limited liability company, hereinafter referred to as "**Owner**."

W I T N E S S E T H:

WHEREAS, on the _____ day of_____, 2006, the City Council of the City of Plano, Texas, passed Ordinance No. _____ establishing **Reinvestment Zone No. 94** , for commercial/industrial tax abatement, hereinafter referred to as the "Ordinance," as authorized by V.T.C.A. Tax Code, Chapter 312.001, et seq., cited as the Property Redevelopment and Tax Abatement Act, hereinafter referred to as "Act"; and

WHEREAS, the **City** has adopted a revised policy statement for Tax Abatement by Resolution No. 2006-9-22 (R) stating that it elects to be eligible to participate in tax abatement (the "Policy Statement"); and

WHEREAS, the Policy Statement sets forth appropriate guidelines and criteria governing tax abatement agreements to be entered into by the **City** as contemplated by the Act; and

WHEREAS, the tax abatement will maintain and enhance the commercial/industrial economic and employment base of the Plano area thereby benefiting both the **City** and the **Taxing Units** in accordance with the said Ordinance and Act; and

WHEREAS, the contemplated use of the Real Property, as hereinafter defined, the contemplated improvements to the Real Property in the amount as set forth in this Agreement and the other terms hereof are consistent with encouraging development of said **Reinvestment Zone No. 94** in accordance with the purposes for its creation and are in compliance with the intent of the Policy Statement and the Ordinance and similar guidelines and criteria adopted by the City of Plano and all applicable law.

NOW THEREFORE, the parties hereto do mutually agree as follows:

1. The real property subject to this Agreement is described by metes and bounds in **EXHIBIT "A"** (the "Real Property") attached hereto and made a part hereof. At the time of this Agreement, **NYLO Hotels, LLC** is the **Owner** of the Real Property. This Agreement shall be terminated should the Real Property not be occupied by **Owner**, its successor or its affiliate.

2. The tangible personal property subject to this Agreement shall be personal property, excluding inventory and supplies, used within **Reinvestment Zone No. 94**, which shall be hereinafter referred to as the "Personalty." The Personalty will have an approximate taxable value of **Six Hundred Thousand Dollars ($600,000)** and will be owned by **Owner** or its affiliates. **Owner** shall timely render its personal property value each year to the Central Appraisal District

3. **Owner**, as owner of the Personalty, may not relocate, for purposes of maintaining taxable situs of tangible personal property, the Personalty on the Real Property in other Reinvestment Zones in the City.

JOBS

4. **Owner** estimates the proposed development of the Real Property as shown in **EXHIBIT "B"** (the "Development") will result in at least 68 full-time equivalent jobs ("Full-Time Jobs") (i.e., scheduled work of at least 40 hours per week by employees and/or independent contractors; for illustration purposes only, if one person is scheduled to work 22 hours per week at the Real Property and another person is scheduled to work 18 hours at the Real Property, then such persons combined would equal one Full-Time Job) at the Development in Plano when the new building is completed. This number is only an estimate. During the term of this Agreement, for purposes of paragraph 7(f), the number of Full-Time Jobs at the Development will be established on January 1 of each year.

IMPROVEMENTS

5. The **Owner** shall complete construction of improvements and/or repairs to the Real Property (hereinafter referred to as Improvements) consisting primarily of a new building consisting of not less than 88,500 gross square feet to include a 176 room hotel with a restaurant, bar, gym and meeting rooms, with an initial expenditure of not less than **Eight Million Nine Hundred and Eleven Million Dollars ($11,000,000)** on or before December 31, 2006; provided that **Owner** shall have such additional time to complete the Improvements as may be required in the event of "force majeure" if **Owner** is diligently and faithfully pursuing the completion of the Improvements, or if in the reasonable opinion of the **City**, the **Owner** has made substantial progress toward completion of the initial phase of the Improvements. For this purpose, "force majeure" shall mean any contingency or cause beyond the reasonable control of **Owner** including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, governmental or de facto governmental action (unless caused by acts or omissions of **Owner**), fire, shortages of material and/or labor, explosion or flood, and labor disturbances. The date of completion of the Improvements shall be defined as the date a Certificate of Occupancy is issued by the City of Plano.

6. The **Owner** agrees and covenants that it will diligently and faithfully in a good and workmanlike manner pursue the substantial completion of the Improvements as a good and valuable consideration of this Agreement. **Owner** further covenants and agrees that all

construction of the Improvements will be in accordance with all applicable federal, state and local laws and regulations or valid waiver thereof. In further consideration, **Owner** shall from the date a Certificate of Occupancy is issued until the expiration or termination of this Agreement, operate and maintain the Real Property (or cause the same to be operated and maintained) for the following described purposes: office building where **Owner** or its affiliates will employ at least an additional 100 full-time equivalent positions, referred to herein as the "Purposes."

DEFAULT

7. Any of the following events shall be deemed a breach of this agreement resulting in default:

(a) The Improvements are not materially completed in accordance with this Agreement;

(b) **Owner** allows its real or personal property taxes owed the **City** or **Taxing Units** on the Real Property, Improvements, or Personalty to become delinquent;

(c) **Owner** fails to occupy the Improvements for the Purposes set forth in paragraph 6 above on or before December 31, 2006; or

(d) The appraised value of the Improvements to Real Property as of December 31, 2006 is less than the minimum amount set forth in paragraph 5 above;

(e) The appraised value as of January 1, 2007 and on January 1 of each year thereafter during the term of the Personalty located on the Real Property is less than the minimum amount set forth in paragraph 2 above; or

(f) **Owner** fails to meet 75% of its commitment with respect to Full-Time Jobs as provided in paragraph 4 above for any year during the term; or

(g) **Owner** fails to provide annual certification as required in paragraph 10 below.

8. In the event that the **Owner** defaults under this Agreement then the **City** or **Taxing Units** shall give the **Owner** written notice of such default and if the **Owner** has not cured such default, or obtained a waiver thereof from the appropriate authority, within thirty (30) days of said written notice, this Agreement may be terminated by the **City** and **Taxing Units**. Notice shall be in writing as provided below. Upon the occurrence of an event of default other than under Paragraph 7(b) above and after **Owner** fails to cure same in accordance herewith, this Agreement shall immediately terminate and all taxes due after the event of default shall be paid in full without the benefit of any abatement. The parties acknowledge that actual damages in the event of default and termination would be speculative and difficult to determine.

9. Upon the occurrence of an event of default under Paragraph 7(b) above and after **Owner** fails to cure same in accordance herewith, this Agreement shall immediately terminate with respect to the tax abatements attributable to the Improvements and/or Personalty and all taxes, including previously abated taxes which would have been paid to the **City** and **Taxing Units** without the benefit of this Agreement, shall become due and owing to the **City** and **Taxing Units**, together with interest charged from the date of this Agreement at the statutory rate for delinquent taxes as determined by V.T.C.A., Tax Code § 33.01, but without the addition of penalty other than that mandated by V.T.C.A., § 33.01 or 33.07.

ANNUAL CERTIFICATION

10. On or before the 1st day of November of each calendar year during the term of this Agreement, the **Owner** must provide annual certification (substantially in the form attached as **EXHIBIT "C"** hereto) to the Governing Body of the **City** certifying compliance with each applicable term of the Agreement.

ASSIGNMENT

11. The terms and conditions of this Agreement are binding upon the successors and assigns of all parties hereto. This Agreement cannot be assigned by **Owner** unless written permission is first granted by the **City** and **Taxing Units**, which permission shall be at the reasonable discretion of the **City** and **Taxing Units**, except under the following conditions:

(a) A transfer or assignment of the Real Property and Improvements, or an assignment of this Agreement, by **Owner** to one or more affiliates of **Owner** is permissible without the prior written consent of either the **City** or the **Taxing Units**;

(b) A transfer or assignment of the Real Property and Improvements, or an assignment of this Agreement, by **Owner** to successors or assigns is permitted without the prior written consent of either the **City** or the **Taxing Units** if the successors or assigns agree to be bound by the terms of this Agreement and **Owner** shall continue to conduct business on the subject premises, and shall remain the primary tenant.

Owner agrees to give written notice to the **City** and **Taxing Units** of any assignment or transfer of interest permitted pursuant to subparagraphs (a) and (b) thereof. Upon an assignment or transfer permitted pursuant to subparagraphs (a) or (b), such affiliate, successor or assign shall become "Owner" for all purposes under this Agreement.

ABATEMENT PROVISIONS

12. Subject to the terms and conditions of this Agreement, and subject to the rights of holders of any outstanding bonds of the **City** and **Taxing Units**, a portion of ad valorem real and personal property taxes from the Improvements and Personalty otherwise owed to the **City** and **Taxing Units** shall be abated as follows:

(a) The tax abatements as to the Improvements and Personalty, as provided for herein, shall be for a period of five (5) tax years, from January 1, 2007, through December 31, 2011.

(b) In accordance with all applicable federal, state, and local laws and regulations, the abatement shall be based on amounts equal to twenty five percent (25%) of the value of the Improvements and twenty five percent (25%) of the value of the Personalty for each tax year from January 1, 2007 through December 31, 2011.

(c) The **Owner** shall have the right to protest and/or contest any assessment of ad valorem taxes with respect to the Improvements or Personalty, and the abatement shall be applied to the amount of taxes finally determined to be due as a result of any such protest and/or contest.

NOTICE

13. Notices required to be given to any party to this Agreement shall be given personally or by registered or certified mail, return receipt requested, postage prepaid, addressed to the party at its address as set forth below, and, if given by mail, shall be deemed delivered as of the date deposited in the United States mail:

For City by notice to:

City of Plano
Attention: Mr. Thomas H. Muehlenbeck
City Manager
P.O. Box 860358
Plano, Texas 75086-0358

With copy to:

City of Plano
Attention: Ms. Diane C. Wetherbee
City Attorney
P.O. Box 860358
Plano, Texas 75086-0358

For Taxing Units by notice to:

County of Collin, Texas
Attention: The Honorable Ron Harris
County Judge
Collin County Commissioners' Court
210 S. McDonald, Ste. 626
McKinney, Texas 75069

Collin County Community College District
Attention: Dr. Cary A. Israel
President
4800 Preston Park Blvd.
Plano, Texas 75093

For Owner by notice to:

NYLO Hotels LLC
Attention: Mr. Michael Mueller
President
260 Peachtree Sr. N.W. Suite 2301
Atlanta , Georgia 30303

Any party may change the address to which notices are to be sent by giving the other parties written notice in the manner provided in this paragraph.

MISCELLANEOUS PROVISIONS

14. The **Owner** further agrees that the **City** and **Taxing Units**, their agents and employees, shall have reasonable right (upon reasonable prior notice to **Owner**) to access the Real Property to inspect the Improvements and Personalty in order to insure that the construction of the Improvements and locations of the Personalty are in accordance with this Agreement and all applicable federal, state, and local laws and regulations. After completion of the Improvements, **City** and **Taxing Units** shall have the continuing right (upon reasonable prior notice to **Owner)** to inspect the Improvements and Personalty to insure that the Improvements and Personalty are thereafter maintained, operated and occupied in accordance with this Agreement.

15. It is understood and agreed between the parties that the **Owner**, in performing their obligations hereunder, is acting independently, and the **City** and **Taxing Units** assume no responsibilities or liabilities in connection therewith to third parties and **Owner** agrees to indemnify and hold harmless **City** and **Taxing Units** from any and all claims, suits, and causes of actions, including attorneys' fees, of any nature whatsoever arising out of **Owner's** default of their obligations hereunder.

16. The **City** and the **Taxing Units** each represent and warrant that the Improvements and Personalty do not include any property that is owned by a member of their respective councils or boards, agencies, commissions, or other governmental bodies approving, or having responsibility for the approval of this Agreement.

17. This Agreement was authorized by Resolution of the City Council at its Council meeting on the ____ day of _____, 2006, authorizing the City Manager to execute the Agreement on behalf of the **City**.

18. This Agreement was authorized by the minutes of the Commissioners' Court of Collin County, Texas, at its meeting on the ____ day of _____, 2006, whereupon it was duly determined that the County Judge would execute the Agreement on behalf of Collin County.

19. This Agreement was authorized by the Board Minutes of the Board of Trustees of Collin County Community College District at its Board Meeting on the _____ day of _____, 2006, whereupon it was duly determined that the Chairman would execute the Agreement on behalf of Collin County Community College District.

20. This Agreement was entered into by **Owner** pursuant to authority granted by its Board of Directors, whereby an authorized officer was authorized to execute this Agreement on behalf of Owner.

21. This instrument shall constitute a valid and binding agreement between the **City** and **Owner** when executed in accordance herewith, regardless of whether any other **TAXING UNIT** executes this Agreement. This shall constitute a valid and binding Agreement between such **TAXING UNIT**, and the **Owner** when executed on behalf of said parties, for the abatement of such **TAXING UNIT's** taxes in accordance therewith.

22. Severability. If any term or provision of this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement (or the application of such term or provision, to persons or circumstances other than those in respect of which it is invalid or unenforceable) except those terms or provisions, which are made subject to or conditioned upon such invalid or unenforceable term or provision, shall not be affected thereby, and each other term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

23. Applicable Law. This Agreement shall be construed in accordance with the laws of the State of Texas.

24. Counterparts. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

This Agreement is performable in Collin County, Texas.

Signed this ____ day of _____, 2006.

ATTEST:

CITY OF PLANO, TEXAS

_____

Elaine Bealke, CITY SECRETARY

_____

Thomas H. Muehlenbeck, CITY MANAGER

Exhibit "A" to Resolution No. _____ (R)

APPROVED AS TO FORM:

_____

Diane C. Wetherbee, CITY ATTORNEY

2-24

Exhibit "A" to Resolution No. _____(R)

ATTEST:

COMMISSIONERS' COURT OF
COLLIN COUNTY

_____

_____
COUNTY JUDGE

ATTEST:

COLLIN COUNTY COMMUNITY
COLLEGE DISTRICT

_____

_____
CHAIRMAN

ATTEST:

NYLO HOTELS, LLC

_____

_____
Michael Mueller
PRESIDENT

Exhibit "A" to Resolution No. _____(R)

EXHIBIT "A"
LEGAL DESCRIPTION
REINVESTMENT ZONE NO. 94

Metes and Bounds
88.43 Acres
Lot 1R, Block A
Samuel Brown Survey, Abstract No. 108
City of Plano, Collin County, Texas

BEING of a tract of land out of the Samuel Brown Survey, Abstract No. 108 in the City of Plano, Collin County, Texas, being in part of the 88.43 acre tract of land described in the deed to EDS Information Services, L.L.C., recorded in Volume 4853, Page 2202 of the Land Records of Collin County, Texas and being more Particularly described as follows;

BEGINNING at a 5/8" iron rod set with a red plastic cap stamped "KHA" (hereinafter called 5/8" iron rod set) for the northeast corner of a corner clip for the Intersection of the west right-of-way line of Preston Road (State Highway 289- variable width ROW)and the north right-of-way line of Headquarters Drive dedicated to the City of Plano according to the plat recorded in Cabinet M, Page327 of the Map Records of Collin County, Texas;

THENCE with said north right-of-way line, the following courses and distances to wit: South 32°19'08" West, a distance of 32.17 feet to a 5/8" iron rod set for corner; South 76°55'34" West, a distance of 175.00 feet to 5/8" iron rod set for corner; South 75°11'41" West, a distance of 148.94 feet to a 5/8" iron rod set for corner; South 76°55'34" West, a distance of 107.84 feet to a 5/8" iron rod set for corner;

THENCE leaving the north right-of-way line of Headquarters Drive, North 00°15'08" East, a distance of 488.98 feet to a 5/8" iron rod set in the south line of a tract of land described in deed to Preston 121 Partners, LTD. Recorded in Volume 4646, Page 1820 of the Land Record of Collin County, Texas;

THENCE with said south line, South 89°44'42" East, a distance of 377.42 feet to a 5/8" iron rod set in the west right-of-way line of said Preston Road from which ½" iron Rod found bears North 89°27'53" West, 0.4' said 5/8" iron rod being the beginning of a non-tangent curve to the left with a radius of 3364.20 feet, a central angle of 6°10'43, and a chord bearing and distance of South 09°03'52" East, 362.61 feet;

THENCE southeasterly, with said west right-of-way line and with said curve an arc Distance of 362.79 feet to the POINT OF BEGINNING and containing 177,647 square Feet or 4.0782 acres of land.

Exhibit "A" to Resolution No. _____(R)

EXHIBIT "B"
THE DEVELOPMENT
REINVESTMENT ZONE NO. (94)

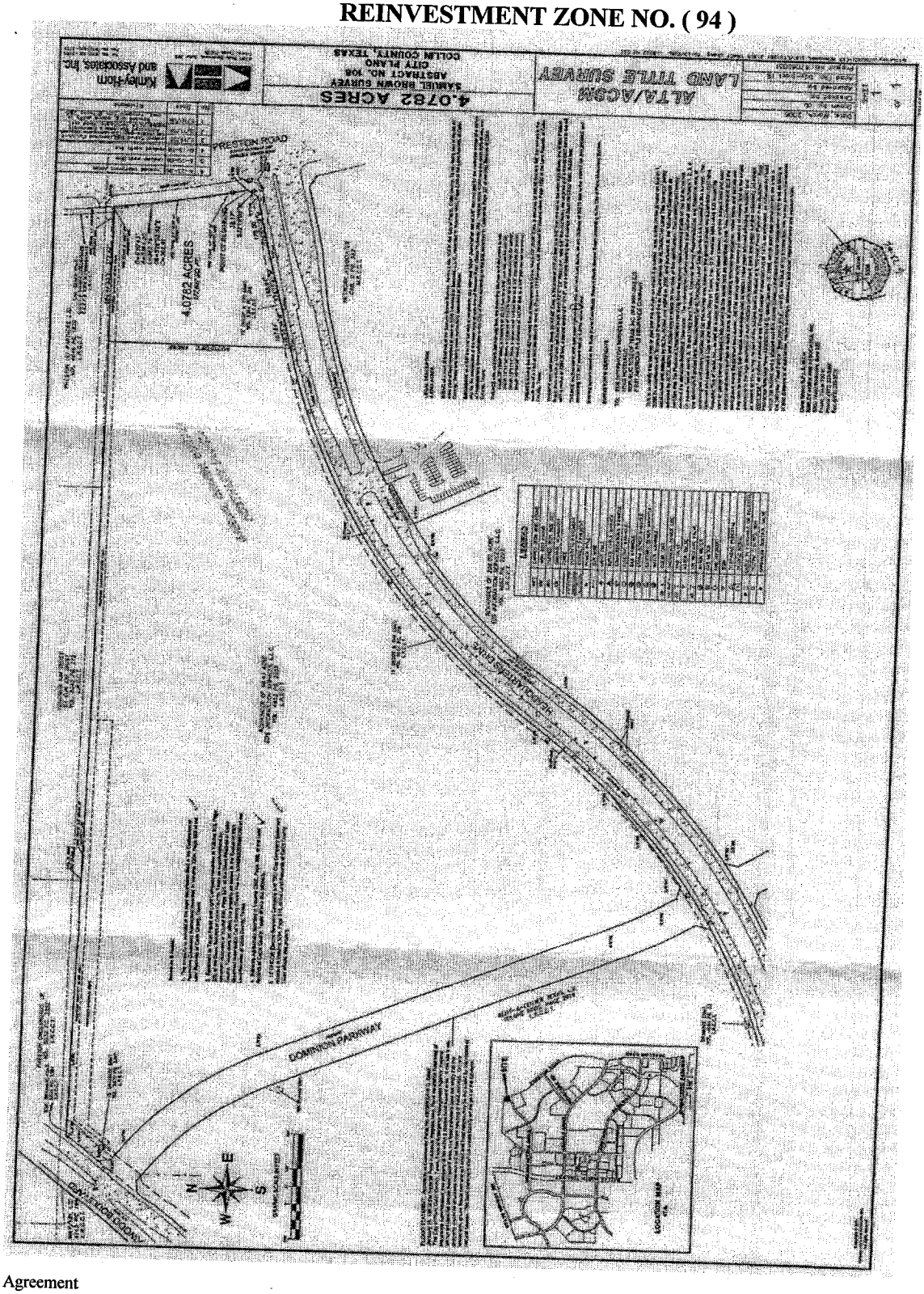


Exhibit "A" to Resolution No. _____(R)

EXHIBIT "C"
CERTIFICATION FORM
REINVESTMENT ZONE NO. ( )

This letter certifies that NYLO Hotels, LLC. is in compliance with each applicable term as set forth in the Agreement to Resolution No. _____(R) as of _____2006. The term of this agreement is January 1, 2007, through December 31, 2011. This form is due on November 1 of each year this tax abatement is in force.

ATTEST:

NYLO HOTELS, LLC

_____

_____
Michael Mueller
President

_____
DATE

NOTE: This certification form should be mailed to: City of Plano
Finance Department
P.O. Box 860358
Plano, Texas 75086-0358

2-28

DATE: October 3, 2006

TO: Honorable Mayor & City Council

FROM: Joyce Beach, 1st Vice Chair, Planning & Zoning Commission JB

SUBJECT: Results of Planning & Zoning Commission Meeting of October 2, 2006

AGENDA ITEM NO. 7A - PUBLIC HEARING
ZONING CASE 2006-22
APPLICANT: KIDDIN' AROUND PROPERTY MANAGEMENT CORPORATION

DESCRIPTION:

Request for a Specific Use Permit for Day Care Center on one lot on 0.1± acre located 110± north of Chapel Hill Boulevard and 1,418± feet east of Midway Road. Zoned Regional Commercial.

APPROVED: 6-1 **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 subject to the following stipulation: Day care shall be provided for less than four hours per day for an individual person. However, the day care facility may operate multiple sessions of four hours or less in length.

The Planning & Zoning Commission waived the requirement for outdoor play space.

The commissioner voting in opposition was concerned that the four-hour limit could not be enforced.

FOR CITY COUNCIL MEETING OF: October 23, 2006 (To view the agenda for this meeting, see www.planotx.org)

PUBLIC HEARING - ORDINANCE

CDD/pp

xc: Chapel Hill Building Partners, Ltd., Kinsman Ventures L.L.C.
Jeff Jones, Kiddin' Around Property Management

Z:PAC/10-23-CC

CITY OF PLANO

PLANNING & ZONING COMMISSION

October 2, 2006

Agenda Item No. 7A

Public Hearing: Zoning Case 2006-22

Applicant: Kiddin' Around Property Management Corporation

DESCRIPTION:

Request for a Specific Use Permit for Day Care Center on one lot on 0.1± acre located 110± north of Chapel Hill Boulevard, and 1,418± feet east of Midway Road. Zoned Regional Commercial.

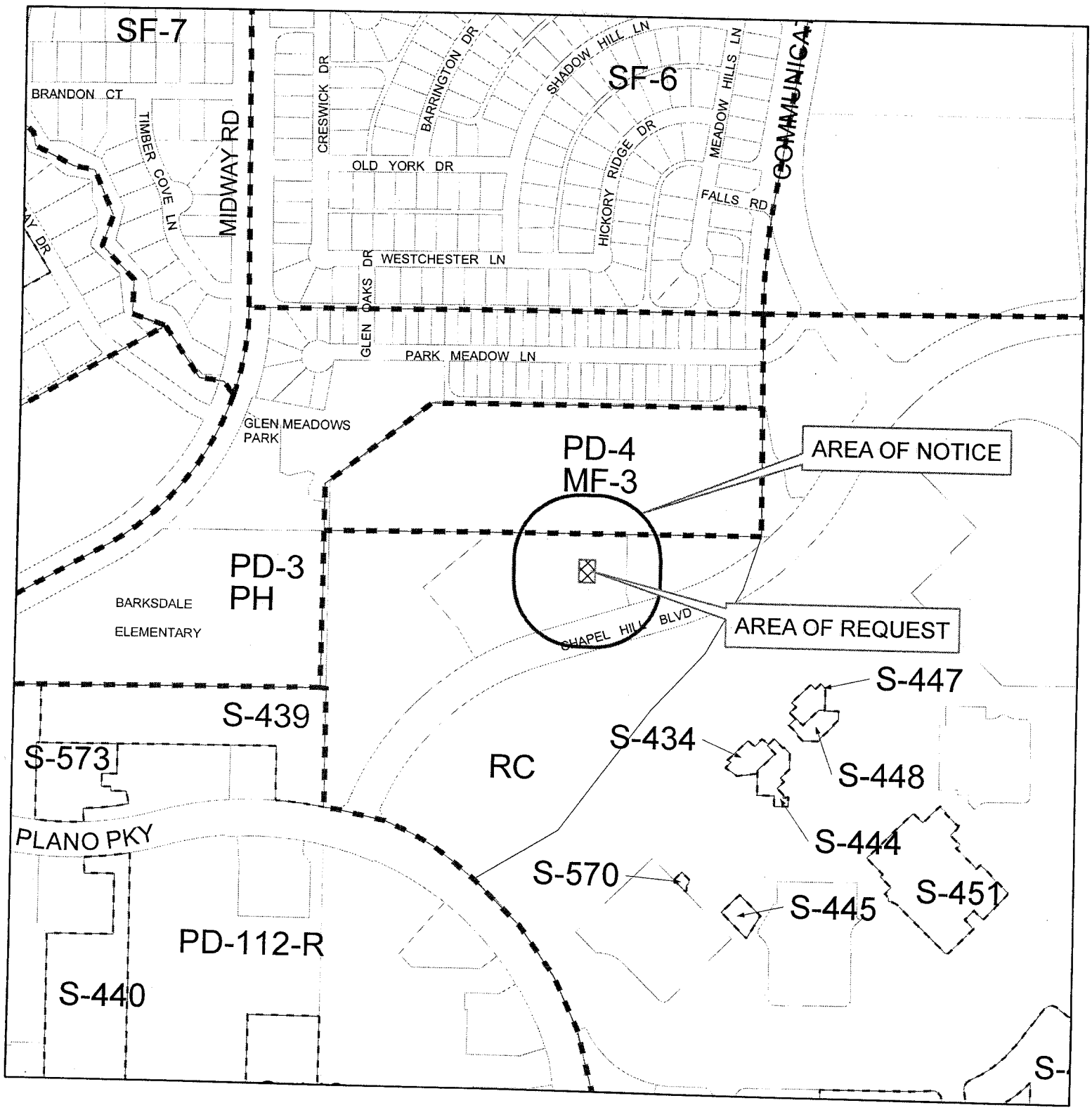
REMARKS:

The request is for a Specific Use Permit (SUP) for Day Care Center within a lease space in a medical office building. Because the medical office development does not have any open space, the applicant has asked for a waiver of the outdoor play space requirement. The Zoning Ordinance requires that a day care center provide outdoor play space; however, the Planning & Zoning Commission may waive the requirement for outdoor play space if day care is provided for less than four hours per day for an individual person. The applicant plans to operate a "drop-in" day care and will not offer care for more than four hours. The applicant has provided data to the Commission stating that they intend to provide approximately 40% of the lease space as active play area so the children will be able to get plenty of exercise within the building. Additional information about the site is provided in Agenda Item No. 7B: Revised Site Plan for The Shops at Willow Bend, Block 2, Lot 3.

RECOMMENDATION:

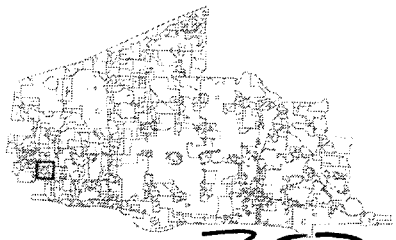
Recommended for approval subject to:

1. The Planning & Zoning Commission waiving the requirement for outdoor play space.
2. Day care shall be provided for less than four hours per day for an individual person. However, the day care facility may operate multiple sessions of four hours or less in length.



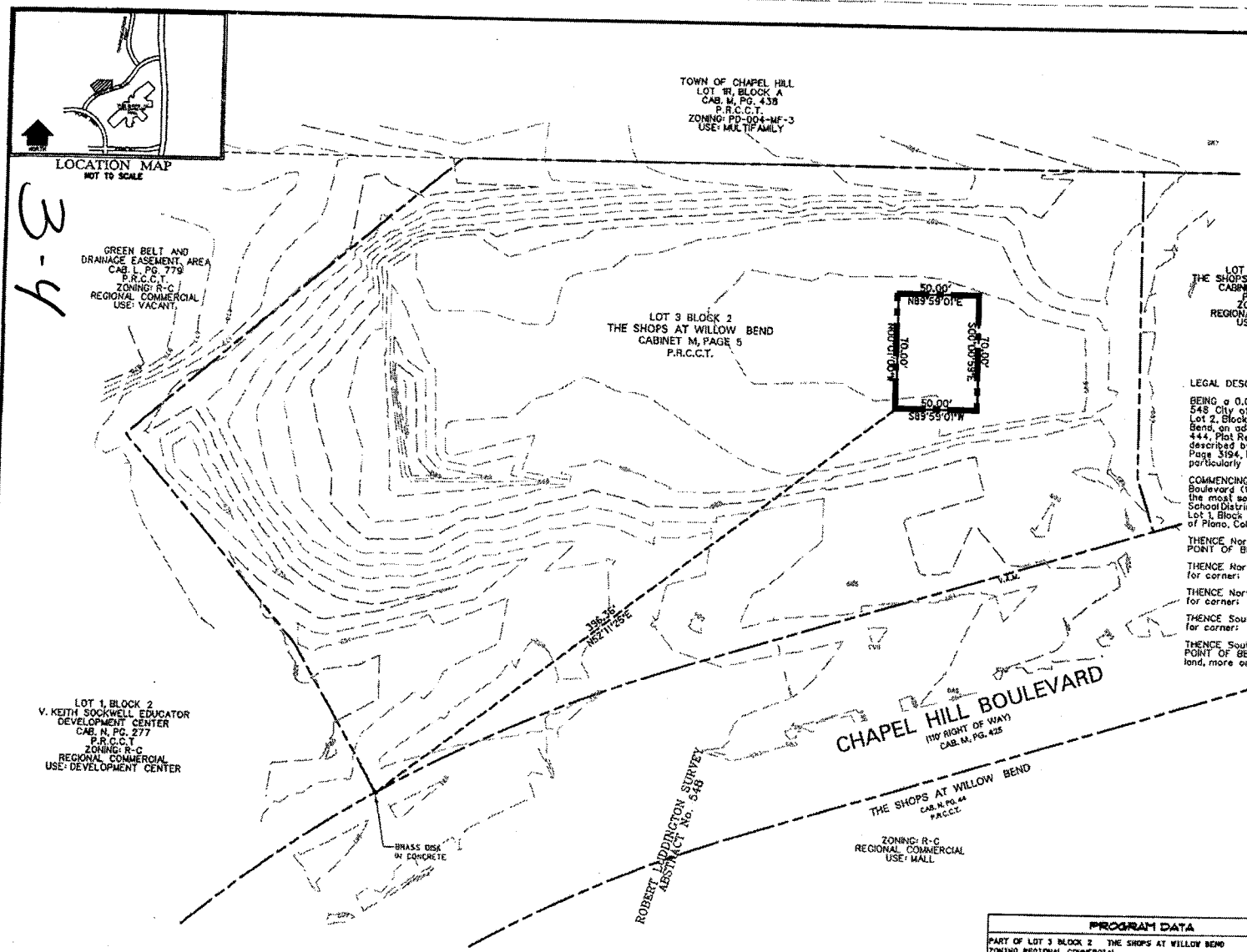
Zoning Case #: 2006-22

Existing Zoning: REGIONAL COMMERCIAL



33

200' Notification Buffer



3-4

LEGAL DESCRIPTION OF SUP AREA

BEING a 0.080 acre tract of land situated in the Robert Luddington Survey, Abstract No. 548 City of Plano, Collin County, Texas, and being part of Lot 3, Block 2 of Final Plat of Lot 2, Block 2, and Revised Conveyance Plat of Lot 3, Block 2, The Shops at Willow Bend, an addition to the City of Plano, Collin County, as recorded in Cabinet P, Page 444, Plat Records, Collin County, Texas (P.R.C.C.T.), and being part of a tract of land described by deed to Chapel Hill Building Partners, Ltd. as recorded in Volume 3551, Page 3194, Land Records Collin County, Texas (L.R.C.C.T.), and being more particularly described as follows:

COMMENCING at a found brass disk on the northern right-of-way line of Chapel Hill Boulevard (110-foot right-of-way), and being the southwestern corner of said Lot 3 and the most southeastern corner of a tract of land described in deed to Plano Independent School District, as recorded in Volume 4681, Page 3120, P.R.C.C.T. and being part of Lot 1, Block 2, V. Keith Sockwell Educator Development Center, an addition to the City of Plano, Collin County, Texas, as recorded in Cabinet N, Page 277, P.R.C.C.T.;

THENCE North 52 degrees 11 minutes 25 seconds East a distance of 396.36 feet to the POINT OF BEGINNING;

THENCE North 00 degrees 01 minute 00 seconds West a distance of 70.00 feet to a point for corner;

THENCE North 89 degrees 59 minutes 01 second East a distance of 50.00 feet to a point for corner;

THENCE South 00 degrees 00 minutes 59 seconds East a distance of 70.00 feet to a point for corner;

THENCE South 89 degrees 59 minutes 01 second West a distance of 50.00 feet to the POINT OF BEGINNING AND CONTAINING 3,500 square feet or 0.080 acres of land, more or less.

HALFF ASSOCIATES, INC.
ENGINEERS - SURVEYORS - SCIENTISTS
PRELIMINARY - FOR INTERIM REVIEW ONLY

These documents are for Bidding and Permit Purposes only, and are not for Construction. They were prepared by, or under the supervision of:

RUSTY R. GLOVER	86237	9/26/2006
Type or Print Name	REV	Date

PROGRAM DATA	
PART OF LOT 3 BLOCK 2 THE SHOPS AT WILLOW BEND ZONING REGIONAL COMMERCIAL	
SUP AREA	0.080 AC OR 3,500 S.F.
DRAWING PREPARED BY: JOSH EDGE HALFF ASSOCIATES, INC. 3801 PARKWOOD BLVD., SUITE 500 FRISCO, TX 75034	

APPROVAL OF THE ZONING CASE ASSOCIATED WITH THIS EXHIBIT SHALL NOT IMPLY APPROVAL OF ANY ASSOCIATED STUDY, PLAT, OR PLAN, APPROVAL OF DEVELOPMENT STANDARDS SHOWN HEREON, OR THE INITIATION OF THE DEVELOPMENT PROCESS. PLANNING & ZONING COMMISSION AND/OR CITY COUNCIL ACTION ON STUDIES, PLATS OR PLANS RELATING TO DEVELOPMENT OF THIS PROPERTY SHALL BE CONSIDERED AS AN ACTION SEPARATE FROM ACTION TAKEN ON THIS ZONING CASE.

ZONING CASE 2006-22
SUP FOR DAYCARE CENTER
for
THE SHOPS AT WILLOW BEND
PART OF LOT 3, BLOCK 2
0.080 ACRES

THE SHOPS AT WILLOW BEND

PETITIONER:	SURVEYOR:
KIDDIE AROUND MANAGEMENT CORP. 843 NOBLE CHAMPIONS BARTONVILLE, TX 76226	ANDREW SHAFER HALFF ASSOCIATES, INC. 3801 PARKWOOD BLVD., SUITE 50 FRISCO, TX 75034

Halff Associates, Inc.

DESIGN	DRAWN	DATE	SCALE	NOTES	FILE	No.
HALFF	CADD	SEPT 2006	1" = 30'	24384		SP-1

ORDINANCE NO. _____
(Zoning Case 2006-22)

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. 578 SO AS TO ALLOW THE ADDITIONAL USE OF DAY CARE CENTER ON ONE LOT ON 0.1± ACRE OF LAND OUT OF THE ROBERT LUDDINGTON SURVEY, ABSTRACT NO. 548, LOCATED 110± FEET NORTH OF CHAPEL HILL BOULEVARD AND 1,418± FEET EAST OF MIDWAY ROAD IN THE CITY OF PLANO, COLLIN COUNTY, TEXAS, PRESENTLY ZONED REGIONAL COMMERCIAL; DIRECTING A CHANGE ACCORDINGLY IN THE OFFICIAL ZONING MAP OF THE CITY; AND PROVIDING A PENALTY CLAUSE, A REPEALER CLAUSE, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 23rd day of October, 2006, for the purpose of considering granting Specific Use Permit No. 578 for the additional use of Day Care Center on one lot on 0.1± acre of land out of the Robert Luddington Survey, Abstract No. 548, located 110± feet north of Chapel Hill Boulevard and 1,418± feet east of Midway Road in the City of Plano, Collin County, Texas, presently zoned Regional Commercial; 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 23rd day of October, 2006; and

WHEREAS, the City Council is of the opinion and finds that the granting of Specific Use Permit No. 578 for the additional use of Day Care Center on one lot on 0.1± acre of land out of the Robert Luddington Survey, Abstract No. 548, located 110± feet north of Chapel Hill Boulevard and 1,418± feet east of Midway Road, 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. 578, allowing the additional use of Day Care Center on one lot on 0.1± acre of land out of the Robert Luddington Survey, Abstract No. 548, located 110± feet north of Chapel Hill Boulevard and 1,418± feet east of Midway Road, in the City of Plano, Collin County, Texas, presently zoned Regional Commercial, 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 day care providing for less than four hours per day for an individual person. However, the day care facility may operate multiple sessions of four hours or less in length.

Section III. It is directed that the official zoning map of the City of Plano (which is retained in electronic record format) be changed to reflect the zoning classification established by this Ordinance.

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

Section V. The repeal of any ordinance or part of ordinances affectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

Section 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.

3-6

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

PASSED AND APPROVED THIS THE 23RD DAY OF OCTOBER, 2006.

_____
Pat Evans, MAYOR

ATTEST:

_____
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

_____
Diane C. Wetherbee, CITY ATTORNEY

EXHIBIT "A"
LEGAL DESCRIPTION

BEING a 0.080± acre tract of land situated in the Robert Luddington Survey, Abstract No. 548, City of Plano, Collin County, Texas, and being part of Lot 3, Block 2 of Final Plat of Lot 2, Block 2 and Revised Conveyance Plat of Lot 3, Block 2, The Shops at Willow Bend, an addition to the City of Plano, Collin County, TX, as recorded in Cabinet P, Page 444, Plat Records, Collin County, Texas, (PRCCT) and being part of a tract of land described by deed to Chapel Hill Building Partners, Ltd. as recorded in Volume 5551, Page 3194, Land Records of Collin County, Texas and being more particularly described as follows:

COMMENCING at a found brass disk on the northern right-of-way line of Chapel Hill Boulevard (110-foot right-of-way), and being the southwestern corner of said Lot 3 and the most southeastern corner of a tract of land described in deed to Plano Independent School District, as recorded in Volume 4681, Page 3120 PRCCT and being part of Lot 1, Block 2, V. Keith Sockwell Educator Development Center, an addition to the City of Plano, Collin County, Texas, as recorded in Cabinet N, Page 277, PRCCT;

THENCE North 52° 11' 25" East, a distance of 396.36 feet to the POINT OF BEGINNING;

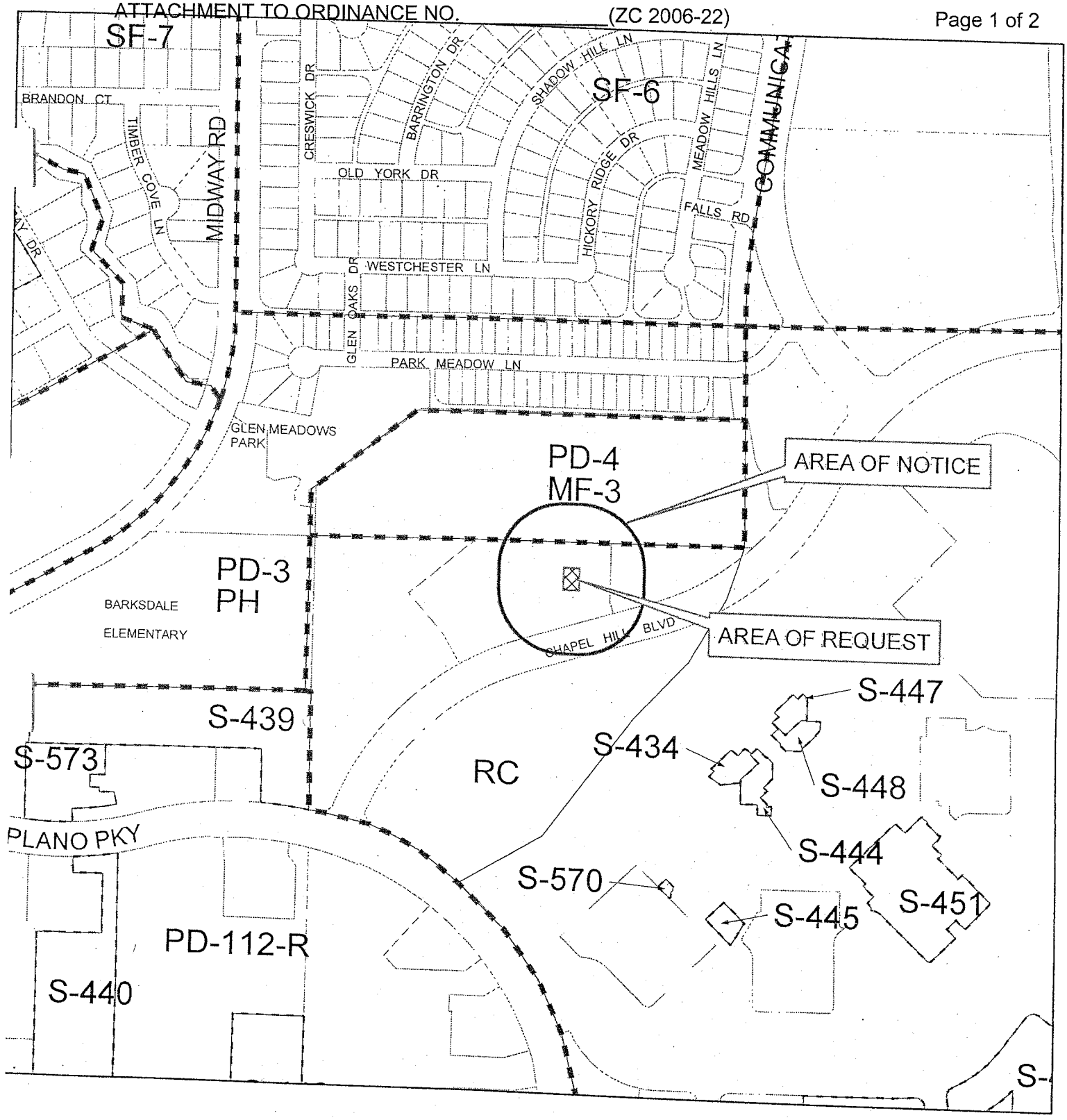
THENCE North 00° 01' 00" West, a distance of 70.00 feet to a point for corner;

THENCE North 89° 59' 01" East, a distance of 50.00 feet to a point for corner;

THENCE South 00° 00' 59" East, a distance of 70.00 feet to a point for corner;

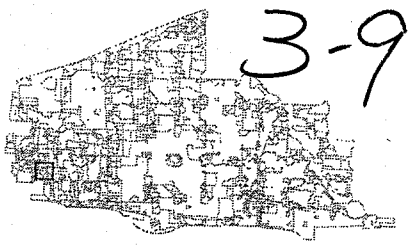
THENCE South 89° 59' 01" West, a distance of 50.00 feet to the POINT OF BEGINNING and CONTAINING 3,500 square feet or 0.080± acres of land, more or less.

3-8



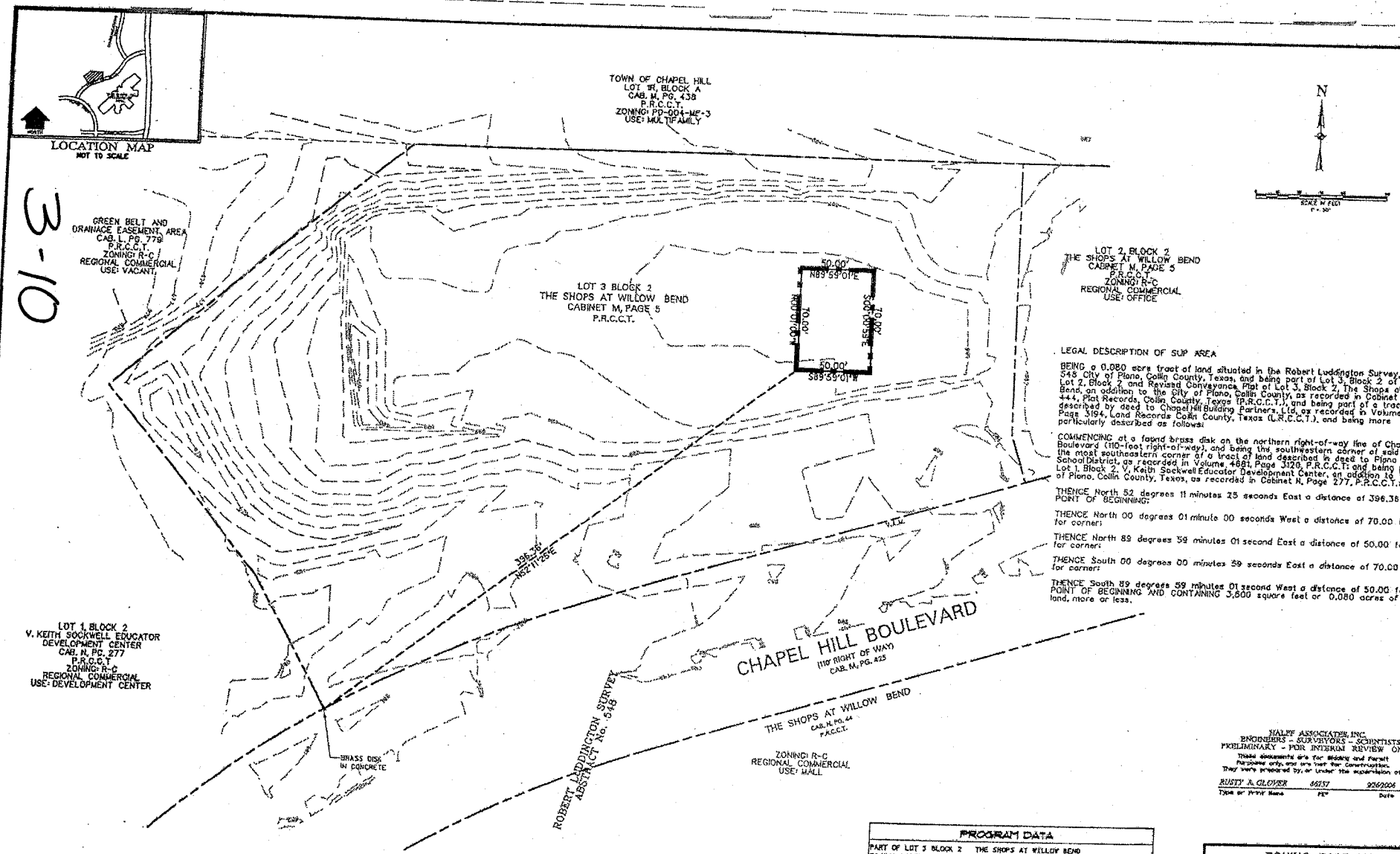
Zoning Case #: 2006-22

Existing Zoning: REGIONAL COMMERCIAL



3-9

200' Notification Buffer



LEGAL DESCRIPTION OF SUP AREA

BEING a 0.080 acre tract of land situated in the Robert Luddington Survey, Abstract No. 548 City of Plano, Collin County, Texas, and being part of Lot 3, Block 2 of Final Plat of Lot 2, Block 2 and Revised Conveyance Plat of Lot 3, Block 2, The Shops at Willow Bend, an addition to the City of Plano, Collin County, as recorded in Cabinet P, Page 444, Plat Records, Collin County, Texas (P.R.C.C.T.), and being part of a tract of land described by deed to Chapel Hill Building Partners, Ltd. as recorded in Volume 5561, Page 3194, Land Records Collin County, Texas (L.R.C.C.T.), and being more particularly described as follows:

COMMENCING at a found brass disk on the northern right-of-way line of Chapel Hill Boulevard (110-foot right-of-way), and being the southwestern corner of said Lot 3 and the most southeastern corner of a tract of land described in deed to Plano Independent School District, as recorded in Volume 4681, Page 3120, P.R.C.C.T.; and being part of Lot 1, Block 2, V. Keith Sockwell Educator Development Center, an addition to the City of Plano, Collin County, Texas, as recorded in Cabinet N, Page 277, P.R.C.C.T.;

THENCE North 52 degrees 11 minutes 25 seconds East a distance of 396.36 feet to the POINT OF BEGINNING;

THENCE North 00 degrees 01 minute 00 seconds West a distance of 70.00 feet to a point for corner;

THENCE North 89 degrees 59 minutes 01 second East a distance of 50.00 feet to a point for corner;

THENCE South 00 degrees 00 minutes 59 seconds East a distance of 70.00 feet to a point for corner;

THENCE South 89 degrees 59 minutes 01 second West a distance of 50.00 feet to the POINT OF BEGINNING AND CONTAINING 3,500 square feet or 0.080 acres of land, more or less.

HALFF ASSOCIATES, INC.
ENGINEERS - SURVEYORS - SCIENTISTS
PRELIMINARY - FOR INTERIM REVIEW ONLY
These documents are for Bidding and Permit Purposes only, and are not for Construction. They were prepared by, or under the supervision of:

RUSTY A. CLOVER	66757	2/6/2006
Type or Print Name	PE#	Date

PROGRAM DATA	
PART OF LOT 3 BLOCK 2 THE SHOPS AT WILLOW BEND ZONING REGIONAL COMMERCIAL	
SUP AREA	0.080 AC OR 3,500 S.F.
DRAWING PREPARED BY: JOSH EDGE HALFF ASSOCIATES, INC. 3401 PARKWOOD BLVD., SUITE 500 FRISCO, TX 75034	

APPROVAL OF THE ZONING CASE ASSOCIATED WITH THIS EXHIBIT SHALL NOT IMPLY APPROVAL OF ANY ASSOCIATED STUDY, PLAT, OR PLAN, APPROVAL OF DEVELOPMENT STANDARDS SHOWN HEREON, OR THE INITIATION OF THE DEVELOPMENT PROCESS. PLANNING & ZONING COMMISSION AND/OR CITY COUNCIL ACTION ON STUDIES, PLATS OR PLANS RELATING TO DEVELOPMENT OF THIS PROPERTY SHALL BE CONSIDERED AS AN ACTION SEPARATE FROM ACTION TAKEN ON THIS ZONING CASE.

ZONING CASE 2006-22
SUP FOR DAYCARE CENTER
for
THE SHOPS AT WILLOW BEND
PART OF LOT 3, BLOCK 2
0.080 ACRES

THE SHOPS AT WILLOW BEND

PETITIONER:	SURVEYOR:
KIDDIE AROUND MANAGEMENT CORP. 443 NOBLE CHAMPIONS BARTONVILLE, TX 76226	ANDREW SHAFER HALFF ASSOCIATES, INC. 3401 PARKWOOD BLVD., SUITE 500 FRISCO, TX 75034

Halff Associates, Inc.

DESIGN	DRAWN	DATE	SCALE	REFERENCE	FILE	NO.
HALFF	EADD	SEPT 2006	1" = 30'	24384		SP-1

DATE: October 3, 2006

TO: Honorable Mayor & City Council

FROM: Joyce Beach, 1st Vice Chair, Planning & Zoning Commission

SUBJECT: Results of Planning & Zoning Commission Meeting of October 2, 2006

AGENDA ITEM NO. 6 - PUBLIC HEARING
COMPREHENSIVE PLAN REVISION
APPLICANT: CITY OF PLANO

DESCRIPTION:

Request to amend the Utilities Element of the Comprehensive Plan.

APPROVED: 7-0 **DENIED:** _____ **TABLED:** _____

STIPULATIONS:

Recommended for approval as submitted.

FOR CITY COUNCIL MEETING OF: October 23, 2006 (To view the agenda for this meeting, see www.planotx.org)

PUBLIC HEARING - RESOLUTION

SS/pp

Z:PAC/10-23-CC

CITY OF PLANO

PLANNING & ZONING COMMISSION

October 2, 2006

Agenda Item No. 6

Public Hearing: Comprehensive Plan Revision

Applicant: City of Plano

DESCRIPTION:

Request to amend the Utilities Element of the Comprehensive Plan.

REMARKS:

This update of the Utilities Element continues with the more visionary, less detailed format established in 2004. It is the seventh element to be updated since the new format was instituted.

The updated Utilities Element is organized around three "Major Themes": (1) Livable City, (2) City of Organized Development, and (3) City in Transition. A section of this document is devoted to each of the major themes. Each section includes key factors relating to the theme with objectives and strategies to address them.

This element has changed from the last update completed in November 1999. There is increased focus on system maintenance instead of system expansion. More emphasis is placed on water conservation, storm water management, and erosion control. Additional information has been provided regarding private utilities and energy resources.

Some of the key components of this update are:

- Utility Services - The variety of utility services and providers are described and defined in context with each of the three themes.

- Utility Rates - Plano's rates are comparable with other cities in the Metroplex. The city's sewer rates tend to run higher due to the increased costs in removing waste byproducts from wastewater and returning it to sources cleaner than it was removed. The role of the Public Utility Commission of Texas is also presented.

- Water Conservation - With continued growth of the Metroplex and adverse experiences with weather extremes, water conservation for the North Texas region will be of the utmost importance. Though the current "take or pay" system in place with the North Texas Municipal Water District does not encourage water conservation, it is intended to ensure that cities will have an adequate supply of water to meet resident's needs.

- Infrastructure Maintenance and Replacement - Most of Plano's water and sewer system was constructed over the last 25 years. As the system ages, it will be important for the city to continue to identify segments that require upgrading and to develop a maintenance plan to continue the delivery of quality services.

- Private Utilities - Private utilities provide services to Plano residents that enhance the quality of life of city residents. These businesses have a franchise agreement to operate within the city. Plano has a Comprehensive Right-of-Way Management Ordinance that regulates private utilities with service delivery equipment within the public rights-of-way.

- Changing Development Trends - Most of the land remaining for development in Plano is for nonresidential uses. There is an overabundance of land zoned for office and retail uses. The demand for residential development is quite high. It is not unreasonable to assume that some of this land will be rezoned to allow for residential uses. This may require upgrading of the existing sewer system in the area to accommodate more people.

- Impact Fees - All money generated from impact fees must be used to provide services to new development. With 95% of the city's water and sewer system in place, the desirability of continuing the Impact Fee Program must be considered. The elimination of the program could make Plano more competitive with surrounding cities in attracting future development.

- Long Range Water Supply Plans - The North Texas Municipal Water District has plans to acquire more water to meet the needs of the growing North Dallas region.

- Storm Water Management - Storm water in urban areas entering into the local drainage system is becoming a major issue. Local governments must follow federal mandates on storm water flowing into streams, rivers, and lakes to prevent erosion of stream banks and flooding.

- Erosion Control - Plano has an Erosion Control Ordinance. The ordinance provides guidelines to contractors to ensure that soil and pollutants from construction sites do not leave the area. It will be important to continue to enforce and monitor the effectiveness of this program in conjunction with storm water management efforts.

- Private Utility Trends - The city must continue to evaluate the effectiveness of its Comprehensive Right-of-Way Management Ordinance in accordance with technological advances in the delivery of utility services.

4-3

- Energy Resources - Fossil fuel resources are limited. It is important that Plano work with other cities in the Metroplex to encourage the use of alternative energy resources and means of transportation.

Utility Maps

A total of 95% of the utility system is in place. Due to this fact, maps of the water and sewer system along with drainage basins will not be included with this update.

RECOMMENDATION:

Recommended for approval as submitted.

4-4

COMPREHENSIVE PLAN
UTILITIES ELEMENT

PURPOSE

The Utilities Element guides decision making regarding issues related to utility services and infrastructure. The element identifies the key factors, trends and issues affecting utilities and establishes objectives and strategies to address them.

MAJOR THEMES

Theme I – Livable City
"Livable City" focuses on the importance of access and safety of utilities such as water, sewer, communications and electricity that enhance the quality of life of the Plano residents. These services may sometimes be taken for granted and noticed only when they are lacking, but they are a necessary part of our daily lives.

Theme II – City of Organized Development
The City of Organized Development section identifies the utility services found in Plano, the type of services they provide and how the services are delivered. Current issues facing the provision of utility services are addressed as well.

Theme III – City in Transition
Plano is undergoing a change in development trends. The city is transitioning from a time of growth to full development. With 95% of water and sewer infrastructure in place, there will be less reliance on impact fees to fund new facilities. The city's focus will shift from the provision of new facilities to the maintenance and replacement of the existing infrastructure. Changes in the energy utilities industry and Plano's approach in addressing federal storm water mandates will also be presented in this section.

THEME I – LIVABLE CITY

Key Factors

Utility Services
Utility services are a key factor in the quality of life of a city. The provision of potable water, the proper treatment of wastewater and an adequate storm water system contribute to the health, safety and welfare of the residents. Communications, electric and natural gas are essential necessities for homes and businesses. The City of Plano provides water, sewer and storm water services while private utilities offer communications and energy services.

Where possible, the City of Plano should encourage private utilities to provide residents and businesses the latest products and service options available. Innovation in technology could mean physical changes in how service is delivered to customers. This may require coordination efforts between the city and the private utility service providers when new service delivery technology replaces the current system within city rights-of-way.

Utility Rates

The City of Plano charges a fee for providing potable water, sewer (wastewater) and storm water services to residents and businesses. The revenues generated from the fees are used to cover the costs of providing utility services. It is important that the rates are competitive with other cities and yet cover the cost of service delivery. Table 1 contains an example of utility rates for water and sewer services for 10,000 gallons. The cities selected for the survey were either similar in size to Plano and or in close proximity to the city.

Table 1
Water and Sewer Rates for Selected Metroplex Cities
2005-2006 Fiscal Year (based on ¾ inch meter)

City	Water	Sewer	Total
Allen	$28.53	$25.22	$53.75
Arlington	$34.25	$28.75	$63.00
Dallas	$22.17	$34.56	$56.73
Frisco	$28.01	$22.26	$50.27
Garland	$29.02	$27.54	$56.56
McKinney	$32.00	$34.16	$66.16
Mesquite	$29.40	$28.40	$57.80
Plano	**$20.29**	**$36.39**	**$56.68**
Richardson	$28.95	$20.89	$49.84

Sources: Water and Sewer Rates from websites of all cities listed in Table 1

The findings from the survey indicated that Plano had the lowest rate for water and the highest rate for sewer services in the above example. When water and sewer services are added together for a billing statement, the city's rates are in the middle of group. This indicates that Plano's utility rates are comparable with other cities in the Metroplex.

The objective of wastewater treatment is to produce a clean effluent suitable for discharge back into the environment. Wastewater treatment incorporates physical, chemical and biological processes to treat and remove chemical and organic contaminants from sewage. One of the most costly processes is the removal of solid wastes from the water in the form of trash or sludge.

The Texas Public Utilities Commission (PUC) regulates the rates charged by private sector communication and electric utility service providers in the state. In Texas, electric generation, with the exception of electric cooperatives, is deregulated and operates as a free market while the wire infrastructure component remains regulated. The goal of the agency is to protect customers, foster competition and promote high quality infrastructure for utility service delivery. Quality infrastructure and utility services at affordable rates make Texas an attractive state for businesses. A private utility company must receive approval from the PUC before changing rates for service provision.

Objectives for Theme I – Livable City

- **Objective A.1** Provide for adequate public and private utility services to meet the need of city residents and businesses.

4-6

- **Objective A.2** Offer utility rates that are competitive with those in other cities throughout the region while covering the cost of service provision.

Strategies for Theme I – Livable City

- **Strategy A.1** Complete the water and sewer system so that there are no gaps in service delivery.
- **Strategy A.2** Work with private utility providers to ensure that ordinances and polices can accommodate innovative service technologies.
- **Strategy A.3** Monitor Plano's water and sewer service rates to ensure competitiveness with other cities in the area.

THEME II – CITY OF ORGANIZED DEVELOPMENT

Key Factors

Utility Service Providers
There are a variety of utility services within Plano. The city provides water and wastewater (sewer) services and storm water drainage through a system of underground pipes, above ground water towers, pumps and lift stations (used to transport water/sewer uphill), along with inlets and drains to collect and transport storm water runoff. Plano purchases water and wastewater treatment services from the North Texas Municipal Water District (NTMWD).

Since the deregulation of electric services, residents and businesses in areas of the city not served by CoServ (an electric cooperative) can choose from a variety of providers such as Green Mountain, Oncor and Reliant Energy for electricity. However, TXU Electric Delivery along with CoServ still provide the infrastructure (wires, poles, towers and under ground conduit) to deliver electricity to customers. Atmos Energy and CoServ provide natural gas services to Plano residents and businesses. Service delivery is similar to that of water by use of underground transmission and distribution pipes.

AT&T, Time-Warner, Grande Communications and Verizon are the most common among the numerous communication services providers. Telephone service is delivered in several formats; cellular service, voice over internet protocol (VOIP) and traditional service. Cellular service uses communication towers, electrical transmission towers and water towers to place antennas for service delivery. These facilities are located throughout the city. Land lines are serviced through fiber optic and copper wire cables along with cable television and internet services. Most of the services are delivered through subsurface cables. Aerial cables are co-located on utility poles.

Water Conservation
NTMWD provides water and wastewater treatment along with solid waste disposal services for 1.5 million people in over 60 cities and utility districts. Plano is one of thirteen member cities of NTMWD. Member cities have a "take or pay" system for acquiring water. The maximum amount of water that has been delivered to the city in any one year becomes the minimum amount the city must "take or pay" for the next year. Sometimes, cities do not use all of the water assigned within the contract. If this is the case the city can receive a partial rebate on the unused water; however, the contractual minimum does not change. Though this system can make it difficult for cities

4-7

to encourage residents to conserve water, it is kept in place to ensure that cities have adequate supply to meet consumer demand. Given recent concerns about water availability, especially during drought periods, and the importance of local and regional water resources, member cities should continue to evaluate the practicality of continuing the "take or pay" system.

Resources to supply the water needs of the Metroplex are an ongoing concern due to continued population growth of the region and weather extremes. Residents and businesses should be encouraged to conserve water where possible. About half of all water consumed is used for landscaping irrigation. Where possible, the use of native plants and those adapted to the North Texas region should be encouraged. Also, education and awareness programs are necessary to inform businesses and residents about the amount of water and practices necessary to sustain landscaping. Excessive watering can have a major impact on the supply.

Infrastructure Maintenance and Replacement

Most of Plano's water, sewer and storm water infrastructure were constructed in the 1980s and 1990s. It is important to determine the useful lifespan of the utility infrastructure. A maintenance and replacement plan is necessary to repair existing facilities on a regular basis. The plan would help to reduce the cost of maintenance and replacement of utility infrastructure in three ways. First, the repairs would occur before the useful lifespan of the system expires. Service delivery could continue without major interruptions. Second, upgrading a smaller portion of the system on a regular basis is much less expensive than trying to replace the entire system at once. Finally, older portions of the storm water infrastructure were installed using lesser criteria than those currently applied. New sections of the system with increased capacity could move storm water more efficiently and increase public safety by reducing overflow at inlets and flooding.

Private Utilities

The City of Plano allows private utility companies to locate service delivery facilities within the public rights-of-way. Some utilities are required to have a franchise agreement in order to provide services within the city for a fee. Plano has a Comprehensive Right-of-Way Management ordinance that regulates all construction within the city's rights-of-way. The ordinance provides for consistency, ensures public safety and mitigates inconvenience in the use of alleyways, sidewalks and streets due to construction work within the city's rights-of way.

Plano will need to stay abreast of service delivery innovations and impact on the Comprehensive Right-of-Way Management Ordinance. This will require continuous coordination efforts with private utility companies.

Plano has also established development standards that are used to regulate the location of telecommunication towers. The purpose of the regulations is to enhance the ability of telecommunications companies to provide services safely and efficiently. The regulations also help to mitigate the aesthetic impact of the towers on the community.

Objectives for Theme II – City of Organized Development

- **Objective B.1** Provide and maintain safe, effective water, sewer and storm water systems with adequate capacities to serve the city's current and future needs.

4-8

- **Objective B.2** Systematically improve and replace the water, sewer and storm water infrastructure to ensure ongoing service.
- **Objective B.3** Encourage city residents and businesses to conserve water.
- **Objective B.4** Maintain a fair and equitable system of regulatory control over private utilities placed within the city's rights-of-way.

Strategies for Theme II – City of Organized Development

- **Strategy B.1** Develop and implement a planned maintenance schedule with a one to two year horizon for upgrading and maintaining the water, sewer and storm water system.
- **Strategy B.2** Educate property owners on how to conserve water and sustain landscaping by providing educational materials within utility bills and on the city's website. Also, provide seminars on sustainability practices.
- **Strategy B.3** Update the Right-of-Way Management Ordinance as needed to address service delivery innovations.

THEME III – CITY IN TRANSITION

Key Factors

Changing Development Trends
Less than 20% of all land in Plano is undeveloped. The percentage of undeveloped land zoned for residential uses is less than 5%. The Dallas-Fort Worth Metroplex is expected to grow by over 4 million people by 2030. There is an excess amount of land zoned for nonresidential uses and it is reasonable to rezone some of it for residential development. Residential development on properties originally zoned for commercial uses will have the greatest impact on sanitary sewer (wastewater) capacity. Upgrades in certain locations may be necessary.

Water infrastructure is not affected in the same way. The water system has been designed to accommodate fire emergencies. As a result, the capacity of water systems exceeds use resulting from both residential and nonresidential development.

Impact Fees
Providing city services to new development can be expensive. The State of Texas allows cities to charge impact fees to developers to help offset some of the cost of constructing infrastructure to serve new developments. The City of Plano charges impact fees for water and sewer infrastructure. Texas state statutes require that revenue generated from the fees must be used towards the cost of building new infrastructure. It cannot be used to upgrade or replace an existing facility to serve new development. Plano's Impact Fee program was last updated in 2003 and the fees charged remained unchanged from the previous update completed in 1999. State statutes require that the program be updated again in 2008.

The statute requires that each city estimate future land use and intensity and then calculate the costs of new infrastructure needed to accommodate development. Cities cannot charge developers more than the maximum amount calculated to provide the necessary infrastructure. Plano does not charge the maximum fee since new development is expected to help pay for the improvements over time.

4-9

With the next update, the city should consider the relevancy of continuing the impact fee program beyond 2008. The reasoning behind the consideration is two-fold. First, nearly the entire water and sewer system is in place, with only 5% still left to construct. Second, the elimination of the impact fees program could be an economic development incentive for Plano. This could make the city more attractive for future development as Plano competes with growing cities that have impact fee programs in place.

Long Range Water Supply Plans

Future supply of water will become an increasingly important issue due to continued population growth and weather extremes. Member cities of the North Texas Municipal Water District (NTMWD) will need to work with the organization to ensure there is enough water to meet the region's needs.

The NTMWD has four projects underway to meet future water needs. The first two projects address short term demand. The first project was obtained in 2006 through the purchase of 18,000 acre-feet/year of water from the Greater Texoma Utility Authority from Lake Texoma. The facilities and pipelines are in place for immediate use of the water. The second supply of water was obtained in October 2005. This plan involves 50,000 to 80,000 acre-feet/year of water from the Sabine River Authority. The water is from the upper Sabine River Basin that includes Lake Tawakoni and Lake Fork. Facilities and pipelines are under design and construction could begin in late 2006. This water supply should be available by 2008.

The second set of projects involves the submittal of applications for additional water resources in the near future. The first application is a water rights permit from the Texas Commission on Environmental Quality (TCEQ) and the United States Corps of Engineers. Approval of the permit is expected within the next 12 months. This would include an additional 113,000 acre-feet/year of water from Lake Texoma. The second application is for a water rights permit from TCEQ for the East Fork Reuse Project that will initially produce 80,000 acre-feet/year of water for NTMWD. This project involves the construction of a 1,800 acre wetland along the East Fork of the Trinity River in Kaufman County. Land has been acquired for the project while the permit process, design and construction are moving forward. Ultimately, the amount of water resulting from the East Fork Reuse project would be equal to that of Lake Lavon and should be available in 2008 if the permit is approved.

Another issue impacting adequate water supply are delivery points. Plano has currently five delivery points for water entering the city's system. Additional delivery points should be considered, particularly in the western part of the city to address temporary system problems that may occur during an emergency. The city may need to consider an arrangement with another water source in an emergency situation where NTMWD is unable to provide water. If an emergency would occur, the city has 84 million gallons of water in storage tanks. Residents would be asked to stop all landscaping irrigation and conserve water until service is restored.

Storm Water Management

In 1990, the federal government mandated local communities to manage storm water runoff and improve the quality of discharged water entering the natural drainage system. Increased amounts of water are flowing into natural drainage areas due to more land covered by impervious surfaces. This includes roofs of structures and parking lot and

roadway pavement that do not allow the ground to absorb water generated from a storm. The excess water collected from urban areas flows into inlets and storm drains that eventually empty into rivers and streams. The increased amount of water can cause flooding of low lying areas and erosion of stream banks.

Another issue of storm water runoff is pollution. The water collects oil, chemicals, fertilizer and pesticides from agricultural areas, landscaping, roof tops and pavement. All of these pollutants enter into the natural drainage system and negatively impact the quality of water in the streams. That same water eventually flows into area reservoirs and is used for drinking, bathing and preparing food.

The City of Plano has adopted a storm water management plan and has a permit with the Environmental Protection Agency (EPA). Each year, the city provides a report to the Texas Commission on Environmental Quality (TCEQ) on its activities to manage storm water and improve water quality in creeks and lakes. This report is a requirement of the permit with EPA.

Plano is also working with the North Central Texas Council of Governments (NCTCOG) on a regional management plan for storm water. The city, in conjunction with other local jurisdictions, participated in the development of NCTCOG's development of the Integrated Storm Water Management Manual (ISWM). The manual addresses water quantity, water quality and stream bank erosion issues.

Erosion Control

Plano has an Erosion Control Ordinance. This regulation has been in existence since the early 1990s with the last update approved by City Council on June 1, 1998. The focus of the ordinance is to reduce and limit the amount of erosion and sedimentation resulting from construction activities. An erosion control plan is required for any land disturbing activity 5,000 square feet or greater in area within Plano. The plan shows the contractor how to control erosion /runoff from the construction site and is prepared in coordination with state permit requirements.

The Texas Pollutant Discharge Elimination System (TPDES) permit program is administered by the TCEQ through an agreement with EPA. The EPA still exercises oversight authority over the state and local jurisdictions on storm water issues. Larger construction sites also require state permit coverage and preparation of a Storm Water Pollution Prevention Plan (SW3P). This is for all construction sites greater than one acre in size. Sites over five acres must also submit a $100 application fee to the TCEQ. The TPDES permit program is in place to ensure that sediment and chemicals used at construction sites such as concrete, paint, solvents and hydrated lime do not leave the area and get into the natural drainage system.

Private Utility Trends

More utility services are becoming deregulated due to the increased number of businesses providing similar services. The deregulation of utilities can lead to further research and development regarding type of services provided and innovations on service delivery.

An example of deregulation is telecommunications. The communications industry has been deregulated for some time. This has led to service delivery innovations such as wireless telephone services and the bundling of traditional land line telephone services

4-11

with cable television and internet. The results are mixed. Plano has had to develop regulations involving the placement and height of cell towers to balance the need of such facilities with community design and aesthetics. On the positive side, the innovation of three communication services bundled into one conduit means fewer cables in the public rights-of-way along Plano's streets.

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Another issue regarding fossil fuels is the generation of electricity. The Metroplex already consumes more electricity than it can generate. There is a need for additional electric generating facilities. Most electricity is made through use of coal. This is a finite resource that when consumed, can cause air quality problems. The region is already considered a non attainment area for ozone pollution by the EPA.

It will be important for Plano to work with other cities in the Metroplex to develop solutions that would encourage residents to use alternative means of transportation that would reduce fuel costs, consumption of energy resources dependent on fossil fuels and improve air quality. Examples include the use of bicycle, walking, mass transit and hybrid vehicles for transportation and solar power, wind generation and geothermal energy for energy needs. Future studies are needed to determine potential innovative technologies that can harness these energy sources more efficiently. Though these alternative energy resources may never fully replace fossil fuels, they could help to slow down the use of these resources and improve air quality by decreasing reliance on them.

Objectives for Theme III – City in Transition

- **Objective C.1** Determine the desirability of continuing the Impact Fee program.
- **Objective C.2** Ensure that Plano has the supply of water needed to meet long term needs.
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- **Objective C.9** Promote multi-jurisdictional efforts to meet EPA standards for air and water quality.

4-12

Strategies for Theme III – City in Transition

- **Strategy C.1** Use the study of the water and wastewater system conducted at time of the impact fee update to determine desirability of continuation of the program.
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- **Strategy C.9** Evaluate alternative transportation options for the Metroplex along with other cities and counties in the region to improve air quality.

413

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PLANO, TEXAS ADOPTING THE UPDATED UTILITIES ELEMENT OF THE COMPREHENSIVE PLAN, AMENDMENTS TO THE TEXT AS ORIGINALLY ADOPTED BY RESOLUTION NO. 87-2-21 (R); APPROVING THE UTILIZATION OF SAID ELEMENT AS REVISED AND AMENDED BY THE APPROPRIATE PERSONNEL AND DEPARTMENTS OF THE CITY OF PLANO FOR THE PURPOSE OF GUIDING FUTURE DEVELOPMENT WITHIN THE CITY OF PLANO, TEXAS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Plano desires to provide the necessary direction to establish a consistent, clear methodology for guiding future development within the City of Plano; and

WHEREAS, the Comprehensive Plan of the City of Plano was established to create a continuous planning process with regular monitoring and updating; and

WHEREAS, the Utilities Element was last updated on February 10, 1992, (Resolution No. 92-2-1 (R)); and

WHEREAS, the Planning & Zoning Commission held a public hearing on October 2, 2006, open to all persons wishing to comment on the proposed updated "Utilities" Element; and thereafter the Planning & Zoning Commission voted to recommend adoption of the proposed updated Element; and

WHEREAS, the City Council held a public hearing on October 23, 2006, on the updated "Utilities" Element, open to all persons wishing to comment on the proposed updated Element; and

WHEREAS, the City Council, upon full review and consideration of the proposed updated Utilities Element, and all matters attendant and related thereto, is of the opinion that the updated "Utilities" Element of the Comprehensive Plan should be approved, adopted and utilized by the City of Plano;

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

Section I. The updated Utilities Element of the Comprehensive Plan, a copy of which is attached hereto as Exhibit "A," and incorporated herein by reference, having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interest of the City of Plano and its citizens, are hereby approved and adopted;

4-14

Section II. The Comprehensive Plan provides a general framework of policies for the long range development of the city. It provides a basis for establishing requirements for the development and redevelopment of public and private property, including land uses, streets, and public facilities.

Section III. Development regulations and their application should be generally consistent with the Comprehensive Plan as they relate to overall city standards and specific area or project requirements. In determining whether or not a regulation or its application is consistent with the Comprehensive Plan, the City Council, Planning & Zoning Commission, or other city body should consider:

1. The Comprehensive Plan in its entirety;

2. Immediate or near-term constraints affecting the timing or phasing of development or redevelopment of a property in accordance with the plan;

3. The existing and planned capacities of public infrastructure and facilities serving a given site or location; and

4. Unanticipated changes in conditions or new information occurring since the last update of the plan or one of its elements.

Section IV. This Comprehensive Plan does not constitute zoning regulations nor does it establish zoning district boundaries. In addition, adoption of the plan as attached does not require the city to rezone property or amend development standards.

Section V. The City Council may amend the Comprehensive Plan following a public hearing held before the City Council and receipt of a report and recommendation of the Planning & Zoning Commission pertaining to the amendment. The Planning & Zoning Commission shall conduct a public hearing before making its report and recommendation to the City Council. Notice of a public hearing pertaining to consideration of an amendment to the Comprehensive Plan shall be given in a newspaper of general circulation not less than ten days prior to the hearing.

Section VI. City staff is permitted to add to or modify the exhibit contents of the amended Utilities Element with such materials as graphs, tables, indexes, maps, background materials, etc., so long as they are consistent with the policies and recommendations of the Comprehensive Plan, without the need for further City Council approval.

Section VII. This ordinance shall become effective immediately from and after its passage.

DULY PASSED AND APPROVED THIS 23RD DAY OF OCTOBER, 2006.

_____
Pat Evans, MAYOR

ATTEST:

_____
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

_____
Diane C. Wetherbee, CITY ATTORNEY

4-16

Z:ORD\ORD-COMP\UTILITIES2006(SS)

COMPREHENSIVE PLAN
UTILITIES ELEMENT

PURPOSE

The Utilities Element guides decision making regarding issues related to utility services and infrastructure. The element identifies the key factors, trends and issues affecting utilities and establishes objectives and strategies to address them.

MAJOR THEMES

Theme I – Livable City
"Livable City" focuses on the importance of access and safety of utilities such as water, sewer, communications and electricity that enhance the quality of life of the Plano residents. These services may sometimes be taken for granted and noticed only when they are lacking, but they are a necessary part of our daily lives.

Theme II – City of Organized Development
The City of Organized Development section identifies the utility services found in Plano, the type of services they provide and how the services are delivered. Current issues facing the provision of utility services are addressed as well.

Theme III – City in Transition
Plano is undergoing a change in development trends. The city is transitioning from a time of growth to full development. With 95% of water and sewer infrastructure in place, there will be less reliance on impact fees to fund new facilities. The city's focus will shift from the provision of new facilities to the maintenance and replacement of the existing infrastructure. Changes in the energy utilities industry and Plano's approach in addressing federal storm water mandates will also be presented in this section.

THEME I – LIVABLE CITY

Key Factors

Utility Services
Utility services are a key factor in the quality of life of a city. The provision of potable water, the proper treatment of wastewater and an adequate storm water system contribute to the health, safety and welfare of the residents. Communications, electric and natural gas are essential necessities for homes and businesses. The City of Plano provides water, sewer and storm water services while private utilities offer communications and energy services.
Where possible, the City of Plano should encourage private utilities to provide residents and businesses the latest products and service options available.

Innovation in technology could mean physical changes in how service is delivered to customers. This may require coordination efforts between the city and the private utility service providers when new service delivery technology replaces the current system within city rights-of-way.

Utility Rates

The City of Plano charges a fee for providing potable water, sewer (wastewater) and storm water services to residents and businesses. The revenues generated from the fees are used to cover the costs of providing utility services. It is important that the rates are competitive with other cities and yet cover the cost of service delivery. Table 1 contains an example of utility rates for water and sewer services for 10,000 gallons. The cities selected for the survey were either similar in size to Plano and or in close proximity to the city.

Table 1
Water and Sewer Rates for Selected Metroplex Cities
2005-2006 Fiscal Year (based on ¾ inch meter)

City	Water	Sewer	Total
Allen	$28.53	$25.22	$53.75
Arlington	$34.25	$28.75	$63.00
Dallas	$22.17	$34.56	$56.73
Frisco	$28.01	$22.26	$50.27
Garland	$29.02	$27.54	$56.56
McKinney	$32.00	$34.16	$66.16
Mesquite	$29.40	$28.40	$57.80
Plano	**$20.29**	**$36.39**	**$56.68**
Richardson	$28.95	$20.89	$49.84

Sources: Water and Sewer Rates from websites of all cities listed in Table 1

The findings from the survey indicated that Plano had the lowest rate for water and the highest rate for sewer services in the above example. When water and sewer services are added together for a billing statement, the city's rates are in the middle of group. This indicates that Plano's utility rates are comparable with other cities in the Metroplex.

The objective of wastewater treatment is to produce a clean effluent suitable for discharge back into the environment. Wastewater treatment incorporates physical, chemical and biological processes to treat and remove chemical and organic contaminants from sewage. One of the most costly processes is the removal of solid wastes from the water in the form of trash or sludge.

4-18

The Texas Public Utilities Commission (PUC) regulates the rates charged by private sector communication and electric utility service providers in the state. In Texas, electric generation, with the exception of electric cooperatives, is deregulated and operates as a free market while the wire infrastructure component remains regulated. The goal of the agency is to protect customers, foster competition and promote high quality infrastructure for utility service delivery. Quality infrastructure and utility services at affordable rates make Texas an attractive state for businesses. A private utility company must receive approval from the PUC before changing rates for service provision.

Objectives for Theme I – Livable City

- **Objective A.1** Provide for adequate public and private utility services to meet the need of city residents and businesses.
- **Objective A.2** Offer utility rates that are competitive with those in other cities throughout the region while covering the cost of service provision.

Strategies for Theme I – Livable City

- **Strategy A.1** Complete the water and sewer system so that there are no gaps in service delivery.
- **Strategy A.2** Work with private utility providers to ensure that ordinances and polices can accommodate innovative service technologies.
- **Strategy A.3** Monitor Plano's water and sewer service rates to ensure competitiveness with other cities in the area.

THEME II – CITY OF ORGANIZED DEVELOPMENT

Key Factors

Utility Service Providers

There are a variety of utility services within Plano. The city provides water and wastewater (sewer) services and storm water drainage through a system of underground pipes, above ground water towers, pumps and lift stations (used to transport water/sewer uphill), along with inlets and drains to collect and transport storm water runoff. Plano purchases water and wastewater treatment services from the North Texas Municipal Water District (NTMWD).

Since the deregulation of electric services, residents and businesses in areas of the city not served by CoServ (an electric cooperative) can choose from a variety of providers such as Green Mountain, Oncor and Reliant Energy for electricity. However, TXU Electric Delivery along with CoServ still provide the infrastructure (wires, poles, towers and under ground conduit) to deliver electricity to customers. Atmos Energy and CoServ provide natural gas services to Plano

residents and businesses. Service delivery is similar to that of water by use of underground transmission and distribution pipes.

AT&T, Time-Warner, Grande Communications and Verizon are the most common among the numerous communication services providers. Telephone service is delivered in several formats; cellular service, voice over internet protocol (VOIP) and traditional service. Cellular service uses communication towers, electrical transmission towers and water towers to place antennas for service delivery. These facilities are located throughout the city. Land lines are serviced through fiber optic and copper wire cables along with cable television and internet services. Most of the services are delivered through subsurface cables. Aerial cables are co-located on utility poles.

Water Conservation

NTMWD provides water and wastewater treatment along with solid waste disposal services for 1.5 million people in over 60 cities and utility districts. Plano is one of thirteen member cities of NTMWD. Member cities have a "take or pay" system for acquiring water. The maximum amount of water that has been delivered to the city in any one year becomes the minimum amount the city must "take or pay" for the next year. Sometimes, cities do not use all of the water assigned within the contract. If this is the case the city can receive a partial rebate on the unused water; however, the contractual minimum does not change. Though this system can make it difficult for cities to encourage residents to conserve water, it is kept in place to ensure that cities have adequate supply to meet consumer demand. Given recent concerns about water availability, especially during drought periods, and the importance of local and regional water resources, member cities should continue to evaluate the practicality of continuing the "take or pay" system.

Resources to supply the water needs of the Metroplex are an ongoing concern due to continued population growth of the region and weather extremes. Residents and businesses should be encouraged to conserve water where possible. About half of all water consumed is used for landscaping irrigation. Where possible, the use of native plants and those adapted to the North Texas region should be encouraged. Also, education and awareness programs are necessary to inform businesses and residents about the amount of water and practices necessary to sustain landscaping. Excessive watering can have a major impact on the supply.

Infrastructure Maintenance and Replacement

Most of Plano's water, sewer and storm water infrastructure were constructed in the 1980s and 1990s. It is important to determine the useful lifespan of the utility infrastructure. A maintenance and replacement plan is necessary to repair existing facilities on a regular basis. The plan would help to reduce the cost of maintenance and replacement of utility infrastructure in three ways. First, the repairs would occur before the useful lifespan of the system expires. Service

delivery could continue without major interruptions. Second, upgrading a smaller portion of the system on a regular basis is much less expensive than trying to replace the entire system at once. Finally, older portions of the storm water infrastructure were installed using lesser criteria than those currently applied. New sections of the system with increased capacity could move storm water more efficiently and increase public safety by reducing overflow at inlets and flooding.

Private Utilities

The City of Plano allows private utility companies to locate service delivery facilities within the public rights-of-way. Some utilities are required to have a franchise agreement in order to provide services within the city for a fee. Plano has a Comprehensive Right-of-Way Management ordinance that regulates all construction within the city's rights-of-way. The ordinance provides for consistency, ensures public safety and mitigates inconvenience in the use of alleyways, sidewalks and streets due to construction work within the city's rights-of way.

Plano will need to stay abreast of service delivery innovations and impact on the Comprehensive Right-of-Way Management Ordinance. This will require continuous coordination efforts with private utility companies.

Plano has also established development standards that are used to regulate the location of telecommunication towers. The purpose of the regulations is to enhance the ability of telecommunications companies to provide services safely and efficiently. The regulations also help to mitigate the aesthetic impact of the towers on the community.

Objectives for Theme II – City of Organized Development

- **Objective B.1** Provide and maintain safe, effective water, sewer and storm water systems with adequate capacities to serve the city's current and future needs.
- **Objective B.2** Systematically improve and replace the water, sewer and storm water infrastructure to ensure ongoing service.
- **Objective B.3** Encourage city residents and businesses to conserve water.
- **Objective B.4** Maintain a fair and equitable system of regulatory control over private utilities placed within the city's rights-of-way.

Strategies for Theme II – City of Organized Development

- **Strategy B.1** Develop and implement a planned maintenance schedule with a one to two year horizon for upgrading and maintaining the water, sewer and storm water system.

- **Strategy B.2** Educate property owners on how to conserve water and sustain landscaping by providing educational materials within utility bills and on the city's website. Also, provide seminars on sustainability practices.
- **Strategy B.3** Update the Right-of-Way Management Ordinance as needed to address service delivery innovations.

THEME III – CITY IN TRANSITION

Key Factors

Changing Development Trends

Less than 20% of all land in Plano is undeveloped. The percentage of undeveloped land zoned for residential uses is less than 5%. The Dallas-Fort Worth Metroplex is expected to grow by over 4 million people by 2030. There is an excess amount of land zoned for nonresidential uses and it is reasonable to rezone some of it for residential development. Residential development on properties originally zoned for commercial uses will have the greatest impact on sanitary sewer (wastewater) capacity. Upgrades in certain locations may be necessary.

Water infrastructure is not affected in the same way. The water system has been designed to accommodate fire emergencies. As a result, the capacity of water systems exceeds use resulting from both residential and nonresidential development.

Impact Fees

Providing city services to new development can be expensive. The State of Texas allows cities to charge impact fees to developers to help offset some of the cost of constructing infrastructure to serve new developments. The City of Plano charges impact fees for water and sewer infrastructure. Texas state statutes require that revenue generated from the fees must be used towards the cost of building new infrastructure. It cannot be used to upgrade or replace an existing facility to serve new development. Plano's Impact Fee program was last updated in 2003 and the fees charged remained unchanged from the previous update completed in 1999. State statutes require that the program be updated again in 2008.

The statute requires that each city estimate future land use and intensity and then calculate the costs of new infrastructure needed to accommodate development. Cities cannot charge developers more than the maximum amount calculated to provide the necessary infrastructure. Plano does not charge the maximum fee since new development is expected to help pay for the improvements over time.

With the next update, the city should consider the relevancy of continuing the impact fee program beyond 2008. The reasoning behind the consideration is two-

4-22

fold. First, nearly the entire water and sewer system is in place, with only 5% still left to construct. Second, the elimination of the impact fees program could be an economic development incentive for Plano. This could make the city more attractive for future development as Plano competes with growing cities that have impact fee programs in place.

Long Range Water Supply Plans

Future supply of water will become an increasingly important issue due to continued population growth and weather extremes. Member cities of the North Texas Municipal Water District (NTMWD) will need to work with the organization to ensure there is enough water to meet the region's needs.

The NTMWD has four projects underway to meet future water needs. The first two projects address short term demand. The first project was obtained in 2006 through the purchase of 18,000 acre-feet/year of water from the Greater Texoma Utility Authority from Lake Texoma. The facilities and pipelines are in place for immediate use of the water. The second supply of water was obtained in October 2005. This plan involves 50,000 to 80,000 acre-feet/year of water from the Sabine River Authority. The water is from the upper Sabine River Basin that includes Lake Tawakoni and Lake Fork. Facilities and pipelines are under design and construction could begin in late 2006. This water supply should be available by 2008.

The second set of projects involves the submittal of applications for additional water resources in the near future. The first application is a water rights permit from the Texas Commission on Environmental Quality (TCEQ) and the United States Corps of Engineers. Approval of the permit is expected within the next 12 months. This would include an additional 113,000 acre-feet/year of water from Lake Texoma. The second application is for a water rights permit from TCEQ for the East Fork Reuse Project that will initially produce 80,000 acre-feet/year of water for NTMWD. This project involves the construction of a 1,800 acre wetland along the East Fork of the Trinity River in Kaufman County. Land has been acquired for the project while the permit process, design and construction are moving forward. Ultimately, the amount of water resulting from the East Fork Reuse project would be equal to that of Lake Lavon and should be available in 2008 if the permit is approved.

Another issue impacting adequate water supply are delivery points. Plano has currently five delivery points for water entering the city's system. Additional delivery points should be considered, particularly in the western part of the city to address temporary system problems that may occur during an emergency. The city may need to consider an arrangement with another water source in an emergency situation where NTMWD is unable to provide water. If an emergency would occur, the city has 84 million gallons of water in storage tanks. Residents would be asked to stop all landscaping irrigation and conserve water until service is restored.

Storm Water Management

In 1990, the federal government mandated local communities to manage storm water runoff and improve the quality of discharged water entering the natural drainage system. Increased amounts of water are flowing into natural drainage areas due to more land covered by impervious surfaces. This includes roofs of structures and parking lot and roadway pavement that do not allow the ground to absorb water generated from a storm. The excess water collected from urban areas flows into inlets and storm drains that eventually empty into rivers and streams. The increased amount of water can cause flooding of low lying areas and erosion of stream banks.

Another issue of storm water runoff is pollution. The water collects oil, chemicals, fertilizer and pesticides from agricultural areas, landscaping, roof tops and pavement. All of these pollutants enter into the natural drainage system and negatively impact the quality of water in the streams. That same water eventually flows into area reservoirs and is used for drinking, bathing and preparing food.

The City of Plano has adopted a storm water management plan and has a permit with the Environmental Protection Agency (EPA). Each year, the city provides a report to the Texas Commission on Environmental Quality (TCEQ) on its activities to manage storm water and improve water quality in creeks and lakes. This report is a requirement of the permit with EPA.

Plano is also working with the North Central Texas Council of Governments (NCTCOG) on a regional management plan for storm water. The city, in conjunction with other local jurisdictions, participated in the development of NCTCOG's development of the Integrated Storm Water Management Manual (ISWM). The manual addresses water quantity, water quality and stream bank erosion issues.

Erosion Control

Plano has an Erosion Control Ordinance. This regulation has been in existence since the early 1990s with the last update approved by City Council on June 1, 1998. The focus of the ordinance is to reduce and limit the amount of erosion and sedimentation resulting from construction activities. An erosion control plan is required for any land disturbing activity 5,000 square feet or greater in area within Plano. The plan shows the contractor how to control erosion /runoff from the construction site and is prepared in coordination with state permit requirements.

The Texas Pollutant Discharge Elimination System (TPDES) permit program is administered by the TCEQ through an agreement with EPA. The EPA still exercises oversight authority over the state and local jurisdictions on storm water issues. Larger construction sites also require state permit coverage and preparation of a Storm Water Pollution Prevention Plan (SW3P). This is for all construction sites greater than one acre in size. Sites over five acres must also submit a $100 application fee to the TCEQ. The TPDES permit program is in

4-24

place to ensure that sediment and chemicals used at construction sites such as concrete, paint, solvents and hydrated lime do not leave the area and get into the natural drainage system.

Private Utility Trends

More utility services are becoming deregulated due to the increased number of businesses providing similar services. The deregulation of utilities can lead to further research and development regarding type of services provided and innovations on service delivery.

An example of deregulation is telecommunications. The communications industry has been deregulated for some time. This has led to service delivery innovations such as wireless telephone services and the bundling of traditional land line telephone services with cable television and internet. The results are mixed. Plano has had to develop regulations involving the placement and height of cell towers to balance the need of such facilities with community design and aesthetics. On the positive side, the innovation of three communication services bundled into one conduit means fewer cables in the public rights-of-way along Plano's streets.

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4-26

CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	☐ Yes	☒ Not Applicable
☐ Consent ☐ Regular ☐ Statutory		Reviewed by Budget	☒ Yes	☐ Not Applicable
Council Meeting Date:	10/23/06	Reviewed by Legal	☒ Yes	☐ Not Applicable
			Initials	Date
Department:	Public Svcs/Oper.			
Department Head	James R. Hogan	Executive Director		10-18-06
Dept Signature:		City Manager		10/18/06
Agenda Coordinator (include phone #):	Sherry Noles - Ext. 7122			

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

CAPTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE BYLAWS OF THE TEXAS CLEAN AIR CITIES COALITION (THE "COALITION") OR COALITION OF CITIES AND OTHER LOCAL GOVERNMENT ENTITIES AND ORGANIZATIONS FORMED TO PURSUE MUTUAL INTERESTS IN RESPECT OF CERTAIN COAL-BURNING ELECTRIC POWER PLANTS PROPOSED FOR CONSTRUCTION IN TEXAS, AND TO PRESERVE THE RIGHTS OF TEXAS LOCAL GOVERNMENTS TO PROTECT THEIR AIR QUALITY AND THEIR ACCESS TO SUFFICIENT AND REASONABLY PRICED ELECTRIC ENERGY; ACCEPTING MEMBERSHIP IN SAID COALITION; APPOINTING A REPRESENTATIVE TO SERVE ON BEHALF OF THE CITY OF PLANO; APPROVING PAYMENT OF A MEMBERSHIP ASSESSMENT; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.

FINANCIAL SUMMARY

☐ NOT APPLICABLE ☒ OPERATING EXPENSE ☐ REVENUE ☐ CIP

FISCAL YEAR: 2006-2007	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	10,000	0	**10,000**
Encumbered/Expended Amount	0	0	0	**0**
This Item	0	-10,000	0	**-10,000**
BALANCE	0	0	0	**0**

FUND(S): GENERAL FUND

COMMENTS: This item is included in the approved FY 2006-07 Budget.

STRATEGIC PLAN GOAL: Funding for participation in the Texas Clean Air Cities Coalition relates to the City's Goal of Livable and Sustainable Community.

SUMMARY OF ITEM

LOCAL GOVERNMENT COALITION DEDICATED TO ATTAINING CLEAN AIR AND REASONABLY-PRICED ELECTRIC ENERGY IN SUFFICIENT QUANTITIES.

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
EXHIBIT A "PARTICIPATION AGREEMENT	

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE BYLAWS OF THE TEXAS CLEAN AIR CITIES COALITION (THE "COALITION") OR COALITION OF CITIES AND OTHER LOCAL GOVERNMENT ENTITIES AND ORGANIZATIONS FORMED TO PURSUE MUTUAL INTERESTS IN RESPECT OF CERTAIN COAL-BURNING ELECTRIC POWER PLANTS PROPOSED FOR CONSTRUCTION IN TEXAS, AND TO PRESERVE THE RIGHTS OF TEXAS LOCAL GOVERNMENTS TO PROTECT THEIR AIR QUALITY AND THEIR ACCESS TO SUFFICIENT AND REASONABLY PRICED ELECTRIC ENERGY; ACCEPTING MEMBERSHIP IN SAID COALITION; APPOINTING A REPRESENTATIVE TO SERVE ON BEHALF OF THE CITY OF PLANO; APPROVING PAYMENT OF A MEMBERSHIP ASSESSMENT; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR, IN HIS ABSENCE, AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Texas local governments and local government organizations are dedicated to attaining clean air and reasonably-priced electric energy in sufficient quantities; and

WHEREAS, pending plans for the construction of approximately sixteen coal-burning electric power plants in Texas before 2010 may adversely impact air quality in numerous Texas locales; may adversely affect local governments' ability to attain and maintain federally-mandated clean air standards, may adversely affect the health, morale, and productivity of local government officers and employees and of local governments' residents, and may adversely affect the attractiveness, usefulness of outdoor venues including parks and other entertainment and recreation facilities, and cause diminution of local government revenue associated with such adverse affects; and

WHEREAS, the Coalition is committed to ensuring that said plants use generation methods best calculated to minimize air pollution while still providing sufficient electric generating capacity for Coalition members' needs at reasonable prices; and

WHEREAS, the Coalition seeks to ensure that the federal and state governmental agencies that are responsible for permitting said construction provide full and fair consideration of the Coalition's concerns, and that appropriate studies, reports, and expert opinions are presented to these agencies in the course of their decision-making process; and

WHEREAS, the adoption of full and fair procedures and standards by state and federal agencies that adjudicate and adopt rules on environmental matters is of fundamental importance to all members of the Coalition; and

5-2

WHEREAS, failure to attain and maintain federally-mandated clean air standards, insufficient electric energy, and unreasonably priced electric energy each can substantially and adversely affect, among other important things, the level of economic activities in the Coalition members' jurisdictions and hence their respective tax, franchise, right-of-way compensation and other sources of funding for their respective general fund of the City of Plano; and

WHEREAS, jointly participating in permitting proceedings and related efforts with other local governments and local government organizations will allow City of Plano to benefit from the outcome of intervention in these proceedings while minimizing the costs of intervention; and

WHEREAS, upon review and consideration of the Bylaws for the Coalition, the City Council is of the opinion that it is in the best interest of City of Plano and its residents to become a member of the Coalition, and that an initial membership assessment equal to $10,000, being due and payable on a date yet to be determined should be remitted to said Coalition in accordance with the By-Laws thereof; and

WHEREAS, the City Council appoints Mayor Pat Evans or her designee as the representative for the City of Plano to the Coalition and is authorized to act and vote on the City of Plano's behalf in all respects in relations to the Coalition, including intervention in permit proceedings and related appeals and any other litigation upon Council approval which shall be obtained not later than thirty days after the representative's act or vote to join in such proceedings otherwise such representative's actions shall be null and void; and

WHEREAS, upon full review and consideration of the Agreement, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved, and that the City Manager or, in his absence, an Executive Director should be authorized to execute 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 recitals contained in the preamble of this Resolution are determined to be true and correct and are hereby adopted as a part of this Resolution.

Section II. The Participation Agreement and By-Laws of the Texas Clean Air Cities Coalition (the "Coalition") attached hereto as Exhibit "A", are hereby approved.

Section III. The City of Plano accepts membership in the Coalition.

Section IV. The City hereby approves payment to the Coalition in accordance with the Participation Agreement and By-Laws of the Coalition of an initial membership assessment of $10,000, to be due and payable on the date to be set by the Coalition.

Section V. The City of Plano hereby appoints Pat Evans, Mayor or her designee to serve as the City of Plano's representative to the Coalition and to act on its behalf in all respects to the Coalition including any intervention in permitting proceedings including related appeals, or other litigation that the Coalition may conduct upon Council approval which shall be obtained not later than thirty days after the representative's act or vote to join in such proceedings otherwise such representative's actions shall be null and void and without diminishing the power and authority of the City Attorney to conduct litigation and of this City to approve settlement and matters reserved to the City Council by Charter.

Section VI. The City agrees that their representative is authorized to take those steps that are reasonable and necessary to comply with the intent of this Resolution.

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

DULY PASSED AND APPROVED this the _____ day of _____, 2006.

_____
Pat Evans, MAYOR

ATTEST:

_____
Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

_____
Diane C. Wetherbee, CITY ATTORNEY

5-4

N:\resolution (Participation Agreement)

THE STATE OF TEXAS § § COUNTY OF COLLIN §	**TEXAS CLEAN AIR CITIES PARTICIPATION AGREEMENT AND BY-LAWS**

THESE PARTICIPATION AGREEMENT AND BY-LAWS ("Agreement") are made and effective as of 25th day of October, 2006, by, between and among the **CITY OF PLANO, TEXAS** ("City"), the CITY OF DALLAS, TEXAS, the CITY OF HOUSTON, TEXAS, and the **OTHER MEMBER LOCAL GOVERNMENT UNITS AND ORGANIZATIONS** of the **TEXAS CLEAN AIR CITIES COALITION** (the "Coalition" or "**TCACC**"). This Agreement is authorized by the Texas Interlocal Cooperation Act (V.T.C.A. Texas Government Code, Chapter 791), and other authorities.

W I T N E S S E T H:

WHEREAS, the members of the Coalition are dedicated to attaining clean air and reasonably priced electric energy in sufficient quantities;

WHEREAS, the construction of many coal-burning electric power plants in Texas before 2010 may adversely impact air quality in numerous Texas cities and other local government jurisdictions including several of the Coalition members and adversely affect their ability to attain and maintain federally-mandated clean air standards and adversely affect the health, morale, and productivity of their officers and employees and of their' residents, as well as the attractiveness, usefulness of outdoor venues including parks and other entertainment and recreation facilities, and diminution of their revenue associated with such adverse affects;

WHEREAS, the members of the Coalition are committed to ensuring that said plants use technology and operating processes that minimize air pollution while still providing sufficient electric generating capacity for their needs at reasonable prices;

WHEREAS, the Coalition members are deeply concerned that the governmental agencies that are responsible for permitting said construction may not be using procedures and standards that provide full and fair consideration TCACC's concerns, including procedures and standards that adequately consider the potential cumulative impact of numerous additional plants and which require the cleanest practicable available processes and technologies;

WHEREAS, the adoption of full and fair procedures and standards by state and federal agencies that adjudicate and adopt rules on environmental matters is of fundamental importance to all members of TCACC;

WHEREAS, failure to attain federally-mandated clean air standards, insufficient electric energy, and unreasonably priced electric energy each can substantially and adversely affect, among other important things, the level of economic activities in the environs of Coalition members and hence their tax, franchise, right-of-way compensation and other sources of funding for their respective general funds including the General Fund of the City;

WHEREAS, jointly participating in permitting proceedings and litigation and related efforts with other Coalition members will allow the City to benefit from the outcome of the litigation while minimizing the costs of litigation and of other efforts; and

5-5

NOW THEREFORE,

In consideration of the premises, agreements, covenants and promises set forth herein, it is agreed as follows:

1.

TCACC and Standing Steering Committee Membership

The TCACC members hereby form the **TEXAS CLEAN AIR CITIES COALITION** ("TCACC"), a Texas not-for-profit unincorporated association. Each member shall approve its membership in the TCACC and designate its representative to receive notices and participate in and vote at TCACC meetings. The TCACC shall be composed of all cities and other local government units and organizations of Texas paying the current nonrefundable membership fee. The fee for the initial period (approximately one year) is $10,000 for each member. The members shall elect a Steering Committee consisting of no more than five (5) persons, each such member being the designated representative to TCACC of a different member which shall function as the Board of Directors. The Steering Committee shall at least include a representative from the cities of Dallas and Houston. The remainder of the representatives shall be selected by the members as of the time of selection based upon diversity of geographic location and population size. Each member of TCACC and each member on the Steering Committee shall have one vote as to decisions of their respective bodies. Meetings of the Steering Committee shall be open for observation to each member of TCACC whether or not it has a representative on the Steering Committee. Decisions of TCACC shall be by majority of members participating in any proceeding or meeting at which a vote is taken. Cities may participate and vote via telephone and/or via written proxy in form acceptable to the presiding officer, who shall be the senor officer of the Steering Committee present or otherwise participating in a proceeding, or if there be none, then a person selected by members participating at the proceeding. Members who join after the date hereof shall be bound by this instrument as of the date of their membership after having executed a duplicate counterpart hereof and delivered it to the secretary/treasurer. Any member may at any time substitute any other person for any original designated representative to TCACC or for any Original Steering Committee Member and other Steering Committee member by reasonable notice to the secretary/treasurer or to any Steering Committee member if the substitution would replace the secretary/treasurer. Said substitution may be permanent or temporary in accordance with the notice. The substitution should be described for the minutes of the Steering Committee by the substitute or by another Steering Committee member at the first opportunity. The substitute assumes any offices and duties of the replaced member for the duration of the substitution.

2.

Powers of the Steering Committee

The TCACC members delegate to the Steering Committee the power to commence litigation in support of and to intervene in, on behalf of TCACC members, either in their respective individual names or as members of TCACC if TCACC intervenes as an association, permitting proceedings, rulemaking, and related dockets and appeals thereof, represent the interests of cities in matters related to or affecting the construction or permitting of electric generation plants before state and federal legislative, executive, and judicial bodies, and settle, withdraw from, and pay for such activities. The Steering Committee shall fix the amount of the

5-6

Texas Clean Air membership fee from time to time, but no more than once within any twelve-month period. A majority of TCACC members may fix a special assessment in addition to any membership fee. Notice of the amount and due date for any fee shall be sent to the designated representative of member. Members may participate and vote via telephone and/or via written proxy in form acceptable to the presiding officer. Any representative or other designee of any class of member is eligible to serve on a subcommittee of the Steering Committee unless otherwise decided by the Steering Committee. Members of any subcommittee may attend any Steering Committee meeting at which the activities or subject of that subcommittee is to be discussed or reported and may speak at the discretion of the chair.

3.

Election of Officers

The officers of the Steering Committee shall be a chair, one or more co-chairs, and a secretary/treasurer. Subcommittee chairs are not by reason of that office Steering Committee officers. The Steering Committee shall elect a chair and any co-chairs and subcommittee chairs as it deems necessary and form any subcommittees that the Steering Committee deems advisable. The Steering Committee shall also elect a secretary/treasurer who shall, among other duties and powers as may be assigned by the Steering Committee, make, keep current and maintain records of the meetings and transactions of the Steering Committee, of TCACC subject to legal advice, monitor invoices submitted to TCACC by professionals and others, the status of their payment, the reasonableness and necessity of the services represented by said invoices, and of the amounts thereof, and report on such matters and other financial affairs of TCACC to the Steering Committee.

4.

Powers of the Officers

Each officer elected shall serve at the pleasure of the Steering Committee up to a term of four (4) years. The Steering Committee shall elect or re-elect officers at least every four (4) years. Unless terminated by the Steering Committee or the respective member, the officer shall perform the duties of office until a replacement has been elected. Meetings of the Steering Committee and TCACC shall be upon call of the chair or two (2) members of the Steering Committee. The Steering Committee shall meet at least annually. The chair is authorized by action of the Steering Committee to engage consultants and attorneys and to pay for such services. Any attorneys engaged by the chair to represent the TCACC shall report to the Steering Committee and / or to officers appointed by the Steering Committee for this purpose. The chair or co-chair shall preside at meetings of TCACC and of the Steering Committee. In the absence of a chair or co-chair, participating cities shall select a pro tem presiding officer by majority vote of the cities participating in any meeting or proceeding in person or via telephone.

5.

Classes of Membership

The Steering Committee may establish one or more classes of associate membership in TCACC for entities with special circumstance such as small size that may allow for lower membership fees, limited or no voting rights, limited or no eligibility to serve on committees, and other qualifications, and limits, in recognition of the size of applicants for membership or

other relevant factors. Any entity enjoying any class of membership shall be entitled to attend and be heard orally or in writing as appropriate at any meeting of TCACC and shall have the right to attend meetings of the Steering Committee and to be heard at such meeting orally or in writing if the Steering Committee is entertaining comments from any non-members of the Steering Committee. Any member in any class of membership shall have the right to consult with attorneys representing the Coalition and receive legal advice from such attorneys regarding matters relevant to TCACC to the same extent as full members who are not members of the Steering Committee, and shall be bound by the joint litigation agreement embodied in this instrument. Individuals other than official representatives of local governmental units solely in their respective representative capacities are not eligible for any class of membership in TCACC.

6.

Termination of Membership

A member may terminate its membership by written notice to the secretary/treasurer effective upon said officer's actual receipt of said notice. If a member fails to pay its membership fee in full within one-hundred eighty (180) days after notification of fee due, that member's membership is terminated without further action. A member is considered notified on the day written notice is sent to its last designated representative on file with the secretary/treasurer. In the event of such termination, the member shall return all documents reports or similar materials, including all copies and all electronic files, developed in furtherance of the activities of TCACC to the chair of the Steering Committee or other person designated by the chair for that purpose.

7.

Money Held in Trust

The officers shall hold and manage all money collected in trust for the benefit of TCACC and its members collectively. Officers may establish prudent fund accounts that accumulate funding for activities and to pay authorized expenses. Officers and others member representatives and designees shall serve without pay, but may be reimbursed reasonable out-of-pocket expenses as approved by the Steering Committee. Any member of any class may request and receive a statement of TCACC revenues and expenses each year. Instead of maintaining the accounts of TCACC, the Steering Committee may authorize one or more law firms retained by TCACC to do so in trust for TCACC, but the Steering Committee and the Secretary/Treasurer shall monitor, report on, and be responsible for said account to TCACC by whomever held.

8.

Payment for Performance of Governmental Functions and Services Made from Current Revenues

By entering into this Agreement, each member affirms that it is paying for the performance of governmental functions or services from current revenues available. The payments made under this agreement fairly and adequately compensate the TCACC for the services or functions performed under the contract.

5-8

9.

Legal Construction

In case any one or more of the terms, provisions, phrases or clauses 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 be construed as if such invalid, illegal or unenforceable portion had never been contained herein.

10.

Entire Agreement

This instrument embodies the complete agreement of the parties hereto superseding all oral or written previous and contemporary agreements between the parties relating to matters herein and, except as otherwise provided herein, cannot be modified without written agreement of the parties. This instrument may be executed in multiple counterparts, which together shall be deemed a single instrument. Signatures hereon via telephone facsimile or other electronic, magnetic, or chemical means shall are deemed to be original signatures.

11.

No Other Obligations

By entering into this Agreement, the parties do not create any obligations, express or implied, other than those set forth herein, and this Agreement shall not create any rights in parties not signatories hereto.

12.

Immunity and Indemnification

It is expressly understood and agreed that in the execution of this Agreement, neither any member nor TCACC waives, nor shall be deemed to waive, any immunity or defense that would otherwise be available to each against claims arising in the exercise of governmental powers and functions. To the extent allowed by law, the TCACC agrees to indemnify the members, including their representatives for any claims, suits, or other action filed against the member for their activities related to the Coalition.

13.

Authority

The undersigned officers and/or agents are properly authorized to execute this Agreement on behalf of the parties hereto, and each hereby certifies to the other that any necessary resolutions extending such authority have been duly passed and are now in full force and effect.

14.

Original Members, Officers, Steering Committee Members, Designated Agent

a. The Original Members of TCACC are the Cities of Dallas and Houston, Texas. The original designated member of the Original Steering Committee for the City of Dallas is Mayor Laura Miller and for the City of Houston is Elena M. Marks. Until at least three additional cities shall join the Coalition and pay their initial membership fees, and designate representatives to the Coalition, and the five or more member Cities choose a Steering Committee as provided hereunder, said representatives of Dallas and Houston shall serve as co-chairs of the Original Steering Committee and each shall have the power and duty to do all things that the Steering Committee can do hereunder by majority vote, including the power to execute counterparts of this Agreement on behalf of the Coalition, except that the concurrence of both members of the Original Steering Committee or their designees shall be necessary to retain counsel and other professionals and authorize any expenditures.

b. The Steering Committee shall appoint a designated agent for service of process.

15.

Privileged Communications

A joint privilege respecting lawyer-client communications is necessary for the effective pursuit of litigation and other legal proceedings contemplated by the Coalition. All communications by and among any members of whatever classes of membership with any attorney who is representing, or discussing whether to represent, any such member or representing or considering whether to represent the Coalition (an "Attorney") shall be privileged to the fullest extent permitted by law. Each member by joining the Coalition agrees not to disclose any privileged information received after the date hereof from another member or Attorney unless the member wishing to disclose the information first obtains the consent of all other members who may be entitled to claim any privilege or protection with respect to such information, except to the extent explicitly permitted pursuant to a different section of this Agreement or by the Steering Committee. This nondisclosure obligation continues after any member's membership has terminated for any reason, after the conclusion of any litigation, and after this Coalition may be dissolved.

16.

Additional Provisions Related to Legal Representation

The members of TCACC acknowledge that it is possible that one or more of the law firms engaged by the Steering Committee may presently, or may in the future, be engaged in factually unrelated litigation or other representation in which the law firm is adverse to one or more of the individual members of TCACC. The members of TCACC agree that the Steering Committee chair shall have the authority subject to paragraph 4 to engage law firm(s) despite the fact that the law firm(s) may be engaged in such representation, so long as the representation involves a factually unrelated matter. The members of the TCACC further acknowledge that at least one of the law firms likely to be engaged by the Steering Committee, Lowerre & Frederick, presently represents Environmental Defense in closely related power plant litigation (i.e., the appeal of the Sandy Creek Energy Associates permit) and is a frequent consultant or counsel for environmental organizations and local governments in opposition to

5-10

power plant draft permits. The members of the TCACC agree that the Steering Committee chair subject to paragraph 4, nonetheless and subject to such contractual conflicts-of-interest safeguards as the Steering Committee deems adequate, may engage Lowerre & Frederick on behalf of the TCACC. Further, the Steering Committee chair may in the chair's discretion, subject to paragraph 4, engage additional law firms to represent TCACC where the law firm is or may become engaged in matters factually related to matters for which such firms are to represent TCACC, so long as such firms are not representing clients whose interests or positions are directly adverse to those of TCACC in specific matters in which such firms represent TCACC.

17.

Dissolution

TCACC may be dissolved in the same manner as any other unincorporated association may be dissolved under the laws of the State of Texas or by the vote of more than two-thirds of its full members. After dissolution, the officers and Steering Committee members retain the power to wind up the affairs of TCACC. If there remain any funds after payment of TCACC's lawful obligations, the surplus shall be refunded to members of all classes in direct proportion to their respective aggregate payments to TCACC from on and after the date hereof.

EXECUTED this the _____ day of _____, 2006, by City, signing by and through its City Manager, duly authorized to execute same, and approved as to form by its City Attorney, acting through its duly authorized official.

APPROVED AS TO FORM:
DIANE WETHERBEE
City Attorney

BY _____
City Attorney

CITY OF PLANO
THOMAS H. MUEHLENBECK
City Manager

BY _____
City Manager

5-11

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

MEMORANDUM *Health Department*

DATE: October 5, 2006

TO: Tom Muehlenbeck, City Manager
Bruce Glasscock, Executive Director of Public Safety Services & Technology

FROM: Brian Collins
Director of Health

SUBJECT: City of Plano Smoke-Free Ordinance

History

The City of Plano passed its first ordinance regulating smoking in public places in July 1986. Ordinance 86-7-22 required that if a public place was to allow smoking, a designated smoking area must be established using signage and the smoking area had to be physically separated by distance or barrier, from the nonsmoking area.

In July 1993, Dr. Robert (Bob) Terrill submitted a letter to City Council requesting bolster of Ordinance 86-7-22 to reflect new science regarding the dangers of environmental tobacco smoke (ETS). In August 1993, Council directed staff to research and collect data for consideration of a new ordinance. Staff convened a "Smoking Ordinance Advisory Committee" in September 1993 to review findings and provide recommendations to the City Council. Additionally, a survey of 500 businesses that employed more than 50 people, including restaurants, was conducted in order to solicit input regarding a stronger ordinance. The city received fifteen responses---fourteen in favor of the ordinance change and one opposed.

February 1994 saw the Texas Attorney General's Office file a lawsuit to prohibit smoking in certain fast food restaurants citing danger to children's health as its tenet. This provided the committee further impetus in providing Council a stringent ordinance.

By March 1994, staff provided two draft ordinances to the committee for consideration. Draft #1 prohibited smoking in all public places including restaurants, retail areas, offices and the workplace. Draft #2 removed the private office and workplace language from consideration. In

May 1994, the committee and staff convened a public hearing in the City Council Chambers. Approximately seventy people attended with highly polarized views. Council was apprised of the meeting's outcome and asked that the draft ordinances be submitted on a Council agenda for deliberation with two changes, 1) that draft #1 is submitted with language providing a phased-in effective date (this becomes draft #3) and, 2) that draft #1 be submitted with an immediate effective date (this becomes draft #4). After debate and more public input, drafts 3 and 4 were amended to exclude businesses and the workplace if they were not generally open to, or accessible by the public e.g., corporate offices, bank offices, etc.

November 14, 1994, Ordinance 94-11-22 (draft #3) passed with a five: two Council vote. The ordinance allowed a ninety-day period prior to the effective of February 17, 1995. On November 28, 1995, Council added Ordinance 94-11-33 that provided an exception for "private clubs" not considered open-to, or customarily used-by, the general public. This was an exception that provided for clubs such as the Veterans of Foreign Wars (VFW) rather than for private clubs designated by the Texas Alcoholic Beverage Commission (TABC). Shortly after these ordinances were passed, the Smoking Ordinance Advisory Committee was disbanded.

On February 17, 1995, the date Ordinances 94-11-22 and 94-11-33 were to become effective, a Temporary Restraining Order (TRO) was filed in Austin on behalf of the VFW and East Plano Bingo. The TRO prevented Plano from enforcing the ordinance until there was a hearing in District Court. City staff and legal representation went to Austin and testified in District Court. May 2, 1995, the TRO was lifted and ordinance enforcement began June 5, 1995. On June 26, 1995, East Plano Bingo, Jack Astor's and Gameday Sports Bar challenged City Council to rethink the ordinances and with a five: three vote, Council affirmed their commitment to enforcement of the smoking ordinance.

July 10, 1995, Slider n' Blues, Holiday Inn, Bavarian Grill, Jack Astor's, et. al., filed suit at the county level to again prevent Plano from enforcing the ordinances. Judge Sue Holland presided in a hearing July 14, 1995 and ordered both parties to mediation. As a result of mediation, Ordinance 95-8-42 was adopted by City Council August 28, 1995. This ordinance prohibits smoking in all indoor, enclosed areas unless accommodation for smokers was provided in areas that were properly designated, engineered to filter or exhaust smoke and were subject to compliance inspection. The three ordinances (94-11-22, 94-11-33 and 95-8-42) are adjunct to each other. Violation of ordinance is a Class C Misdemeanor with penalties up to $2000 per violation. Businesses would be required to have approval for smoking from the Health Department and failure to properly post signage would result in a $500 fine and smoking-in-a-public-place would result in a $1000 fine.

Where Are We Now?

There are currently 75 establishments in Plano that have approved air filtration or HVAC systems. An Environmental Health Specialist inspects each establishment for compliance at least two times per year. There are 1225 permitted food establishments in the city of which an estimated 250 are full service restaurants. The number of smoking-approved establishments has been relatively static the last six years (2001-70, 2002-71, 2003-71, 2004-75, 2005-78).

6-2

Smoking complaint data show that complaints declined from 2001 (23), 2002 (14), 2003 (11), and peaked in 2004 with 23. In 2006, 16 complaints have been recorded to date. Site visits for equipment consultations and compliance visits usually number less than 50 per year. This is in addition to the 160+ routine inspections/year. The majority of smoking-in-public-places complaints are received in descending order on restaurants, offices, retail stores, tobacco stores and apartments. An interesting note is that each restaurant for which a complaint has been received also has an approved system. This suggests maintenance (changing filters), incapacity (inability of system to filter smoke load) or complacency (failure to turn the system on) as culprit in these complaints. Remaining complaints are usually generated by those unaware of the ordinance. Environmental Health Specialists use approximately 200 hours/year conducting inspections, responding to complaints and providing consultations on equipment and engineering. The program generates approximately $4,000 in permit fees.

The Question

The United States Department of Health and Human Services Office of the Surgeon General issued a comprehensive scientific report July 27, 2006 which concludes that there is no risk-free level of exposure to secondhand smoke. This finding is of major public health concern due to the fact that nearly half of all nonsmoking Americans are regularly exposed to secondhand smoke (The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General, USDHHS, June 27, 2006).

Surgeon General Richard H. Carmona is quoted as stating "The good news is that, unlike some public health hazards, secondhand smoke exposure is easily prevented. Smoke-free indoor environments are proven, simple approaches that prevent exposure and harm." The report finds that even the most sophisticated ventilation systems (like those allowed by Plano ordinance) cannot completely eliminate secondhand smoke exposure and that only smoke-free environments afford full protection.

In your email of June 28, 2006 you asked that in light of this Surgeon General's Report, that I provide an opinion on this potential impact this could have on our restaurant/bar requirements and if I feel from a professional perspective a reconsideration of the City's current ordinance should occur.

Restaurant/Bar Impact

It is apparent from the Surgeon General's Report that separating smokers from nonsmokers, cleaning the air and ventilating buildings cannot eliminate exposures of nonsmokers to secondhand smoke. It is also clear from the report that eliminating smoking in indoor spaces fully protects nonsmokers from exposure to secondhand smoke. (The Health Consequences of Involuntary Exposure to Tobacco Smoke; A Report of the Surgeon General, USDHHS, Public Health Service, Rockville, MD., July 2006, Chapter 3).

This position suggests the current City of Plano Ordinance which allows engineered smoking areas in restaurants and bars is antique. There are currently 75 (72 restaurants and 3 retail stores), establishments permitted to allow smoking in the City of Plano. Estimated cost to install a

compliant smoking filtration system is approximately $4,000 per unit with maintenance of $1200 per year. Although most establishments have only one or two units, one Plano establishment, East Plano Bingo, has more than fifteen! A majority of the systems, 61% (46 of 75), were installed and permitted more than five (5) years ago. Numerous studies conducted to determine fiscal/economic impact to restaurants and bars suggest no loss of revenue related to imposing smoke-free ordinances in major cities. ("El Paso smoking ban has no effect on bar, restaurant revenue," Texas Department of Health, February 27, 2004 and "Economic Impact of Smoke-Free Ordinances," Wyoming Survey and Analysis Center, Issues Brief #2004-15, p. 1-5). Although impact to establishments that have designed and installed smoke reduction systems may be significant, current science indicates that protection of nonsmokers, including employees, should take legal and public health precedence over engineered systems that do not and cannot provide a risk-free environment. Expected impact upon the three retail tobacco shops in Plano is expected to be moderate as each have outdoor smoking areas available.

Recommendation

The July 2006 Surgeon General's report "The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General" provides or contains a number of poignant conclusions. Among them:

- Secondhand smoke is estimated by the National Toxicology Program to contain at least 250 chemicals known to be toxic or carcinogenic.
- Cigarette smoke contains more than 4,000 chemical compounds and due to lower temperatures in sidestream smoke, secondhand smoke contains higher concentrations of toxins than those found in mainstream cigarette smoke.
- Secondhand smoke is estimated to be responsible for more than 3,000 deaths per year in the U.S.
- Many millions of adults and children continue to be exposed involuntarily to secondhand smoke.
- A smoke-free environment is the only way to fully protect nonsmokers from the dangers of secondhand smoke. Separating smokers from nonsmokers, cleaning the air and ventilating buildings cannot eliminate exposure of nonsmokers to secondhand smoke.
- There is no risk-free level of exposure to secondhand smoke: even small amounts to secondhand smoke exposure can be harmful to people's health. (Surgeon General's Report.)

With new science and these issues currently at the forefront of community and public health policy, I strongly recommend the City of Plano consider strengthening current smoking related ordinances to eliminate accommodation in enclosed public places, in schools and in the workplace. Strong ordinances exist throughout the country and in Texas (El Paso). These ordinances have been legally and economically tested.

Looking Forward

I recommend the City of Plano consider a smoke-free ordinance similar to El Paso's. I recommend using the El Paso ordinance as a model, that a Smoking Ordinance Advisory

6-4

Committee be established to consider specifics and provide stakeholder recommendations to staff. Upon receiving input from the Advisory Committee, I recommend that staff provide an ordinance with implementation options to management and/or City Council for review and approval. I recommend a process time of six months.

Conclusion

City of Plano ordinances regulating smoking in certain public places and allowing accommodation for smoking using engineered systems should be updated.

Based upon the 2006 Surgeon General's Report, 100 percent smoke-free indoor enclosed environments for nonsmokers should be the expectation by citizens, employers, employees, students and anyone living or working in Plano. The City of El Paso Public and Workplace Smoking Restrictions appears to serve as a model for emulation and is applicable to the City of Plano.

Finally, Legal has advised that there are no restrictions remnant from the 1996 court ordered mediation.

Attachments: City of Plano Smoking Ordinance
City of El Paso Public and Workplace Smoking Restrictions

6-5

(b) It is a defense to prosecution under section 14-47(c) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.
(Ord. No. 94-11-11, § II, 11-14-94)

Sec. 14-49. Enforcement.

Before taking any enforcement action under this article, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in section 14-48 is present.
(Ord. No. 94-11-11, § II, 11-14-94)

Sec. 14-50. Penalty.

(a) Any person violating this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 1-4.

(b) When required by section 51.08 of the Texas Family Code, as amended, the municipal court shall waive original jurisdiction over a minor who violates section 14-47(a) and shall refer the minor to juvenile court.
(Ord. No. 94-11-11, § II, 11-14-94)

Secs. 14-51—14-65. Reserved.

ARTICLE IV. SMOKING*

Sec. 14-66. Definitions.

In this article:

Air barrier system shall mean a system that creates an air curtain to prevent drift or penetration of tobacco smoke from a smoking area to a nonsmoking area not allowing drift or penetration from the ceiling down to twenty-four (24) inches above the floor.

Air purification system shall mean an electrically powered hospital grade, hepa media filter that will clean all of the air in the designated smoking area every fifteen (15) minutes as follows: Not less than ninety-five (95) percent of three-tenths (0.3) micron particulates efficiency including dust, smoke, pollen, mold spores, bacteria, tobacco smoke, viruses and allergens and not less than ninety-five (95) percent removal of gases, vapors, volatile organic compounds (V.O.C.) and odors.

Designated smoking area shall mean an area which shall not exceed fifty (50) percent of the net floor area and is equipped with an air purification system or a separate ventilation system and having a physical barrier or air barrier system between it and the nonsmoking area.

Director of health means the director of the department designated by the city manager to enforce and administer this article or the director's designated representative.

Food products establishment means any restaurant, coffee shop, cafeteria, luncheonette, tavern, cocktail lounge, sandwich stand, soda fountain, private and public school cafeteria or eating establishment, and any other eating establishment, organization, club, boardinghouse, or guesthouse, which gives or offers for sale food to the public, guests, patrons or employees as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities. Other food product establishments include grocery stores and food markets, not including those outdoors.

Net floor area shall mean the floor area of the interior of the establishment normally utilized and accessible by patrons and/or the general public, and as determined by the city building official pursuant to the city building code.

Physical barrier shall mean a barrier that will form an effective membrane continuous from outside wall to outside wall, from a smoke barrier to a smoke barrier, from floor to floor or roof above, or a combination thereof, including continuity

*Editor's note—Section I of Ord. No. 94-11-22, adopted Nov. 14, 1994, amended this article to read as herein set out. Formerly, this article consisted of §§ 14-66—14-70, which pertained to smoking and derived from § I of Ord. No. 86-7-22, adopted July 28, 1986.

6-6

through all concealed spaces, such as above suspended ceilings, interstitial structural and mechanical spaces. Transfer grilles, louvers and similar openings shall not be used in these partitions. Self closing, tightfitting doors are permitted in such barriers.

Private club means any building, premise or portion thereof which is permitted by the state and allowed by special use permit by the city as a private club for the storing, possession and dispensing for on-premises consumption of alcoholic beverages.

"Private club" does not include a premise operated by an organization which is not available to and not customarily used by the general public and entry and privileges thereto are established by regulations of that organization distinct from a Texas Alcohol and Beverage private club membership.

Public area means any enclosed, indoor area that is open to or is used by the general public and includes but is not limited to: Retail stores, grocery stores, offices, professional, commercial or financial establishments, restaurants, public and private institutions of education, health care facilities, nursing and convalescent homes, residential treatment facilities, and buildings owned or occupied by political subdivisions.

Retail and service establishment means any establishment which sells goods or services to the general public.

Retail tobacco store means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products are merely incidental.

Service line means an indoor line or area where persons await service of any kinds, regardless of whether or not such service involves exchange of money. Such service shall include, but is not limited to, sales, giving of information, directions or advice, and transfers of money or goods.

Smoke or smoking means and includes the carrying or holding of a pipe, cigar or cigarette of any kind which is burning, or the igniting of a pipe, cigar or cigarette of any kind which is burning.

Ventilation system shall mean a HVAC system designed by a licensed professional engineer to meet the requirements of section 14-72, paragraph (7), and meeting all the other requirements of the city mechanical code.
(Ord. No. 94-11-22, § I, 11-14-94; Ord. No. 94-11-33, § I, 11-28-94; 95-8-42, § I, 8-28-95)

Sec. 14-66.1. No commingling of air; testing requirements.

It is the intent of this article to define distinct and separate areas for smoking and nonsmoking use to assure a smoke-free atmosphere in nonsmoking areas and prohibit the commingling of air between such areas. All air purification systems, air barrier systems, and air ventilation systems shall be tested and such test shall be observed by the city at the time of installation and at least every six (6) months thereafter to insure compliance with this article.
(Ord. No. 95-8-42, § II, 8-28-95)

Sec. 14-67. Smoking prohibited in certain public areas.

(a) A person commits an offense if he smokes or possesses a burning tobacco, weed or other plant product in any of the following indoor or enclosed areas:

(1) A public or private preschool, primary or secondary school; or

(2) Elevators, museums, libraries, galleries, public transportation facilities open to the public and service lines of establishments doing business with the general public; or

(3) Hearing rooms, conference rooms, meeting rooms or any public service area of any facility owned, operated or managed by the City of Plano in which public business is conducted, when the public business requires or provides an opportunity for direct participation or observation by the general public; or

(4) Any building which is used for or designated for the purpose of exhibiting any motion picture, stage drama, lecture, musical recital, athletic event, or any other event whenever open to the public, except

6-7

smoking which is a part of a stage performance, including all restrooms and any area commonly referred to as a lobby; or

(5) Any retail or service establishment serving the general public, including but not limited to, any food products establishment, department store, restaurant, grocery store, private club, bingo parlor, bowling center, drug store, shopping mall, hair styling salons, including service lines; or

(6) All restrooms open for public use; or

(7) All areas in a laundromat open to and available to use by the public; or

(8) Within all areas available to and customarily used by the general public in all businesses and nonprofit entities patronized by the public, including, but not limited to commercial, financial and professional offices including banks, hotels and motels; or

(9) Within ten (10) linear feet of any entrance of any facility where smoking is prohibited.

(b) Notwithstanding any other provision of this section, any owner, operator, manager, or other person who controls any establishment or facility described in this section may declare that entire establishment or facility as a nonsmoking establishment.

(c) It shall be a defense to prosecution under this section that the public place in which the offense takes place does not have prominently displayed a conspicuous notice(s) that smoking is prohibited and that an offense is punishable by a fine not to exceed two thousand dollars ($2,000.00).
(Ord. No. 94-11-22, § I, 11-14-94; Ord. No. 94-11-33, § I, 11-28-94)

Sec. 14-68. Hospitals, health care facilities.

A person commits an offense if he smokes or possesses a burning tobacco, weed or other plant product in any public area of a health care facility or hospital, including, but not limited to clinics, physical therapy facilities, doctor's offices, nursing and convalescent homes, residential treatment centers/homes, and dentists offices. In bed space areas of health facilities, smoking shall be prohibited unless all patients within the room are smokers and such smoking is ordered on the health care facility's admission form by an attending physician, in keeping with the guidelines established by the facility. Separate ventilation exhaust may be required by the director of health to accommodate such orders.
(Ord. No. 94-11-22, § I, 11-14-94)

Sec. 14-69. Posting of signs.

The owner or person in charge of a facility in which smoking is regulated shall post signs which designate smoking or no smoking areas established by this article. The manner of such posting shall be at the discretion of the owner, operator manager or other person having control of such room, building or other place so long as the signs are conspicuous and state that smoking is prohibited and that an offense is punishable by fine not to exceed two thousand dollars ($2,000.00).
(Ord. No. 94-11-22, § I, 11-14-94)

Sec. 14-70. Compliance.

(a) The building official of the city shall provide each applicant for a certificate of occupancy with a copy of this article.

(b) The owner, operator or manager of any facility, business or agency within the purview of this article shall comply with the provisions of this article.

(c) The director of health or his designee may enforce sections 14-67 through 14-70 of this article by any of the following actions:

(1) Serving notice requiring the correction of any violation of that section; or

(2) Requesting the city attorney to maintain an action for injunction to enforce the provisions of section 14-68 of this article, to cause the correction of any such violation, and for assessment and recovery of a civil penalty of such violation, including attorney's fees; or

(3) Issuance of a municipal court citation.

6-8

The remedies contained herein are cumulative of and in addition to any other remedies that are available at law or in equity.

(d) In undertaking the enforcement of this article, the city is assuming an undertaking only to promote the general welfare of its citizens. It is not assuming any duty or obligation, nor is it imposing any duty or obligation on its officers and employees, nor is it liable in money damages or otherwise to any person who claims that (1) the city or one (1) of its officers or employees breached any such obligation, and (2) the breach proximately caused injury.
(Ord. No. 94-11-22, § I, 11-14-94; Ord. No. 94-11-33, § I, 11-28-94)

Sec. 14-71. Penalty.

Any person, firm or corporation who violates any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof in the municipal court, shall be subject to a fine of not more than two thousand dollars ($2,000.00) for each offense.
(Ord. No. 94-11-22, § I, 11-14-94)

Sec. 14-72. Where smoking is not prohibited.

Notwithstanding any other provision of this article to the contrary, smoking is not prohibited in the following areas:

(1) Private residences, except when used as a licensed child care or health care facility; or

(2) Hotel and motel rooms rented to guests; or

(3) Retail tobacco stores that have an enclosed, separately ventilated smoking room that exhausts directly to the outside environment; or

(4) Any area exterior to the building in which the establishment or facility is located, except as otherwise regulated under section 14-67(9); or

(5) Any enclosed rooms in an establishment or facility which are being used entirely for private parties, events or other social functions; or

(6) Enclosed areas of an employer that are not available to or customarily used by the general public.

(7) In the designated smoking areas of any food products, retail or service establishment serving the general public which has provided a designated smoking area equipped with a functional air purification system or functional separate ventilation system. Such systems shall have a negative pressure on the area designated for smoking to prevent air from a smoking area to be drawn across or into the nonsmoking area. All ventilation systems shall provide a total air exchange every fifteen (15) minutes and shall exhaust that air to the exterior of the building. A sign must be posted on the premises in a conspicuous place to advise the public that smoking is permitted in the designated smoking area. Designated smoking areas shall not include restrooms, service lines, public telephone areas, and other areas commonly used by all patrons, including access thereto (called "common areas") in new establishments making application for a building permit for new construction after the effective date of this ordinance [No. 95-8-42.] Establishments existing or with building permits pending on the effective date of this ordinance [No. 95-8-42] shall comply with these common areas requirements to the extent structurally feasible as is reasonably determined by the proprietor of the establishment.

(Ord. No. 94-11-22, § I, 11-14-94; Ord. No. 95-8-42, § III, 8-28-95)

Sec. 14-73. Possession or purchase of tobacco products by a minor.

(a) *Definitions.* As used in this section, the following words and phrases shall have the following meanings:

Minor means a person younger than eighteen (18) years of age.

6-9

Possession means actual care, custody, control or management.

Tobacco product means:

(1) A cigarette;

(2) A cigar;

(3) Smoking tobacco, including granulated, plug-cut, crimp-cut, ready rubbed and any form of tobacco suitable for smoking in a pipe or as a cigarette;

(4) Chewing tobacco, including plug, scrap, and any kind of tobacco suitable for chewing;

(5) Snuff or other preparations of pulverized tobacco; or

(6) Any other article or product that is made of tobacco.

(b) *Prohibition of possession of a tobacco product by a minor.* A minor commits an offense if the minor possesses a tobacco product, and the minor was not:

(1) In the course and scope of the minor's employment by a person or entity holding a permit issued by the state authorizing the person to engage in the business of being a distributor, wholesaler, bonded agent or retailer of tobacco products; or

(2) In the presence of an adult parent, guardian, spouse or other adult to whom the minor had been committed by a court.

(c) *Purchase of a tobacco product by a minor utilizing false information.* A minor commits an offense if, in order to acquire a tobacco product, the minor states to any person engaged in the business of selling tobacco products that such minor is eighteen (18) years of age or older, or presents to any such person a document or writing that purports to establish that such minor is eighteen (18) years of age or older.
(Ord. No. 97-5-14, § I, 5-19-97)

Sec. 14-74. Tobacco product vending machines.

After June 23, 1997, it shall be unlawful for any business owner, manager, or employee in control of the premises where a tobacco product vending machine is located to have the tobacco product vending machine located in an area accessible to minors.
(Ord. No. 97-5-14, § I, 5-19-97)

Secs. 14-75—14-84. Reserved.

ARTICLE V. NOISE*

The purpose of this article is to prevent any loud, disturbing and unnecessary noise which is reasonably calculated to disturb the ordinary sensibilities of a reasonable and prudent person unless otherwise further restricted by this article.
(Ord. No. 99-12-12, § I, 12-13-99)

Sec. 14-85. Making of noise detrimental to life or health prohibited.

It shall be unlawful for any person to knowingly make or allow noise of such character, intensity and duration that is detrimental to the life or health of any individual in the city.
(Ord. No. 99-12-12, § I, 12-13-99)

Sec. 14-86. Noise interfering with enjoyment of property or public peace and comfort.

It shall be unlawful for any person to knowingly make, cause to be made or allow any loud, disturbing and unnecessary noise in the city which is offensive to the sensibilities of a reasonable and prudent person, so that it renders the enjoyment of life or property uncomfortable, or interferes with the public peace and comfort.
(Ord. No. 99-12-12, § I, 12-13-99)

Sec. 14-87. Acts creating unlawful noises.

The following acts are declared to create loud, disturbing and unnecessary noises, and a person commits an offense if they knowingly perform or allow the following:

(1) *Animals:* Owning, keeping, possessing or harboring any animal or animals which,

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***Editor's note**—Ord. No. 99-12-12, § I, adopted Dec. 13, 1999, repealed former Art. V of this chapter and added new provisions as Art. V to read as herein set out. Former Art. V, §§ 14-85—14-91, pertained to similar subject matter and derived from Ord. No. 87-4-26, § 1, adopted April 27, 1987.

Cross reference—Animal noise, § 4-22.

6-10

Title 9 HEALTH AND SAFETY

Chapter 9.50 PUBLIC AND WORKPLACE SMOKING RESTRICTIONS*

*Note to Chapter 9.50

Article I. General Provisions

9.50.010 Purpose.

9.50.020 Definitions.

Article II. Prohibition of Smoking

9.50.030 Probation of smoking in public places.

9.50.040 Prohibition of smoking in places of employment.

9.50.050 Additional declaration of nonsmoking establishment.

9.50.070 Application of article to city-owned facilities.

Article III. Where Smoking Is Not Regulated

9.50.080 Private and public places.

Article IV. Signs

9.50.090 Posting of signs.

Article V. Public Health Education

9.50.100 City-county health and environmental district program.

Article VI. Enforcement, Violations and Penalties

9.50.110 Enforcement.

9.50.120 Nonretaliation.

9.50.130 Violations and penalties.

9.50.140 Other applicable laws.

9.50.150 Severability.

9.50.160 Effective date.

*Note to Chapter 9.50

* Prior ordinance history: Ord. 8869, 10787 and 13152 § 53.

6-11

Article I. General Provisions

9.50.010 Purpose.

The purpose of this chapter is to (1) improve and protect the public's health by eliminating smoking in public places and places of employment; (2) guarantee the right of nonsmokers to breathe smoke-free air; and, (3) recognize that the need to breathe smoke-free air shall have priority over the choice to smoke. (Ord. 14878 § 1 (part), 2001)

9.50.020 Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

"Bar" means an area which is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages. A "bar" includes those facilities located within a hotel, motel or other similar transient occupancy establishment.

"Business" means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.

"Employee" means any person who is employed by any employer in consideration for direct or indirect monetary wages or profit, and any persons who volunteers his or her services for a nonprofit entity.

"Employer" means any person, partnership, corporation, including a municipal corporation, or nonprofit entity, which employs the services of one or more individual persons.

"Enclosed area" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passage ways) which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, "office landscaping" or similar structures.

"Food establishment" means food product or food service establishments.

"Place of employment" means any enclosed area under the control of public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference and classrooms, employee cafeterias and hallways. A private residence is not a "place of employment" unless it is used as a child care, adult day care or health care facility.

"Private place" means any enclosed area to which the public is not invited or in which the public is not permitted, including but not limited to, personal residences; private social clubs or personal automobiles. A privately-owned business, open to the public, is not a "private place."

"Public place" means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks; educational facilities; health facilities; laundromats; public transportation facilities; reception areas; production and marketing establishments; retail service establishments; retail stores; theaters and waiting rooms. A private residence is not a "public place."

"Retail tobacco store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

"Service line" means any indoor line at which one or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

"Smoking" means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe, weed, plant or combustible substance in any manner or in any form.

"Sports arena" means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general

6-12

public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events. (Ord. 14878 § 1 (part), 2001)

Article II. Prohibition of Smoking

9.50.030 Probation of smoking in public places.

A. Smoking shall be prohibited in all enclosed public places within the city, including, but not limited to, the following places:

1. Elevators;

2. Restrooms, lobbies, reception areas, hallways and any other common-use areas;

3. Buses, bus terminals, taxicabs, train stations, airports and other facilities and means of public transit under the authority of the city, as well as ticket, boarding, and waiting areas of public transit depots;

4. Service lines;

5. Retail stores;

6. All areas available to and customarily used by the general public in all businesses and nonprofit entities patronized by the public, including but not limited to, attorneys' offices and other offices, banks, laundromats, hotels and motels;

7. Food establishments, nightclubs and bars;

8. Galleries, libraries, museums and zoo facilities and grounds;

9. Any facility which is primarily used for exhibiting any motion picture, stage, drama, lecture, musical recital or other similar performance, except that performers may smoke when the smoking is part of a stage production;

10. Sports arenas and convention halls, including bowling facilities;

11. Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including joint committees, or agencies of the city or any political subdivision of the state during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the city;

12. Waiting rooms, hallways, wards and semiprivate rooms of health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices, and dentists' offices;

13. Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities;

14. Polling places;

15. Bingo games. (Ord. 14878 § 1 (part), 2001)

9.50.040 Prohibition of smoking in places of employment.

A. It shall be the responsibility of employers to provide a smoke-free workplace for all employees.

B. Each employer having any enclosed place of employment located within the city shall adopt, implement, make known and maintain a written smoking policy, which shall contain the following requirements.

Smoking shall be prohibited in all enclosed facilities within a place of employment without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.

C. The smoking policy shall be communicated to all employees within four weeks of its adoption.

D. All employers shall supply a written copy of the smoking policy upon request to any existing or prospective employee. (Ord. 14878 § 1 (part), 2001)

6-13

9.50.050 Additional declaration of nonsmoking establishment.

Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls any establishment described in this section may declare that entire establishment as a nonsmoking establishment. (Ord. 14878 § 1 (part), 2001)

9.50.070 Application of article to city-owned facilities.

All enclosed facilities owned by the city shall be nonsmoking at all times notwithstanding other provisions of this chapter. (Ord. 14878 § 1 (part), 2001)

Article III. Where Smoking Is Not Regulated

9.50.080 Private and public places.

A. Notwithstanding any other provision of this chapter to the contrary, the following areas shall not be subject to the smoking restrictions of this chapter:

1. Private residences, except when used as a child care, adult day care or health care facility;

2. No more than twenty-five percent of hotel and motel rooms rented to guests;

3. Retail tobacco stores in stand alone physical facilities;

4. Restaurants, hotel and motel conference or meeting rooms and public and private assembly rooms while places are being used for private functions except while contracted food or beverage service functions are taking place (including set-up, service and cleanup activities or when the room is used for exhibit activities);

5. Outdoor places of employment except those covered in Section 9.50.050. (Ord. 14878 § 1 (part), 2001)

Article IV. Signs

9.50.090 Posting of signs.

A. The owner, manager or other person having control of such building or other area where smoking is prohibited by this chapter shall have a conspicuously posted sign clearly stating that smoking is prohibited at each entrance and within the building or other areas where smoking is prohibited.

B. Such "No Smoking" signs shall have bold lettering of not less than one inch in height. The international "No Smoking" symbol may also be used (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with red bar across it).

C. All ashtrays and other smoking paraphernalia shall be limited in facilities to that required for the enforcement of extinguishing of smoking materials in public places. (Ord. 14878 § 1 (part), 2001)

Article V. Public Health Education

9.50.100 City-county health and environmental district program.

6-14

The city-county health and environmental district shall promote the purposes and requirements of this chapter to the public affected by it, and to guide owners, operators and managers in their compliance with it. Such promotion may include publication of a brochure for affected businesses and individuals explaining the provisions of this chapter. (Ord. 14878 § 1 (part), 2001)

Article VI. Enforcement, Violations and Penalties

9.50.110 Enforcement.

A. Enforcement of this chapter shall be implemented by the El Paso city-county health and environmental district, building services, fire and law enforcement agencies.

B. Notice of the provisions set forth in this chapter shall be given to all applicants for a business license in the city.

C. Any person may register a complaint under this chapter to initiate enforcement with the El Paso city-county health and environmental district.

D. The health district, building services or the fire department shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance of this chapter.

E. Any owner, manager, operator or employee of any establishment regulated by this chapter shall be responsible for informing persons violating this chapter of the provisions through appropriate signage. (Ord. 14878 § 1 (part), 2001)

F. Notwithstanding any other provision of this chapter, a private citizen may bring legal action to enforce this chapter. (Ord. 14878 § 1 (part), 2001)

9.50.120 Nonretaliation.

No person nor employee shall discharge, refuse to hire or in any manner retaliate against any employee, applicant for employment or customer because such employee, applicant or customer exercises any right to a smoke free environment afforded by this chapter. (Ord. 14878 § 1 (part), 2001)

9.50.130 Violations and penalties.

A. It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this chapter to fail to comply with all of its provisions, except for violations noted in subsection B of this section.

B. It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this chapter.

C. Any person who violates any provision of this chapter shall be guilty of an infraction, punishable by:

1. A fine not exceeding one hundred dollars for the first violation;

2. A fine not exceeding two hundred dollars for a second violation within a one year period of the first violation;

3. A fine not exceeding five hundred dollars for an additional violation within a one year period of the first violation. (Ord. 14878 § 1 (part), 2001)

9.50.140 Other applicable laws.

This chapter shall not be interpreted nor construed to permit smoking where it is otherwise restricted by other applicable laws. (Ord. 14878 § 1 (part), 2001)

6-15

9.50.150 Severability.

If any provision, clause, sentence or paragraph of this chapter or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable. (Ord. 14878 § 1 (part), 2001)

9.50.160 Effective date.

This chapter shall be effective on and after January 2, 2002. (Ord. 14878 § 1 (part), 2001)

<< previous | next >>

6-16

President
Lewis Brooks,
Prime Lending
And Plano Metro
Rotary Club

Past President
Judy Drotman
Volunteer

Board of Directors

Lisa Evans
Robin & John Florio
Volunteers
Margie Grounds
PISD
Jackie Hall
Assistance Center of Collin County
John Jaeger
Reformed Church
Dave Kearney
Volunteer
Lynn Kearney
Volunteer
Danny Modisette
PISD
David Phillips
Trueline Contracting, Inc.
Pete Puetz
Tom Thumb
Ross Robertson
Robertson, Griege & Thoele
Devonia Sheaffer,
Volunteer
Tom Seibert
Zurich Insurance & Plano Early Lions
Howard Yonce,
2TurnItOn,Inc
Jan Yonce
Community Connection

1845 Summit Ave.
#407
Plano, TX 75074

October 17, 2006

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

Dear Council Members,

The Plano Santa's, a non-profit organization has been honored to be the organizers of the Plano Christmas Parade for several years. All proceeds, toys and canned goods collected at the Parade go to support local families in need through the Plano Santa's program.
In past years, the expense of the Parade has been funded totally from private contributions and entry fees. However, with the new City Ordinance that we have been advised of and expense required to comply, our Organization needs help from the City of Plano. Without the assistance of the City, with the expense of the Police Officers and barricades, Plano Santa's will have no option, but to reduce the number of families receiving our help from approximately 600 families to less than 200 families. Each of these families receive a 30 day supply of food and gifts . I have itemized the estimated cost we have received from the City of Plano below and would appreciate the City's assistance in the amount of $7,775.00.

$3,600.00 - Rental of 210 barricades
4,175.00 – Off duty police officers overtime pay

$7,775.00 – Total

Thank you for your consideration.

Sincerely,

Howard Yonce

Howard Yonce

"Friends Helping Friends" understanding the true spirit of Christmas"

7-1

E-2

PLANO SANTAS

Is a local all-volunteer Organization chartered to bring together the resources of Civic Clubs, Businesses, Churches, Schools, Community Agencies and other interested parties to help local families in need during the Holidays.

We are exempt under Section 501C(3) of Internal Revenue Code and your gift will be tax deductible.

Last year
PLANO SANTAS
provided Christmas and 30-day supply of food for 600 families in Collin County.

Plano Santas
900 18th Street
Plano, TX 75074

Plano Santas

Friends Helping Friends

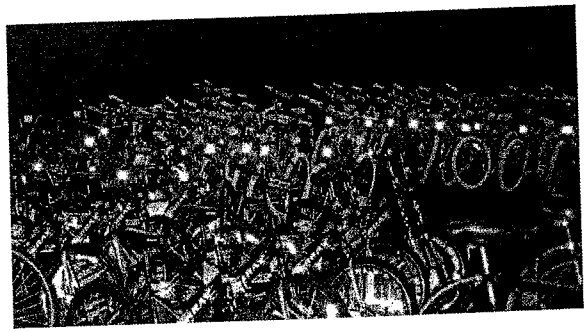
900 18th Street
Plano, TX 75074
972-422-1850

The Assistance Center of Collin County estimates that over 600 Collin County families will need assistance during the holidays this year.

The Assistance Center makes it possible for us to meet those families needs most effectively by screening and qualifying needy families, and coordinating their adoption by organizations and individual families such as you.

Thanks to the support of Plano schoolchildren, who collect tens of thousands of canned goods in their annual food drive for Plano Santas, and the generosity of many corporations and civic groups that donate toys, teddy bears and bikes, we are able to provide approximately a 30 day supply of food for these 600 families.

This allows the adopting families to concentrate their efforts on the other needs of the family, such as shoes, clothing, gloves, etc.



PLANO SANTAS can also provide an unshaven fat guy to make stops at Daycares, Company Christmas parties, neighborhood gatherings, etc., in exchange for monetary donations or teen gifts in support of this community effort.

To book a visit from "Santa" call 972-elf-hoho (353-4646).

PLANO SANTAS is a meaningful way of helping your children understand the true spirit of Christmas.

We need your family, business, Church, Sunday School Class, neighborhood party or club to help put this project together and make it work.

To volunteer your help or adopt a family, call the Assistance Center of Collin County at 972-422-1850.

A-3