

CITY COUNCIL

1520 AVENUE K

DATE: November 4, 2002

CALL TO ORDER: 5:00 p.m.

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p>The Plano City Council will convene into a Preliminary Open Meeting at 5:00 p.m. November 4, 2002, followed by the Regular Meeting and Executive Session thereafter in the Plano Municipal Building, 1520 Avenue K, in compliance with <u>Vernon's Texas Codes Annotated, Government Code Chapter 551 (Open Meetings Act)</u>, as follows:</p> <p>MISSION STATEMENT: THE PURPOSE OF PLANO CITY GOVERNMENT IS TO FACILITATE AN OUTSTANDING QUALITY OF LIFE FOR RESIDENTS AT A REASONABLE COST IN TAXES AND FEES.</p> <p>The City Council may convene into Executive Session to discuss posted items as allowed by law.</p> <p><u>PRELIMINARY OPEN MEETING</u></p> <p>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.</p> <p><u>OATHS OF OFFICE</u></p> <p><u>Keep Plano Beautiful Commission</u> Robert W. Mitchell</p> <p><u>CERTIFICATES OF APPRECIATION</u></p> <p><u>Animal Shelter Advisory Committee</u> Patricia Cole Joanna Richardson</p> <p><u>Building Standards Commission</u> Don Davis</p> <p><u>Community Relations Commission</u> LaCrisia "Cris" Gilbert</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p><u>Cultural Affairs Commission</u> Elena Rohweder Turner Pat Warren</p> <p><u>Keep Plano Beautiful Commission</u> Nam Baek Randall C. Roe Evelyn Sandberg</p> <p><u>Library Advisory Board</u> Frederic Frawley Terri Freer Mary Long</p> <p><u>Parks and Recreation Planning Board</u> Roger K. Bolin Betty Wolff</p> <p><u>Planning and Zoning Commission</u> Michael Davidoff</p> <p><u>Plano Transition and Revitalization Commission</u> Betty M. Mahan</p> <p><u>Retirement Security Plan Committee</u> Joyce Baumbach Kathy Mallar</p> <p><u>Self Sufficiency Committee</u> Pat Ehmer</p> <p><u>Senior Citizens Advisory Board</u> James Cain Agnes Kinra, M.D. Delores "Dee" Ash-Taylor</p> <p><u>Tax Increment Financing Reinvestment Zone No. 1 Board</u> Mark A. Haerr</p> <p><u>Technology Commission</u> Dong Shen George K. Wong</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
I.	Spotlight on Finance	McGrane 15 min.
II.	Presentation by Solid Waste Department re Composting Business Plan	Nevil 15 min.
III.	Report on Code Enforcement	Mower 15 min.
IV.	Council Items for discussion/action on future agendas	Council 10 min.
V.	Consent and Regular Agendas	Council 5 min.
VI.	<p>Council Committee Reports</p> <p>A. Council may receive information, discuss and provide direction on the following reports:</p> <p>B. Council may receive reports from its other members who serve as liaisons to boards, commissions, and committees</p> <p>CONSENT AGENDA</p> <p><u>Any citizen may remove an item from the Consent Agenda for individual discussion, limited to a maximum of two (2) items and discussion time of three (3) minutes each.</u></p> <p><u>Award, Rejection of Bids/Proposals, Conditional Acceptance of Lowest Responsible Bid/Proposal and Designation of Alternate Lowest Responsible Bid/Proposal when applicable on the following:</u></p> <p>(a) Bid No. B133-02 for the Municipal Center Gas-Fired Chiller Replacement in the amount of \$143,390.</p> <p><u>Adoption of Resolutions</u></p> <p>(b) To authorize the filing of a project application with the North Central Texas Council of Governments (“NCTCOG”) for a regional solid waste program local project; and pledging that if a project is approved the City of Plano will comply with the project requirements of the NCTCOG, the Texas Natural Resource Conservation Commission and the State of Texas; and providing an effective date.</p> <p>(c) To approve the terms and conditions of a real estate contract by and between the City of Plano, Texas, and Fred W. Baccus for the purchase of 3,950 square feet of land situated in the Henry B. Miller Survey, Abstract No. 614, being located at the northwest corner of Spring Creek Parkway and Dallas North Tollroad, in the City of Plano, Collin County, Texas; authorizing its execution by the City Manager; and providing an effective date.</p>	Council 5 min.

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p><u>Adoption of Ordinances</u></p> <p>(d) To repeal Division 4, Section 11-156, Itinerant Vendors on Private Property, of Chapter 11 of the City of Plano Code of Ordinances, and replacing with revised regulations, which will change the minimum number of days that a permit will issue from nine days to five days, and which will forgo the requirement of a \$100 deposit for clean up of litter and debris related to use of the private property by the itinerant vendor; and providing penalty and severability clauses, as well as an effective date.</p> <p>(e) To approve and adopt the written statement and report of the City's Engineer, showing the estimates of the total costs of all improvements, the estimate of costs to be paid by the City of Plano, the estimates of the costs per front foot proposed to be assessed against the abutting property and the real and true owners thereof, and the estimates of various other costs, for the improving of a portion of Spring Creek Parkway from approximately 370 feet east of Midway Road to the Dallas North Tollroad in the City of Plano, Collin County, Texas; and of other matters relating thereto; determining and fixing the portion of the costs and the rate thereof proposed to be assessed against and paid by abutting property, and the real and true owners thereof, and the portion of the costs proposed to be paid by the City of Plano, Texas; determining the necessity of levying an assessment against said abutting property, and the real and true owners thereof, for the part of the costs apportioned to them; ordering and setting a hearing at 7:00 o'clock p.m., on the 9th day of December, 2002, in the Council Chambers of the City Council in the Municipal Center of Plano, Texas, as to the time and place for the hearing of the real and true owners of said abutting property; directing the City Secretary of the City of Plano, Texas to give notice of said hearing as required by the laws of the State of Texas and the Charter of this City; and providing an effective date.</p> <p><u>Approval of Change Order</u></p> <p>(f) To Ed Bell Construction Company, Inc., increasing the contract by \$30,913 for Hedgoxe Road Pavement Widening and Reconstruction from Preston Road to Custer Road, Change Order No. 2 (Bid No. B019-02).</p> <p><u>Award of Contract</u></p> <p>(g) To approve and authorize for the selection of Chiang, Patel & Yerby, Inc. to provide Professional Engineering Services for an amount not to exceed \$159,767 in connection with the design of Independence Square Water Line Renovation and Fire Hydrants and authorizing the City Manager to execute all necessary documents to effectuate this contract.</p> <p><u>ITEMS FOR INDIVIDUAL CONSIDERATION:</u></p> <p>The City Council is always open to public comment, but wishes to clarify that their focus is on the singularly presented position, and not on the assemblage. Eliminating the repetition of statements enables the City Council to more effectively consider all presentations.</p> <p>In order to be fair to all persons who have items on the agenda or interest in one or more of the items, time limitations will be made. Speakers will be notified by the City Secretary when speaking time has expired.</p> <p>(1) A resolution to adopt a 2003 State Legislative Program for the City of Plano; directing the City Manager to act with regard to the City's Legislative Program; and providing an effective date.</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p><u>EXECUTIVE SESSION (CLOSED SESSION)</u></p> <p>I. Personnel Planning and Zoning Commission</p> <p>II. Real Estate: Discussion of lease agreement between the City of Plano and Ken Grantham</p> <p>III. Legal Advice: TXU Gas Distribution Rate Case (GUD 9313)</p> <p><u>PRELIMINARY OPEN MEETING</u></p> <p>I. Consideration and action resulting from executive session discussion: A. Personnel – Planning and Zoning Commission</p> <p>B. A resolution to approve the terms and conditions of a modification of lease agreement between the City of Plano and Ken Grantham; authorizing its execution by the City Manager; and providing an effective date. (Pulled and held 10-28-02)</p> <p><u>EXECUTIVE SESSION (CLOSED SESSION)</u></p> <p>I. Personnel: Evaluation of Council Appointees - Interview City Manager/City Attorney Discuss and Determine Evaluation of Appointees</p> <p><u>Municipal Center is wheelchair accessible. A sloped curb entry is available at the main entrance facing Municipal Avenue, with specially marked parking spaces nearby. Access and special parking are also available on the north side of the building. Training Room A is located on the first floor. Requests for sign interpreters or special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary at 972-941-7120.</u></p>	

Preliminary Open Meeting Item I.

Spotlight on Finance Department
Oral Presentation - McGrane

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Preliminary Open Meeting Item II.

Oral Presentation re Composting
Business Plan – Nancy Nevil

Code Enforcement Study

Prepared by the Following Departments:

Property Standards

Building Inspections

Environmental Health

Municipal Courts

Legal

Police

Fire

Internal Audit

**Plano City Council
November 4, 2002**

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History

At the September 9, 2002 meeting of the City Council, staff proposed that a committee be formed to study Plano's code enforcement efforts. This was in response to concerns expressed by citizens regarding code enforcement procedures and operational practices. The committee was comprised of members from Property Standards, Environmental Health, Building Inspections, Fire, Police, Municipal Courts, Legal and Internal Audit Departments. The committee was charged to identify codes pertaining to property maintenance, means of detecting violations, actions required by State statutes and City ordinances, discretionary actions, remedies and to provide documentation of inspection activities. The committee also obtained data from other cities for comparison of Plano's efforts. This report will provide the above information as well as supporting documents including activity reports and diagrams of critical processes.

Means of Detecting Violations

All violations are the result of routine inspections by the Property Standards Department or complaints received from citizens or City officials and staff. Complaints from citizens may be received by telephone, in person, in writing or reported through our website. Complaints may be from an identified party or anonymous. Complaints are also generated by other governmental agencies including Plano Independent School District and the U. S. Postal Service. Complaints are considered a priority and are followed up within two working days. The remainder of the violations are identified through routine inspections. In fact, the majority of violations are as a result of routine inspections. Plano is divided into ten districts with each district being assigned to a particular Property Standards Specialist. In this manner, the specialists become familiar with their areas and can more easily identify problem areas or repeat offenders. Environmental Health and Fire Departments also respond to certain complaints, however their code enforcement activities are considerably less than the Property Standards Department.

Enforcement Procedures

Once a violation has been verified, the property owner is notified and is either given the opportunity to correct the violation, issued a citation, or a work order is issued to a City contractor to have the violation corrected. If the latter option is selected, the property owner is billed for services along with an administrative fee. A diagram of this procedure can be found on attachment A of this document. The Property Standards Specialist has a certain amount of discretion in this process. The specialist is free to determine which of the above actions is appropriate considering the circumstances. Additionally, the specialist may elect to utilize a courtesy door tag, allowing the owner 24-72 hours to correct the violation prior to taking any formal action. In any case, the initial violation is documented in the Property Standards database. Staff members are also empowered to allow extensions of up to thirty days to the normal remediation period if warranted. Extensions greater than thirty days must be approved by a supervisor. Staff may also waive reimbursement fees when a violation is handled by a contractor when there are extenuating circumstances. In any case where fees are waived, a supervisory review is required.

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The average time to correct a violation varies greatly with the type of violation. Illegal garage sales are corrected the same day, while substandard structures may take as long as four months to correct. Attachment B details the time required for specific types of violations of our Code of Ordinances (CoO) and Zoning Ordinance (ZO). Violations which are marked with an (S) are those which must be handled according to State guidelines. The times indicated to handle those violations are the minimum allowed by State law.

In those cases where a citation is filed with the Municipal Court, sixty to ninety days may be added to the process while the case is heard. The fact that a citation has been issued does not mean that no further enforcement action is necessary. Where appropriate, the Property Standards Specialist will continue to achieve compliance, even though a court date may have been set. Attachment C is a diagram of the Municipal Court process. Once a citation is filed, a defendant may pay the window fine, submit motions, plead not guilty and request a trial, or as in some cases take no action at all, whereupon an arrest warrant is issued. A special docket has been created by the Municipal Court to hear cases generated by the Environmental Health, Property Standards and Building Inspections Departments. All cases must go to a pre-trial docket on the first Tuesday of the month for review. If cases are not resolved at this point, they are scheduled for trial on the third Tuesday of every month.

Training

The City of Plano requires that its Property Standards Specialists be certified as Code Enforcement Officers by the State of Texas. In addition to the Basic Certification, some specialists have voluntarily achieved the Intermediate Certification. To maintain these certifications, continuing education is required by the State of Texas in specific topics. This required training is usually obtained through the Building Professional Institute at the University of Texas at Arlington each May. All personnel involved in code enforcement duties attend training sessions to improve their professional skills and knowledge, as well as their promotion potential. Many classes are offered by the Code Enforcement Association of Texas (CEAT), the City of Plano Enterprise Center, and at the semi-annual American Association of Code Enforcement educational conferences. Many of these venues also provide networking opportunities with managers of code enforcement departments from around the country.

In addition to the formal training detailed above, regular staff meetings provide the opportunity for more informal training sessions. City-mandated safety training occurs at these meetings along with training sessions with Legal staff, Neighborhood Police Officers and Neighborhood Services personnel. Senior Property Standards Specialists work with new employees to develop a training program to meet their specific needs.

Inter-Departmental Cooperation

A formal partnership exists in the form of our Nuisance Abatement Team (Property Standards, Building Inspections, Environmental Health, Fire and Police Departments) and our Neighborhood Recovery Program (Property Standards, Building Inspections, Environmental Health, Solid Waste, Traffic Engineering, Fire and Police Departments.) The Nuisance Abatement Team works with specific properties where there have been

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repeated violations of a criminal nature which are partially attributed to the condition of that property. The team works together in a concerted effort to correct all violations of City codes, thereby cleaning up the property and making it less attractive to the criminal element. The Neighborhood Recovery Program works over a wider area, usually with residents to clean up a neighborhood. These efforts are usually contagious, in that once a project has begun to revitalize a neighborhood, the residents are more motivated to continue the effort and maintain their properties.

Informal cooperation between departments is commonplace, although not well documented. Neighborhood Police Officers stated that they were in contact with Property Standards Specialists at least weekly when asked. Property Standards Specialists routinely ride out with officers assigned to their areas so that a discussion of neighborhood problems which may impact both can occur. Staff from the Building Inspections Department routinely work with Property Standards staff when inspecting substandard properties, providing technical expertise regarding plumbing, mechanical and electrical systems. Information is regularly exchanged between Environmental Health, Property Standards and Building Inspections regarding situations where multiple departments have jurisdiction. An example of this interdepartmental cooperation occurred earlier this month when the Police Department found a house which was being used as a drug lab. After the necessary criminal evidence was gained, Environmental Health assessed the need for chemical clean up, the house was posted by Property Standards and the repairs supervised by Building Inspections. While no formal procedure was in place for this type of cooperation, the operation was virtually seamless.

One last area of cooperation which should be noted is the relationship between all departments and Legal. Each department is assigned to an Assistant City Attorney. That attorney is available to staff to assist in code interpretations, amending ordinances and providing assistance with warrants when necessary. Each department involved in code enforcement has contact with their designated attorney at least once per week.

In addition to these City departments, all code enforcement departments routinely work with the Plano Independent School District, U. S. Postal Service, Collin County Appraisal District, District Attorney's Office and Texas Department of Health.

Measuring Activities

All code enforcement activities are documented in our HTE database. Attachment D is a report which details these activities. During the last fiscal year, nearly 16,000 inspections were conducted and an additional 20,000 follow-up inspections were completed to close out the original violations. The most common violations noted were high grass and weeds, rubbish and refuse, tree limbs and branches and open storage. Attachment D also details how the various violations were handled. Most violations resulted in a violation letter being mailed, although 3,000 door hangers were used, 1,000 car stickers were applied and 350 citations were written. Documentation provided by Legal indicated that the conviction rate on citations issued was nearly 100 percent. This statistic attests to the fact that the cooperation between Legal, Municipal Courts and the enforcement departments is effective.

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Benchmarking

In the preparation of this report, several areas cities were contacted as well as similarly sized cities state-wide. The information from those who responded is included on Attachment E, along with some summary data. Although Dallas was included in the survey, please note that the summary data was calculated in two ways, with and without including the Dallas statistics. Because Dallas represented such a large sample of the data with regard to population and size of department, the averages were substantially skewed when Dallas was included. The benchmarking statistics show that Plano is slightly above average with respect to staffing levels. Plano has 4.5 code enforcement officers per 100,000 citizens compared to 3.8 officers for other similar cities. Plano was also slightly above average with regard to the number of cases with 7,134 per 100,000 citizens as compared to 6,658 for other cities. Because data regarding the time necessary to resolve cases was not reported uniformly, meaningful averages were not possible. However, when comparing the time reported by most cities to the Plano numbers, we find that Plano closes cases in about the same time as other cities, with the exception of home occupation cases.

Recommended Improvements

This brief study has shown that while our procedures are fairly efficient when compared to other code enforcement departments, there are areas which either can be improved or are already slated for improvement. Code enforcement managers need to work with the Municipal Court Judge and Prosecutors to develop a procedure for increasing fines for repeat offenders. This type of policy has been successful in other communities in stemming repeat violators. Also regarding citations, the Police Department suggested that we explore a "repair option" for tickets. Just as a motorist has the opportunity to correct a mechanical defect in lieu of paying a fine, we could issue a ticket and allow the property owner three days to correct the violation. There are no procedures in place now for this procedure, however staff will work with Municipal Courts and Legal to determine if this will work.

Internal Audit suggested looking at other software options which could be used by the public and staff to better track enforcement activities as well as reporting violations. Citizens would have the ability to view the status of their complaint online, as would code enforcement staff and management. Software packages will be reviewed for possible inclusion in future budgets

Adoption of the International Property Maintenance Code will allow for more consistency in code enforcement from city to city. We are in the process of reviewing this document which is a companion code to the International Building Code currently in effect in Plano. When staff has completed review and proposed amendments, the code will be submitted to the Council as a replacement for our own, home-grown, property code.

Next spring, when the Joint Use Facility opens, Property Standards will have a presence on the west side, which will put specialists closer to the neighborhoods which they patrol. The facility will also give persons in west Plano easier access personnel when face-to-face contact is the preferred means of communication.

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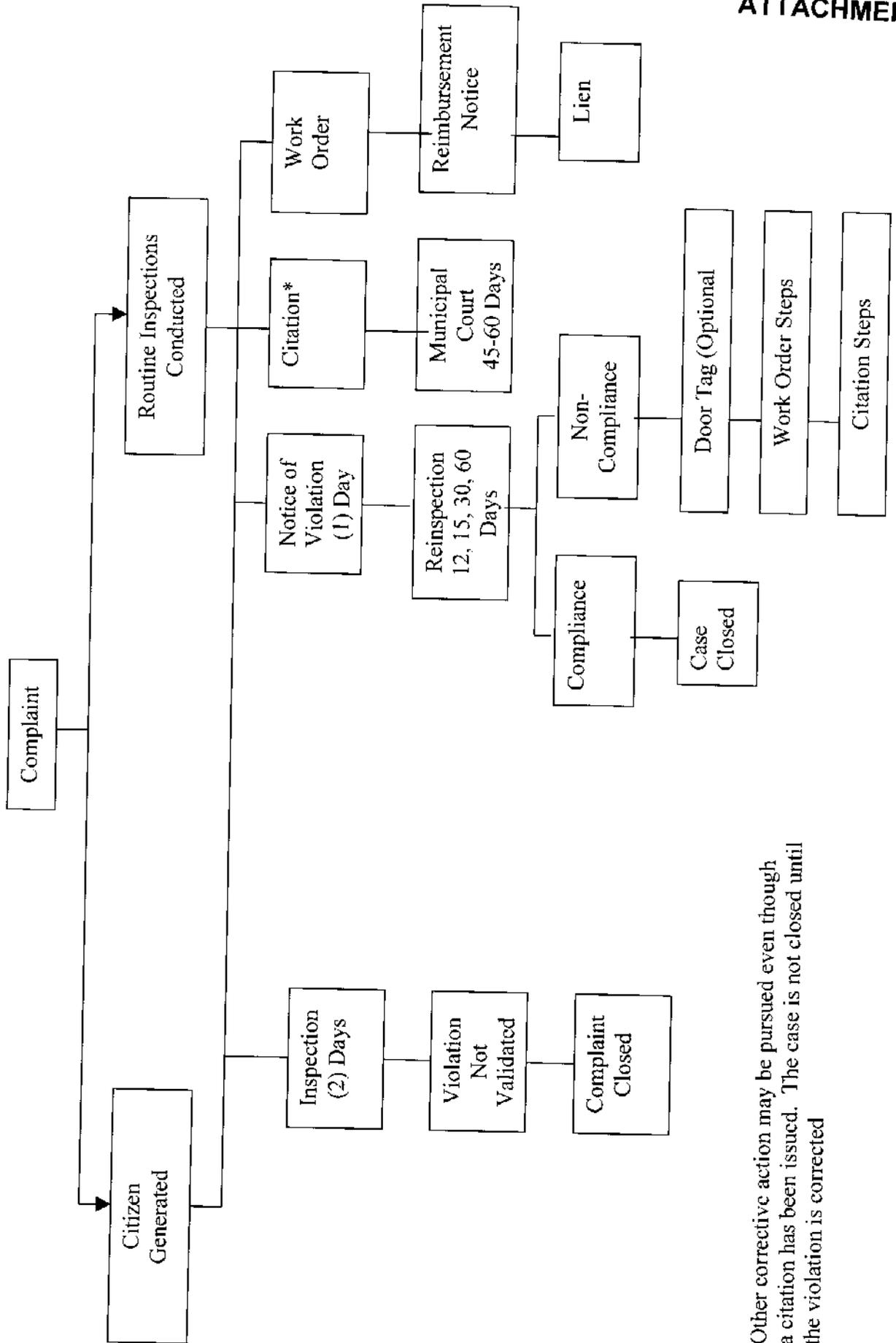
We anticipate that this legislative session will include bills which will enhance cities' abilities to interpret and enforce property codes. One bill which is expected will propose that cities be allowed to define what constitutes a junk vehicle and the time frame for removal. Property Standards staff will monitor the legislative process and take action to support bills which will enhance code enforcement efforts on the local level.

Internal Audit has offered to review code enforcement processes further, to insure that the codes are being equitably enforced and to identify areas for streamlining or improvement. The Property Standards Director will work with Internal Audit to define the scope of the study.

CONCLUSION

Participants in this study believe that Plano's code enforcement efforts are effective and exceed the averages of other Texas cities. Inter-departmental cooperation was found to be effective with no recommended improvements in this area. Likewise, training of specialists was found to be sufficient and of appropriate content. Benchmarking against other cities showed that Plano is above average in its code enforcement activities. Given the number of complaints processed and inspections completed, the number of complaints regarding service is relatively low. The committee did however recommend areas for further study as documented above. These studies will be pursued by City staff and changes will be implemented when efficiency and customer service can be enhanced, budget permitting.





*Other corrective action may be pursued even though a citation has been issued. The case is not closed until the violation is corrected

11/9

CODES	ACTIONS	# OF DAYS	MUNICIPAL COURT
<u>CoO</u> GARAGE SALES /	INITIAL INSPECTION NOTICE RE-INSPECTION CITATION	1 0 0 <u>1</u> 1	60-90 days
<u>CoO</u> PROH VEII SALES /	INITIAL INSPECTION STICKER RE-INSPECTION TOW	1 0 1 <u>0</u> 2	
<u>CoO</u> SECTION 8 /	INSPECTION RE-INSPECTION IF FAILED	1 <u>1-7</u> 2-8	
<u>CoO</u> (S) HIGH GRASS / (S) TRASH & DEBRIS /	INITIAL INSPECTION NOTICE RE-INSPECTION DOOR HANGER or CONTRACT (PRIOR HISTORY)*	2 1 12 3 4-6 <u>19-21</u>	60-90 days OPTIONAL FOR REPEAT VIOLATORS
<u>CoO</u> MV PKNG SURF / CM PKNG SURF / I.V RESIDENCE / PREMISE IDEN / PROHIBITED OBST / OVERCROWDING /	INITIAL INSPECTION NOTICE RE-INSPECTION DOOR HANGER or CONTRACT (PRIOR HISTORY)*	2 1 12 3 <u>4-6</u> <u>19-21</u>	60-90 days
<u>ZO**</u> ACCESSORY BLDG / HOME OCC / OPEN STORAGE / OUTSIDE DISPLAY / SV PKNG SURF / NON-PERMITTED USE /			
<u>CoO</u>	INITIAL INSPECTION	2	

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GRAFFITI / TREE BRANCHES /	NOTICE RE-INSPECTION DOOR HANGER or CONTRACT	1 15 3 <u>4-6</u> 20-22	
CoO (S) JUNK VEHICLE /	INITIAL INSPECTION NOTICE RE-INSPECTION DOOR HANGER ADMIN HEARING TOW	2 1 15 3 15 <u>3</u> 39	60-90 days IF UNABLE TO ACCESS TO TOW
CoO SUBSTANDARD	INITIAL INSPECTION NOTICE RE-INSPECTION BSC or COURT	1-2 1 30 30 <u>60-90</u> 62-123	60-90 days IF CONDITIONS ARE OF IMMINENT NATURE
CoO FENCE REPAIR	INSPECTION NOTICE RE-INSPECTION DOOR TAG CONTRACT	2 1 60 3 <u>3</u> 69	60-90 days IF MAJOR REPAIRS

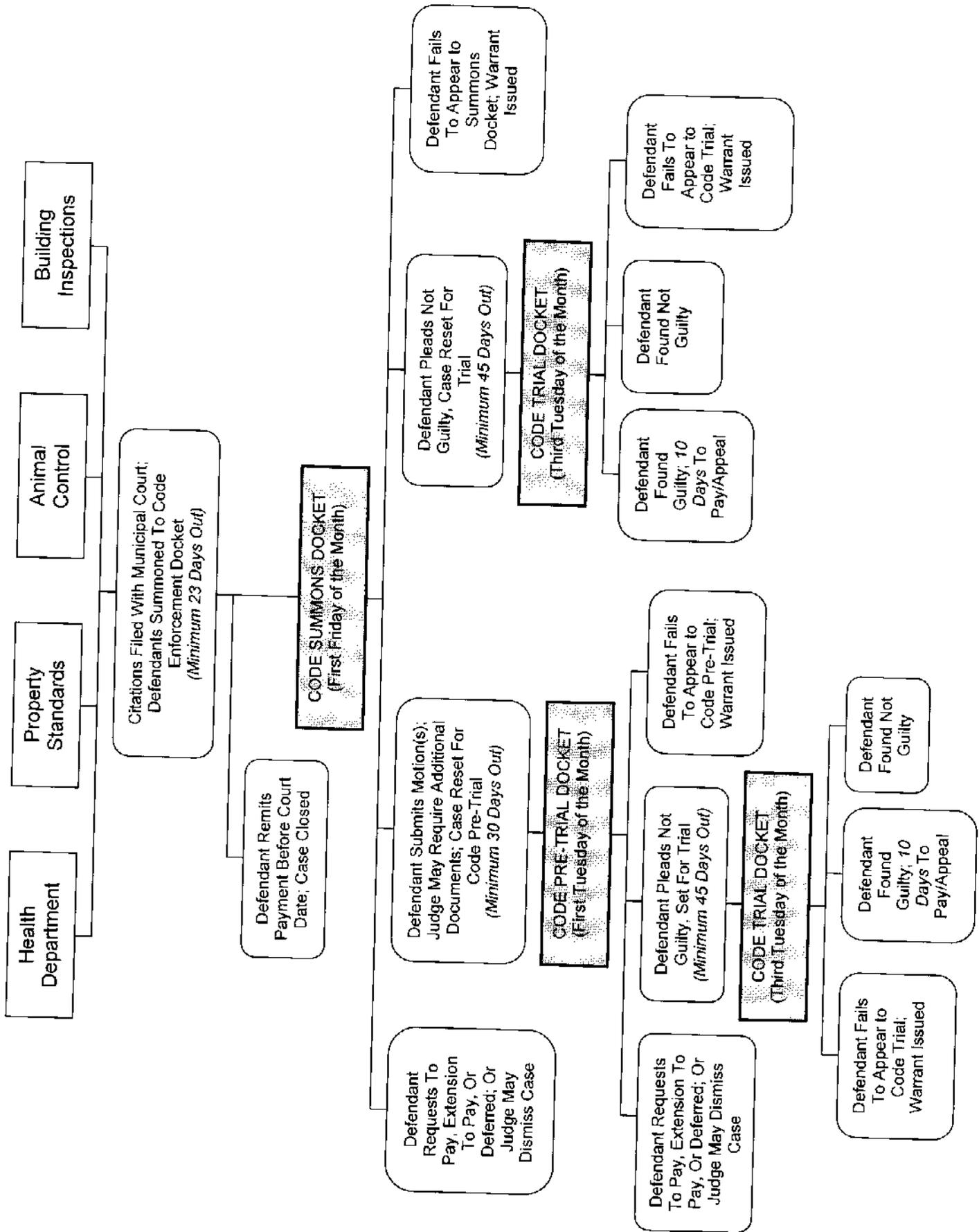
(S) State Statute

* Immediate action if warranted by prior history

** All zoning violations that are not enforced by other regulatory departments

III

MUNICIPAL COURT CODE PROCESSING



Handwritten initials: *WJ*

PREPARED 10/07/92, 12:46:37
 City of Plano
 PROGRAM CE303L

CASE ACTION TOTALS REPORT
 FOR ACTION DATES 10/01/01 TO 9/30/03
 DEPARTMENT PROPERTY STANDARDS

ACTION TYPE	ACTION DESCRIPTION	TOTAL QTY
BOARD MEETINGS	BUILDING STANDARDS HEARING	10
	CITIZEN HEARING	1
	PUBLIC HEARING - JUNK VEHICLE	54
INSPECTIONS	REINSPECTION	15938
	WORK ORDER REINSPECTION	19539
	NOTICE OF VIOL ACCESSORY BLDG	427
	NOTICE OF VIOL FENCE REPAIR	16
	FIRE NOTICE / NON-COMMERCIAL	1079
	NOTICE OF VIOL GRAFFITI-BUSINE	2
	NOTICE OF VIOL GRAFFITI-RESIDE	53
	GARAGE SALE NOTICE	27
	NOTICE OF VIOL GRASS & WEEDS	39
	NOTICE OF VIOL HOME OCCUPATION	3158
	NOTICE OF VIOL JUNK VEHICLE	77
	SECOND JUNK VEHICLE NOTICE	621
	NOTICE OF VIOL LARGE VEH RESID	70
	NOTICE OF VIOL MISCELLANEOUS	14
	NOTICE OF TOWING VEH FOR SALE	119
	NOTICE OF VIOL OUTSIDE DISPLAY	1
	NOTICE OF VIOL OPEN STORAGE	33
	NOTICE OF VIOL PREMISE IDENTIF	1422
	NOTICE OF VIOL PROHIBITED OEST	44
	REINDEMPSEMENT LETTER	77
	GRAFFITI RELEASE - RESIDENTIAL	182
	NOTICE OF VIOL REFUSE/RUBBISH	4
	NOTICE OF VIOL SUBSTANDARD STR	2205
	NOTICE OF VIOL SPECIAL VEHICLE	242
	NOTICE OF VIOL TREE LIMBS & BR	477
	NOTICE OF VIOL TRASH & RUBBISH	1898
	NOTICE OF VIOL VEH IMP SF COM	13
	NOTICE OF VEHICLE HEARING	1
	NOTICE OF VIOL VEH IMP SF RES	81
	GRAFFITI WAIVER - BUSINESS	711
	GRAFFITI WAIVER - RESIDENTIAL	4
	APOLOGY LETTER	22
	CITATION	12
	CAR SLICKER	350
	DOOR TAG	1002
	EXTENSION GRANTED	3382
	GRAFFITI STATEMENT REQUEST	1096
	INSPECTION FAILED / SECTION 8	9
	INSPECTION PASSED / SECTION 8	65
	INSPECTOR'S NOTICE	191
	NEIGHBORHOOD RECOVERY	1
	ONE TIME NOTICE	98
	ONE TIME POSTING	115
	REQUESTED HEARING - JUNK VEH	329
	TOW ORDER	2
	TEXAS DEPT OF TRANSPORTATION	45
	VOID VIOLATION	41
	WORK ORDER	3
	WORK ORDER	823
		1

OTHER ACTIONS

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VIOLATIONS SUMMARY REPORT
 DEPARTMENT: PROPERTY STANDARDS
 DEFAULT INSPECTOR: ALL INSPECTORS

VIOLATION TYPE	CURRENT PERIOD		SAME PERIOD		LAST YEAR YTD FOR YEAR 2001
	1/01/02 - 9/30/02	YTD FOR YEAR 2002	1/01/01 - 9/30/01	LAST YEAR FOR YEAR 2001	
ACCESSORY BUILDING	13	13	16	16	
PROHIBITED VEH-CLE/TOWED	49	49	6	6	
FENCE REPAIR	758	758	1034	1034	
GRAFFITI-BUSINESS	37	37	36	36	
GRAFFITI	4	4	30	30	
GRAFFITI-RESIDENTIAL	21	21	37	37	
GARAGE SALE	257	257	342	342	
GRASS & WEEDS	3220	3220	3991	3991	
HOME OCCUPATION	135	135	52	52	
JUNKED VEHICLE	400	400	230	230	
MISCELLANEOUS	-86	186	246	146	
NO VIOLATION	1050	1050	826	826	
LARGE VEHICLE-COMMERCIAL	1	1	0	0	
OUTSIDE DISPLAY	28	28	18	18	
LARGE VEHICLE-RESIDENTIAL	11	11	5	5	
OPEN STORAGE	1111	1111	847	847	
PREMISE IDENTIFICATION	58	58	49	49	
PROHIBITED OESTRUCION	75	75	58	58	
RUBBISH & REFUSE	1917	1917	1967	1967	
SUBSTANDARD BUILDING	183	183	94	94	
SECTION 6	94	94	270	270	
SPECIAL VEHICLES STORAGE	422	422	477	477	
TREE LIMBS & BRANCHES	1641	1641	2547	2547	
UNSANITARY CONDITIONS	2	2	1	1	
VEHICLE SURFACE-COMMERCIAL	4	4	1	1	
VEHICLE SURFACE-RESIDENTIAL	724	724	667	667	

TOTALS: 12401 (11/02-9/30/02) 12401

3437 (10/01-12/31/01)

Total → 15,838

13747

VIOLATIONS SUMMARY REPORT
 DEPARTMENT: PROPERTY STANDARDS
 DEFAULT INSPECTOR: ALL INSPECTORS

VIOLATION TYPE	CURRENT PERIOD		SAME PERIOD LAST YEAR		LAST YEAR YTD FOR YEAR 2000
	10/01/01 - 12/31/01	YTD FOR YEAR 2001	10/01/00 - 12/31/00		
ACCESSORY BUILDING	6	22	4	17	
PROHIBITED VEHICLE/TOWED	13	19	3	22	
FENCE REPAIR	283	1317	265	1078	
GRAFFITI-BUSINESS	13	49	7	7	
GRAFFITI	4	34	19	107	
GRAFFITI-RESIDENTIAL	3	40	8	9	
GARAGE SALE	134	476	111	223	
GRASS & WEEDS	591	4582	418	4592	
HOME OCCUPATION	32	84	15	76	
JUNKED VEHICLE	111	341	95	311	
MISCELLANEOUS	45	191	79	354	
NO VIOLATION	164	990	122	844	
LARGE VEHICLE-COMMERCIAL	C	0	0	2	
OUTSIDE DISPLAY	15	37	0	0	
LARGE VEHICLE-RESIDENTIAL	8	13	0	0	
OPEN STORAGE	425	1272	5	28	
PREMISE IDENTIFICATION	2	51	421	1225	
PROHIBITED OBSTRUCTION	17	75	49	181	
RUBBISH & REFUSE	741	2708	10	83	
SUBSTANDARD BUILDING	63	157	664	2560	
SECTION 8	43	313	29	96	
SPECIAL VEHICLES STORAGE	174	651	66	288	
TREE LIMBS & BRANCHES	243	2790	228	760	
UNSANITARY CONDITIONS	0	1	462	3129	
VEHICLE SURFACE-COMMERCIAL	0	-	0	3	
VEHICLE SURFACE-RESIDENTIAL	303	970	2	15	
TOTALS:	3437	17184	3340	17218	

III m

CITY	POP	INSP	CASES/ YR	AVG DAYS TO CLOSE					CIT	CONV
				VR	HG	RR	HO	OS		
AUSTIN*	587,873	10	8,500 (fy 2001-2002)	30					N/A	N/A
ALLEN	57,576	4	1,243 (yr 2001)	10	10	12	18	18	33	33
BROWNSVILLE	147,701	10	10,000+	7 days					250 +	90%
CARROLLTON	112,700	7	9,902 (yr 2001)	75-80% of cases closed w/in 21 days					601	594
DALLAS	1.2 mil	145	124,011	3	30	30	90	90	14,963	
FARMERS BRANCH	27,900	4	6,500							750+
FRISCO	53,000	2	1,004	10 days					10	10
FORT WORTH	556,700	28	44,000	21-28 days					1,701	477**
GARLAND	215,000	13	38,451	30 days					3,119	N/A
LAREDO	183,160	6	2,500 +/-							
LEWISVILLE	77,737	5	24,650							
MCKINNEY	65,659	3	1,200 +/-	10	10	10	15	15-30	350	7%
PLANO	222,030	10	15,838	3	17	18	96	12	350	N/A
RICHARDSON	91,802	7	22,520	immediate	10	10	varies	10	484	N/A

* City of Austin splits certain ordinances between Solid Waste Department and Code Compliance.
 ** 54% Failure To Appear

Key: VR – Vehicle on unimproved surface; HG – High grass; RR – Trash & debris; HO – Home occupation; OS – Open storage
 Average Inspectors per 100,000 Population: 7.1
 Average Inspectors per 100,000 Population (excluding Dallas): 3.8
 Plano Inspectors per 100,000 Population: 4.5
 Average Cases per 100,000 Population: 8,624
 Average Cases per 100,000 Population (excluding Dallas): 6,658
 Plano Cases per 100,000 Population: 7,134

THN

**Discussion/Action Items for Future Council Agendas
(as of October 29, 2002)**

2002

Additional rescheduling of Council meetings may be necessary due to elections and the PISD calendar. These changes will be made as soon as the dates are confirmed.

November 11

Spotlight on Building Inspection

DART Status Report

Mobility Report

Personnel: Evaluation of Council Appointees – Provide Feedback to Appointees

Discussion and Direction re Municipal Center

Meeting Room Reservation Policy

*November 14 – District 2 Neighborhood Roundtable Meeting – 7:00 – 9:00 p.m.
Plano Sports Authority – Stars Center – 6500 Preston Meadows Drive*

November 25

Spotlight on Convention and Visitors Bureau/Plano Centre

Overview of Emergency Management Plan

Comprehensive Monthly Financial Report

November 28/29 – Thanksgiving Holidays

December 2

Dedication of Biggerstaff Plaza

Spotlight on Intergovernmental Relations

Joint Planning & Zoning Meeting

December 3 – 7 National League of Cities – Salt Lake City

December 9

DART Status Report

Mobility Report

Animal Services Follow-up/Update

Overpass Study – Final Report

IVA

December 16 (moved from December 23 due to Christmas holiday)

Comprehensive Monthly Financial Report
Equipment Services Business Plan

December 24/25 Winter and Christmas Holidays

2003

January 1 – New Year's Day holiday

January 6

January 13

DART Status Report
Mobility Report

January 20 – Martin Luther King holiday

January 23 – District 1 Roundtable – Plano Municipal Center – Training Room A

January 27

February 3

February 7 – 9 – AMCC – Austin, Texas

February 10

DART Status Report
Mobility Report

February 15, 2003, Fire Banquet, Perot Systems Building

February 24

March 3

March 10 -14 PISD Spring Break

IVC

March 10

DART Status Report
Mobility Report

March 24

April 5, 2003, Police Banquet

April 7

VIP Awards

April 14

DART Status Report
Mobility Report

April 24 – District 3 Neighborhood Roundtable – Carpenter Rec. Center

April 28

May 5

May 12

DART Status Report
Mobility Report

May 26

May 26 – Memorial Day holiday

*May 29, 30, 31 – 2003 Innovations Group National Conference, Plano
Doubletree Hotel*

June 2

IVe

June 9

DART Status Report
Mobility Report

June 23

June 26 – 30 – Texas City Management Association Conference

July 4 – Independence Day holiday

July 28

July 30

Council receives 2003-2004 budget

August 5

August 11

DART Status Report
Mobility Report

August 14 - District 4 Roundtable – Vines High School

August 25

September 1

September 1 – Labor Day holiday

September 8

DART Status Report
Mobility Report

September 22

September 21 – 24 – International City Management Association Conference

IVd

October 6

October 9 – 13 – PISD Fall Break

October 13

DART Status Report
Mobility Report

October 27

November 3

November 10

DART Status Report
Mobility Report

November 13 – District 2 Roundtable – PSA Stars Center

November 19 – 22 – TML Conference

November 24

November 27 – 28 – Thanksgiving holidays

December 1

December 3 – 7 – NLC Conference

December 8

DART Status Report
Mobility Report

December 22

December 25 – 26 – Christmas holidays

CITY OF PLANO BID NO. B133-02
GAS-FIRED CHILLER REPLACEMENT
BID RECAP

Bid opening Date/Time: 9/24/02 @ 3:00pm

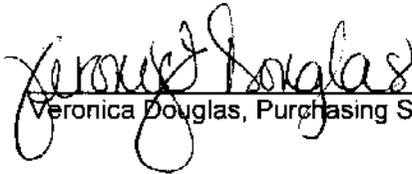
Number of Bid Notices Mailed/Faxed: 94

Vendors Submitting "NO BIDS": TMC Service Company

Vendors Non-Responsive to Specification: 0

Responsive Bidders:

<u>VENDOR</u>	<u>BASE BID</u>	<u>ALT. BID</u>
GULF ENERGY SYSTEMS	\$122,700	\$20,690
UNITED MECHANICAL	\$130,670	\$22,152
FEDERAL MECHANICAL	\$132,700	\$11,700
INFINITY CONTRACTORS	\$147,949	\$19,075
BURDEN BROTHERS	\$150,316	\$24,448
DECKER MECHANICAL	\$163,072	\$18,238


Veronica Douglas, Purchasing Specialist

10-18-02
Date



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY			Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date: 11/4/02			Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Solid Waste/Keep Plano Beautiful -- Nancy Nevil			Initials	Date
Department Head	Jim B. Foster		Executive Director	<i>[Signature]</i>	10-28-02
Dept Signature:	<i>[Signature]</i>		City Manager	<i>[Signature]</i>	10-29-02
Agenda Coordinator (include phone #): Casey Eckert-Luker (4216)					
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input checked="" type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER					
CAPTION					
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, AUTHORIZING THE FILING OF A PROJECT APPLICATION WITH THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS ("NCTCOG") FOR A REGIONAL SOLID WASTE PROGRAM LOCAL PROJECT; AND PLEDGING THAT IF A PROJECT IS APPROVED THE CITY OF PLANO WILL COMPLY WITH THE PROJECT REQUIREMENTS OF THE NCTCOG, THE TEXAS NATURAL RESOURCE CONSERVATION COMMISSION AND THE STATE OF TEXAS; AND PROVIDING AN EFFECTIVE DATE.					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input checked="" type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR: 02-03	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: Title of Project: Litter Awareness & Education Campaign					
SUMMARY OF ITEM					
This grant contract will provide \$24,848 to Keep Plano Beautiful to promote litter awareness to various segments of the Plano community to include students, citizens, and public/private and business/civic groups. Funding will provide a school litter bin trial program to reduce litter at drop-off points; enhancement of litter prevention education efforts at the elementary and preschool level (public and private) as well as home-schooled students, scout groups, and Boys and Girls Clubs; implementation of new litter prevention education efforts at the secondary school level; and production and promotion of new educational materials detailing local and state litter and illegal dumping laws for businesses and residents. Public information components of this project will include creating a mascot to promote litter awareness to schools and civic and business organizations; providing promotional items; creating signs and banners for use at public events; and training teachers in the "Waste in Place" program.					
List of Supporting Documents: NCTCOG Solid Waste Implementation Projects			Other Departments, Boards, Commissions or Agencies		

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, AUTHORIZING THE FILING OF A PROJECT APPLICATION WITH THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS ("NCTCOG") FOR A REGIONAL SOLID WASTE PROGRAM LOCAL PROJECT; AND PLEDGING THAT IF A PROJECT IS APPROVED THE CITY OF PLANO WILL COMPLY WITH THE PROJECT REQUIREMENTS OF THE NCTCOG, THE TEXAS NATURAL RESOURCE CONSERVATION COMMISSION AND THE STATE OF TEXAS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the NCTCOG is directed by the Texas Natural Resource Conservation Commission to administer solid waste project funds for implementation of NCTCOG's adopted regional solid waste management plan, and

WHEREAS, the City of Plano, Texas is qualified to apply for project funds under the Request for Projects; and

WHEREAS, the City of Plano seeks funding to promote litter awareness among various segments of the Plano Community; and

WHEREAS, upon full consideration of all matters attendant and related thereto, the City Council of the City of Plano is of the opinion that participation in the above-referenced Regional Solid Waste Program Local Project is in the best interests of the citizens of Plano and the City of Plano.

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

Section I. That the Solid Waste Manager or her designee, is authorized to request project funding for a Regional Solid Waste Program Local Project under the NCTCOG's Request for Projects of the Regional Solid Waste Local Project Funding Program and act on behalf of City of Plano in all matters related to the project application and any subsequent project contract that may result.

Section II. That if the project is funded, the City of Plano will comply with the project requirements of the North Central Texas Council of Governments, Texas Natural Resource Conservation Commission and the State of Texas.

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Section III. The project funds and any project-funded equipment or facilities will be used only for the purposes for which they are intended under the project.

Section IV. That project activities will comply with and support the adopted regional and local solid waste management plans adopted for the geographical area in which the activities are performed.

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

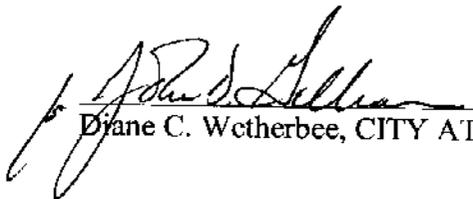
DULY PASSED AND APPROVED this the _____ day of _____, 2002.

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:



Drane C. Wetherbee, CITY ATTORNEY



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date: 11/4/02		Reviewed by Legal <i>DKM</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department:	Engineering			Initials	Date
Department Head	Alan L. Upchurch			Executive Director	
Dept Signature:	<i>Alan Upchurch</i>			City Manager	<i>RA</i> 10-29-02
Agenda Coordinator (include phone #):		Irene Pegues (7198) <i>IP</i>			

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 a Real Estate Contract by and between the City of Plano, Texas, and Fred W. Baccus for the purchase of 3,950 square feet of land, situated in the Henry B. Miller Survey, Abstract No. 614, being located at the northwest corner of Spring Creek Parkway and Dallas North Tollroad, in the City of Plano, Collin County, Texas; authorizing its execution by the City Manager or his designee; and providing an effective date.

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2002-03	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	1,782,594	1,119,252	0	2,901,846
Encumbered/Expended Amount	-1,782,594	-1,079,912	0	-2,862,506
This Item	0	-39,340	0	-39,340
BALANCE	0	0	0	0

FUND(S): STREET IMPROVEMENT CIP

COMMENTS: Funds are available in the 2002-03 Street Improvement CIP for the Spring Creek-Midway to Tollway project.

STRATEGIC PLAN GOAL: This project relates to the City's goal of Safe and Efficient Travel.

SUMMARY OF ITEM

This contract is for the acquisition of a 3,950 square foot tract of land for \$39,340.00. The property is located on the northwest corner of Spring Creek Parkway and Dallas North Tollroad and is being acquired for a right-turn lane for southbound Dallas North Tollroad service road to westbound Spring Creek Parkway. The turn lane will be installed with the project to construct the south side of Spring Creek Parkway west of the Dallas North Tollroad.

List of Supporting Documents:
Location Map

Other Departments, Boards, Commissions or Agencies

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RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF A REAL ESTATE CONTRACT BY AND BETWEEN THE CITY OF PLANO, TEXAS, AND FRED W. BACCUS FOR THE PURCHASE OF 3,950 SQUARE FEET OF LAND SITUATED IN THE HENRY B. MILLER SURVEY, ABSTRACT NO. 614, BEING LOCATED AT THE NORTHWEST CORNER OF SPRING CREEK PARKWAY AND DALLAS NORTH TOLLROAD, IN THE CITY OF PLANO, COLLIN COUNTY, TEXAS; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER OR HIS DESIGNEE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has been presented a proposed Real Estate Contract by and between the City of Plano, Texas, and Fred W. Baccus, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Contract"); and,

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

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

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

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

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

DULY PASSED AND APPROVED this the _____ day of _____,

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

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Diane C. Wetherbee, CITY ATTORNEY

REAL ESTATE CONTRACT

THIS CONTRACT is entered into as of the effective date as hereinafter defined by and between **FRED W. BACCUS** (the "Seller"), and **CITY OF PLANO, TEXAS**, a home rule municipal corporation (the "Purchaser").

WHEREAS, under threat of condemnation, the Purchaser desires to purchase and the Seller desires to sell a 3,934 square foot tract of land in fee simple for right-of-way purposes as more particularly described in Exhibit "A" attached hereto and made a part hereof by reference and being herein referred to as the "Right of Way Property"; and

WHEREAS, Purchaser desires to have temporary use of a 3,950 square foot parcel for temporary construction purposes as more particularly described in Exhibit "B" attached hereto and made a part hereof by reference and being herein referred to as the "Right of Entry Property"; and

WHEREAS, Seller and Purchaser have entered into this Contract to provide for the terms and conditions of the sale and purchase of the Right of Way Property and the temporary right to enter and use the Right of Entry Property.

NOW, THEREFORE, in consideration of the premises and for the further consideration of the terms, provisions, and conditions hereinafter set forth, Seller and Purchaser have agreed as follows:

1. **Agreement to Convey**

For the consideration and upon and subject to the terms, provisions, and conditions hereinafter set forth, Seller has agreed and does hereby agree to sell, grant and convey to the Purchaser the Right of Way Property and Purchaser has agreed and does hereby agree to purchase the Right of Way Property from the Seller. The Right of Way Property shall be conveyed to Purchaser together with all and singular the rights and appurtenances pertaining to such Property including, but not limited to, any right, title and interest of Seller in and to easements, adjacent streets, alleys and rights-of-way and together with all improvements, fixtures and buildings located, constructed, or placed thereon. All references in this Contract to the term "Right of Way Property" shall include all right, title and interest of Seller to easements, streets, alleys, rights-of-way, improvements, fixtures, and buildings as set forth above.

2. Purchase Price

The purchase price ("Purchase Price") to be paid for the Right of Way Property shall be **THIRTY-NINE THOUSAND THREE HUNDRED FORTY AND NO/100 DOLLARS (\$39,340.00)**. The Purchase Price shall be paid at closing (as hereinafter defined).

3. Title Commitment

Purchaser, at its sole cost and expense, shall obtain a current commitment or commitments for title insurance (the "Title Commitment") covering the Right of Way Property and issued by a title company (the "Title Company") selected by Purchaser.

4. Representations and Warranties of Seller

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

(b) To the best knowledge and belief of Seller, at Closing there will be no parties in possession of any portion of the Right of Way Property as lessees, tenants at sufferance or trespassers, and no prescriptive rights will have been acquired in, or have commenced to run against the Right of Way Property or any portion thereof.

(c) To the best knowledge and belief of Seller, there is no litigation or similar proceeding pending against the Right of Way Property and no litigation or similar proceeding is threatened or contemplated that would affect the Right of Way Property or any portion thereof.

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

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

(f) Seller is duly authorized and empowered to enter into this Contract and to consummate the transactions contemplated hereunder, and any person executing this Contract on behalf of Seller is duly authorized and empowered to do so.

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

5. Acknowledgments, Covenants and Agreements of Seller

Seller acknowledges, covenants and agrees with Purchaser as follows:

(a) Purchaser and its agents and representatives shall have full access to the Right of Way Property and the Right of Entry Property at all times prior to the Closing.

(b) No new or additional improvements will be constructed, located or placed on the Right of Way Property or the Right of Entry Property.

(c) To the best of Seller's knowledge and belief, the Right of Way Property and the Right of Entry Property do not include any personal property.

(d) During the pendency of this Contract, Seller shall not (without the prior written consent of Purchaser) create, impose or agree to any mortgages, liens, encumbrances, leases, tenancies, licenses, security interests, covenants, conditions, restrictions, rights-of-way, easements, judgments or other matters affecting title to the Right of Way Property.

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

(f) The covenants in this Section 5 shall survive Closing.

6. The Closing

The closing of this Contract pertaining to the Right of Way Property shall be consummated at a closing (the "Closing") to be held at the office of the Title Company on or before thirty (30) days after the effective date of this Contract, or at such other time, date and place that the parties may agree upon. At the Closing, Seller agrees to deliver to Purchaser:

(a) A Special Warranty Deed (the "Deed") substantially the same as the form attached hereto as Exhibit "C" duly executed by Seller and properly acknowledged, in

form for recording, conveying good, indefeasible title in the Right of Way Property to Purchaser, subject only to those items permitted by paragraph 4(a) of this Contract; and

(b) A Right of Entry substantially the same as the form attached hereto as Exhibit "D" duly executed by Seller granting Purchaser the right to enter the property for the temporary construction purposes; and

(c) All releases or other documents or instruments (all in recordable form) necessary to convey title and/or easement interests as set forth above to the Right of Way Property as required by paragraph 4(a) of this Contract; and

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

7. Closing Costs and Proration

Costs of title insurance for the Right of Way Property, escrow fees of the Title Company, costs of recording any documents in connection with the Closing of the Right of Way Property shall be paid by Purchaser. All other expenses incurred by Seller and Purchaser with respect to the Closing, including, but not limited to, attorneys' fees incurred in connection with this Contract, shall be borne and paid exclusively by the party incurring same. Ad valorem taxes for the year of closing shall be prorated as of the Closing in accordance with Section 26.11 of the Texas Tax Code. All delinquent ad valorem taxes, if any, shall be paid by Seller.

8. Default

(a) Seller's Default. In the event Seller should fail to consummate this Contract for any reason except Purchaser's default, Purchaser may, at its option, either enforce specific performance of this Contract or terminate this Contract as its sole and exclusive remedy hereunder. If Seller is unable to deliver title as required by this Contract, Purchaser shall have the right to take the Right of Way Property with whatever title Seller can deliver. Nothing herein shall be construed to limit the Purchaser's right and power of eminent domain.

(b) Purchaser's Default. In the event Purchaser shall fail to consummate this Contract for any reason except Seller's default, Seller may, at its option and as its sole and exclusive remedy, either enforce specific performance of this Contract or terminate this Contract by giving written notice thereof to Purchaser. Seller's remedy set forth in this Paragraph 8(b) is exclusive.

9. Right to Possession

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Purchaser shall be entitled to possession of the Right of Way Property and the right to enter and use the Right of Entry Property at Closing.

10. Nonwaiver

No waiver by either party of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the party against which enforcement is sought. No delay or omission in the exercise of any right or remedy accruing to either party upon any breach of this Contract by the other party shall impair such right or remedy or be construed as a waiver of any such breach theretofore or thereafter occurring. The waiver by either party of any breach of any term, covenant or condition herein stated shall not be deemed to be a waiver of any other or subsequent breach of the same or any other term, covenant or condition herein contained.

11. Miscellaneous Provisions

(a) This Contract (including the exhibits attached hereto) embodies the complete and entire agreement between the parties hereto relative to the Right of Way Property and the Right of Entry Property and supersedes all prior negotiations, agreements and understanding relating thereto and may not be varied except by written agreement of such parties.

(b) This Contract shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors, heirs and assigns.

(c) This Contract shall be construed under and in accordance with the laws of the State of Texas and is fully performable in Collin County, Texas.

(d) In case any one or more of the provisions contained in this Contract shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Contract shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

(e) Any notice to be given or to be served upon any party hereto in connection with this Contract must be in writing and may be given by Certified or Registered Mail and shall be deemed to have been given and received when a Certified or Registered letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States Mail, and if given otherwise than by Certified or Registered Mail, it shall be deemed to have been given when delivered to and received by the party (or such party's agents or representatives) to whom it is addressed. Such notice shall be given to the parties hereto at the address set forth under their respective

signatures below. Any party hereto may, at any time by giving two (2) days' written notice to the other parties hereto, designate any other address in substitution of the foregoing address to which such notice shall be given.

(f) This Contract may be executed simultaneously in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

(g) The headings used throughout this Contract have been used for administrative convenience only and do not constitute matter to be considered in interpreting this Contract.

(h) Purchaser represents and warrants unto Seller that Purchaser has full power and authority to enter into and consummate this Contract.

(i) The effective date of this Contract shall be the last date of signature of any party set forth below.

(j) Seller and Purchaser each represent to the other that there have been no brokers or real estate commissions incurred as a result of this transaction.

IN WITNESS WHEREOF, the parties have executed this Contract as of the dates shown below their respective signatures.

SELLER:

Fred W. Baccus

FRED W. BACCUS

3561 P.R. 4070

Jewett, Texas 75346

Date: 9-27-02

PURCHASER:

**CITY OF PLANO, TEXAS, a Home Rule
Municipal Corporation**

By: _____

THOMAS H. MUEHLENBECK
City Manager
1520 Avenue K
P.O. Box 860358
Plano, TX 75086-0358

Date: _____

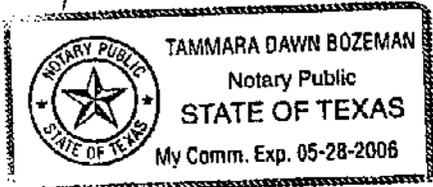
APPROVED AS TO FORM:

Diane C. Wetherbee, City Attorney

ACKNOWLEDGMENTS

STATE OF TEXAS §
COUNTY OF Leon §

This instrument was acknowledged before me on the 27 day of Sept, 2002 by **FRED W. BACCUS**.



Tammara Dawn Bozeman
Notary Public, State of Texas

STATE OF TEXAS §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2002 by **THOMAS H. MUEHLENBECK**, City Manager of the **CITY OF PLANO, TEXAS**, a home rule municipal corporation, on behalf of said corporation.

Notary Public, State of Texas

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The Right of Way Property**LEGAL DESCRIPTION
RIGHT-OF-WAY PARCEL No. 2
EXHIBIT "A"**

BEING 3,934 square feet of land located in the HENRY B. MILLER SURVEY, Abstract No. 614, Collin County, Texas, being a portion of that certain 25.897 acre tract of land described as Tract 2 in deed to Fred W. Baccus as recorded in County Clerk No. 99-0143192 of the Deed Records of Collin County, Texas and being more particularly described in metes and bounds as follows:

BEGINNING at a 1" iron rod set at the intersection of the existing North right-of-way line of Spring Creek Parkway (a proposed 160-foot right-of-way) and the existing West right-of-way line of Dallas North Tollway (an existing 300-foot right-of-way);

THENCE S 89°24'23"W along the said North right-of-way line of Spring Creek Parkway, 11.91 to a 1" iron rod set;

THENCE N 48°37'22"E, 37.86 feet to a 1" iron rod set at the beginning of a non-tangent Curve to the Left;

THENCE NORTHEASTERLY, 225.00 feet along said non-tangent Curve to the Left, having a radius of 2,702.79 feet, a central angle of 04°46'11" and a chord bearing N 05°11'21"E, 224.94 feet to a 1" iron rod set at the end of said non-tangent Curve to the Left;

THENCE N 05°48'39"E, 150.13 feet to a 1" iron rod set in the said existing West right-of-way line of Dallas North Tollway (an existing 300-foot right-of-way);

THENCE along the said existing West right-of-way line of Dallas North Tollway as follows:

S 00°09'23"E, 9.72 feet to a 1" iron rod set at the beginning of a Curve to the Right;

SOUTHWESTERLY, 359.68 feet along said Curve to the Right, having a radius of 2,714.79 feet a central angle of 07°35'28" and a chord bearing S 03°38'21"W, 359.41 feet to a 1" iron rod set;

C-11

The Right of Way Property

S 44°24'23"W, 41.80 feet to the PLACE OF BEGINNING, containing 3,934 square feet of land.



11-21-01

C-12

EXHIBIT "A"
The Right of Way Property
PAGE 11

SCALE: 1"=50'



HENRY B. MILLER SURVEY
ABSTRACT No. 614

25.897 ACRES
TRACT 2
FRED W. BACCUS
C.C. # 99-0143192
D.R.C.C.T.

TEMPORARY CONSTRUCTION
EASEMENT No. 2

D=04°46'11"
R=2,702.79
L=225.00
CH=N 05°11'21"E
224.94

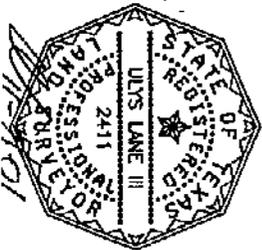
D=07°35'28"
R=2,714.79
L=359.68
CH=S 03°38'21"W
359.41

S 44°24'23"W
41.80
N 48°37'22"E
37.86
S 89°24'23"W
11.91

DALLAS NORTH TOLLWAY
AN EXISTING 300-FOOT RIGHT-OF-WAY

PLACE OF
BEGINNING

SPRING CREEK PARKWAY
A PROPOSED 160-FOOT RIGHT-OF-WAY



LOCATED IN THE HENRY B. MILLER SURVEY
ABSTRACT No. 614 IN THE CITY OF
PLANO, COLLIN COUNTY, TEXAS

RIGHT-OF-WAY
PARCEL No. 2
3,934 SQ. FT.

10-09-2001
PARCEL2.dwg
WA# 01044

C-13

**The Right of Entry Property
LEGAL DESCRIPTION**

EXHIBIT "A"

BEING 3,950 square feet of land located in the HENRY B. MILLER SURVEY, Abstract No. 614, Collin County, Texas, being a portion of that certain 25.897 acre tract of land described as Tract 2 in deed to Fred W. Baccus as recorded in County Clerk No. 99-0143192 of the Deed Records of Collin County, Texas and being more particularly described in metes and bounds as follows:

BEGINNING at a 1" iron rod set in the proposed West right-of-way line of Dallas North Tollway (an existing 300-foot right-of-way), lying N 33°31'10"E, 29.87 feet from a 1" iron rod set at the intersection of the existing North right-of-way line of Spring Creek Parkway (a proposed 160-foot right-of-way) and the existing West right-of-way line of said Dallas North Tollway;

THENCE S 48°37'22"W along the said proposed West right-of-way line of Dallas North Tollway, 15.27 feet to a point at the beginning of a non-tangent Curve to the Left;

THENCE NORTHEASTERLY, 62.00 feet along said non-tangent Curve to the Left, having a radius of 2,692.79 feet, a central angle of 01°19'09" and a chord bearing N 07°09'33"E, 62.00 feet to a point at the end of said non-tangent Curve to the Left;

THENCE N 65°39'25"W, 28.22 feet to a point;

THENCE N 05°59'29"E, 30.00 feet to a point;

THENCE N 81°21'09"E, 27.70 feet to a point;

THENCE N 06°24'07"E, 128.00 feet to a point;

THENCE N 03°43'03"E, 82.32 feet to a point;

THENCE N 10°54'18"E, 78.39 feet to a point lying in the existing West right-of-way line of said Dallas North Tollway (an existing 300-foot right-of-way);

THENCE S 00°09'23"E along the existing West right-of-way line of said Dallas North Tollway, 10.00 feet to a 1" iron rod set;

THENCE along the proposed West right-of-way line of said Dallas North Tollway as follows:

S 05°48'39"W, 150.13 feet to a 1" iron rod set at the beginning of a non-tangent Curve to the Right;

C-14

EXHIBIT "B"
The Right of Entry Property

SOUTHWESTERLY, 225.00 feet along said non-tangent Curve to the Right, having a radius of 2,702.79 feet, a central angle of 04°46'11" and a chord bearing S 05°11'21"W, 224.94 feet to the PLACE OF BEGINNING, containing 3,950 square feet of land.



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11-21-01

C-15

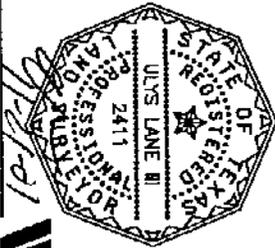
EXHIBIT "B"
The Right of Entry Property
PAGE 14

SCALE: 1"=50'



25.897 ACRES
TRACT 2
FRED W. BACCUS
C.C. # 99-0143192
D.R.C.C.T.

HENRY B. MILLER SURVEY
ABSTRACT No. 614



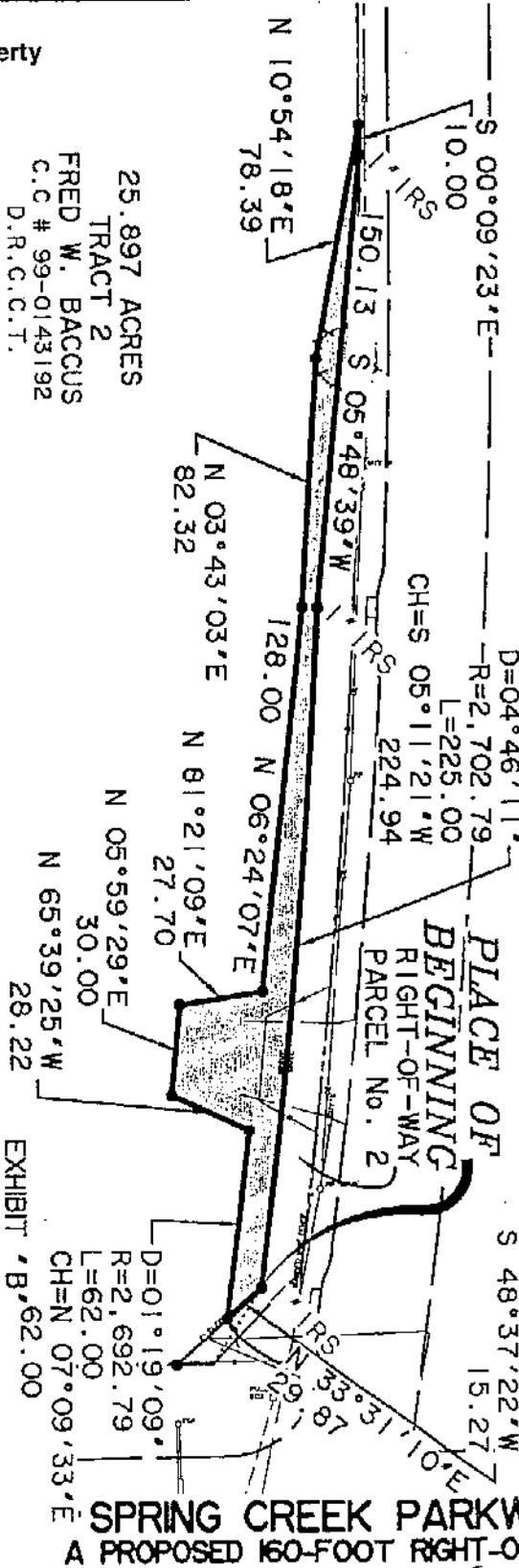
WIA WIER & ASSOCIATES, INC.

10-09-2001
TCE2.dwg
WA# 01044

LOCATED IN THE HENRY B. MILLER SURVEY
ABSTRACT No. 614 IN THE CITY OF
PLANO, COLLIN COUNTY, TEXAS

3,950 SQ. FT.

DALLAS NORTH TOLLWAY
AN EXISTING 300-FOOT RIGHT-OF-WAY



PLACE OF
BEGINNING
RIGHT-OF-WAY
PARCEL No. 2

SPRING CREEK PARKWAY
A PROPOSED 160-FOOT RIGHT-OF-WAY

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EXHIBIT "C"
The Special Warranty Deed

SPECIAL WARRANTY DEED

STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF COLLIN

§

§

THAT, **FRED W. BACCUS**, a married man not joined by his spouse as the herein conveyed property is his separate property and not community property and constitutes no part of his residence or business homestead, hereinafter called "Grantor," for and in consideration of the sum of **TEN DOLLARS (\$10.00)** and other good and valuable consideration to Grantor in hand paid by the **CITY OF PLANO, TEXAS**, a home rule municipal corporation, hereinafter called "Grantee," the receipt and sufficiency of which is hereby acknowledged, and for which no lien is retained, express or implied, does by these presents **SELL, GRANT, and CONVEY** unto the Grantee all of that certain tract or parcel of land situated in the City of Plano, Collin County, Texas, as more particularly described in Exhibit "A" attached hereto and made a part hereof for all purposes, together with all improvements situated thereon and with all and singular the rights and appurtenances thereto and any and all right, title and interest of Grantor in and to any adjacent streets, alleys or rights-of-way (hereinafter collectively called the "Property").

The Property is conveyed by Grantor and accepted by Grantee subject to those items described in Exhibit "B" attached hereto and made a part hereof by reference for all purposes (the "Permitted Exceptions").

It is acknowledged and agreed that Grantee is acquiring the Property for the purpose of permitting Grantee or its agents or assigns to construct, maintain, repair, and operate thereon street, highway, right-of-way, drainage improvements, utilities, and other related improvements. This provision shall not be construed as any restraint on the right of Grantee to convey fee simple title to the Property. The consideration paid to Grantor by Grantee for the Property shall be considered full compensation for the property interests conveyed to Grantee, including, without limitation, the right or claim to severance damages or any damages to, or diminution in value of, other lands belonging to Grantor that may be claimed or asserted by virtue of such acquisition of the Property by Grantee. Notwithstanding the area and shape of the Property, this Special Warranty Deed shall be construed as conveying all rights and appurtenances incident to any ordinary conveyance of land. As additional consideration for the Property, Grantee will not assess Grantor for any paving or street improvements related to the construction of the roadway located on the Property.

C-17

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in any wise belonging unto said Grantee, its successors and assigns, forever. Grantor does hereby bind Grantor and Grantor's administrators, successors and assigns, to warrant and forever defend, all and singular the Property unto the Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through, or under Grantor, but not otherwise.

The mailing address of the Grantee is:

City of Plano
P.O. Box 860358
Plano, TX 75086-0358
Attention: Elaine Bealke, City Secretary

EXECUTED this 27 day of SEPT, 2002.

GRANTOR



FRED W. BACCUS
3561 P.R. 4070
Jewett, Texas 75346

C-18

The Right of Way Property**LEGAL DESCRIPTION
RIGHT-OF-WAY PARCEL No. 2
EXHIBIT "A"**

BEING 3,934 square feet of land located in the HENRY B. MILLER SURVEY, Abstract No. 614, Collin County, Texas, being a portion of that certain 25.897 acre tract of land described as Tract 2 in deed to Fred W. Baccus as recorded in County Clerk No. 99-0143192 of the Deed Records of Collin County, Texas and being more particularly described in metes and bounds as follows:

BEGINNING at a 1" iron rod set at the intersection of the existing North right-of-way line of Spring Creek Parkway (a proposed 160-foot right-of-way) and the existing West right-of-way line of Dallas North Tollway (an existing 300-foot right-of-way);

THENCE S 89°24'23"W along the said North right-of-way line of Spring Creek Parkway, 11.91 to a 1" iron rod set;

THENCE N 48°37'22"E, 37.86 feet to a 1" iron rod set at the beginning of a non-tangent Curve to the Left;

THENCE NORTHEASTERLY, 225.00 feet along said non-tangent Curve to the Left, having a radius of 2,702.79 feet, a central angle of 04°46'11" and a chord bearing N 05°11'21"E, 224.94 feet to a 1" iron rod set at the end of said non-tangent Curve to the Left;

THENCE N 05°48'39"E, 150.13 feet to a 1" iron rod set in the said existing West right-of-way line of Dallas North Tollway (an existing 300-foot right-of-way);

THENCE along the said existing West right-of-way line of Dallas North Tollway as follows:

S 00°09'23"E, 9.72 feet to a 1" iron rod set at the beginning of a Curve to the Right;

SOUTHWESTERLY, 359.68 feet along said Curve to the Right, having a radius of 2,714.79 feet a central angle of 07°35'28" and a chord bearing S 03°38'21"W, 359.41 feet to a 1" iron rod set;

C-20

The Right of Way Property

S 44°24'23"W, 41.80 feet to the PLACE OF BEGINNING, containing 3,934 square feet of land.



11-21-01

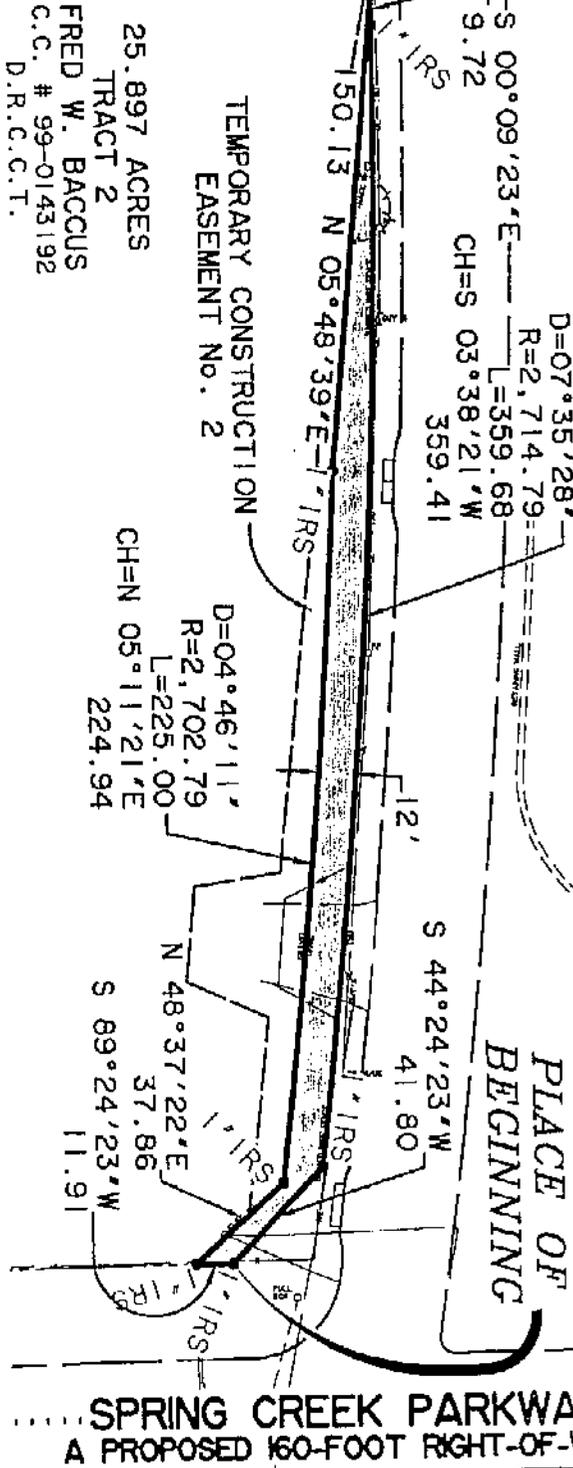
C-21

EXHIBIT "A"
The Right of Way Property
PAGE 20

SCALE: 1"=50'



DALLAS NORTH TOLLWAY
AN EXISTING 300-FOOT RIGHT-OF-WAY

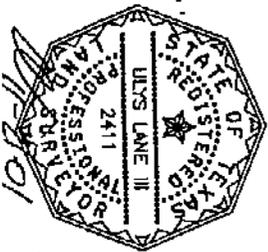


HENRY B. MILLER SURVEY
ABSTRACT No. 614

EXHIBIT "B"

RIGHT-OF-WAY
PARCEL No. 2
3,934 SQ. FT.

LOCATED IN THE HENRY B. MILLER SURVEY
ABSTRACT No. 614 IN THE CITY OF
PLANO, COLLIN COUNTY, TEXAS



WMA WINDS & APPROPRIATES INC.

10-09-2001
PARCEL2.dwg
WA# 01044

C-22

EXHIBIT "B"

Permitted Exceptions

1. Easement to Denton County Electric Cooperative, Inc., recorded in Volume 468, Page 227, Deed Records of Collin County, Texas. As affected by Agreement Defining Area Embraced Within Easements recorded in Volume 1262, Page 312, Land Records of Collin County, Texas.
2. Easement to Lebanon Water Supply Corporation, recorded in Volume 669, Page 268, Deed Records of Collin County, Texas.
3. Easement to Lebanon Water Supply Corporation, recorded in Volume 669, Page 290, Deed Records of Collin County, Texas. Assignment to City of Plano by instrument recorded in Volume 2919, Page 214, Land Records of Collin County, Texas.
4. Terms and provisions contained in Water Line and Access Easement by and between Laverne W. Baccus, Individually and as Trustee for Fred W. Baccus, and the City of Plano, Texas, dated 10/25/96, filed 10/28/96, cc# 96-0092894, Land Records of Collin County, Texas.
5. Terms, provisions and conditions of Building Covenants Agreement dated 10/15/95, as recorded in Volume 2241, Page 738, Land Records of Collin County, Texas.

EXHIBIT "D"
The Right of Entry

RIGHT OF ENTRY

TO: CITY OF PLANO - ENGINEERING DEPARTMENT
ATTN: ALAN UPCHURCH, CITY ENGINEER
P. O. BOX 860358
PLANO, TX 75086-0358

DATE: _____

I am the owner of certain real property located in the City of Plano, Texas as shown on the attached Exhibit "A" ("My Property"). I have been informed by the City that in conjunction with a public improvement project called the Spring Creek Parkway (Midway to Tollway) Project (the "Project"), the City, its employees and contractors need to enter My Property to perform the following work:

Temporary sloping for construction of right turn lane

I hereby give to the City, its employees and contractors permission to enter on My Property to perform the work. This permission is granted with the commitment from the City to restore My Property to the condition it was in prior to the work being performed.

OWNER:

Fred W. Baccus

FRED W. BACCUS
3561 P.R. 4070
Jewett, Texas 75346

CITY OF PLANO, TEXAS

By: _____
ALAN UPCHURCH, City Engineer

C-24

EXHIBIT "A"
My Property

LEGAL DESCRIPTION

EXHIBIT "A"

BEING 3,950 square feet of land located in the HENRY B. MILLER SURVEY, Abstract No. 614, Collin County, Texas, being a portion of that certain 25.897 acre tract of land described as Tract 2 in deed to Fred W. Baccus as recorded in County Clerk No. 99-0143192 of the Deed Records of Collin County, Texas and being more particularly described in metes and bounds as follows:

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THENCE S 48°37'22"W along the said proposed West right-of-way line of Dallas North Tollway, 15.27 feet to a point at the beginning of a non-tangent Curve to the Left;

THENCE NORTHEASTERLY, 62.00 feet along said non-tangent Curve to the Left, having a radius of 2,692.79 feet, a central angle of 01°19'09" and a chord bearing N 07°09'33"E, 62.00 feet to a point at the end of said non-tangent Curve to the Left;

THENCE N 65°39'25"W, 28.22 feet to a point;

THENCE N 05°59'29"E, 30.00 feet to a point;

THENCE N 81°21'09"E, 27.70 feet to a point;

THENCE N 06°24'07"E, 128.00 feet to a point;

THENCE N 03°43'03"E, 82.32 feet to a point;

THENCE N 10°54'18"E, 78.39 feet to a point lying in the existing West right-of-way line of said Dallas North Tollway (an existing 300-foot right-of-way);

THENCE S 00°09'23"E along the existing West right-of-way line of said Dallas North Tollway, 10.00 feet to a 1" iron rod set;

THENCE along the proposed West right-of-way line of said Dallas North Tollway as follows:

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Page 1 of 2

W&A No. 01044
 October 14, 2004
 PAGE 23

C-25

My Property

SOUTHWESTERLY, 225.00 feet along said non-tangent Curve to the Right, having a radius of 2,702.79 feet, a central angle of 04°46'11" and a chord bearing S 05°11'21"W, 224.94 feet to the PLACE OF BEGINNING, containing 3,950 square feet of land.



11-21-01

C-26



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY			Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:		11/4/02	Reviewed by Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Building Inspections			Initials	Date
Department Head	Russ Mower		Executive Director	<i>[Signature]</i>	11/28/02
Dept Signature:	<i>[Signature]</i>		City Manager	<i>[Signature]</i>	12/29/02
Agenda Coordinator (include phone #):			Diana Gallegos #5993		
ACTION REQUESTED:					
<input checked="" type="checkbox"/> ORDINANCE <input type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER					
CAPTION					
AN ORDINANCE FOR THE CITY OF PLANO, TEXAS, REPEALING DIVISION 4, SECTION 11-156, ITINERANT VENDORS ON PRIVATE PROPERTY, OF CHAPTER 11 OF THE CITY OF PLANO CODE OF ORDINANCES, AND REPLACING WITH REVISED REGULATIONS, WHICH WILL CHANGE THE MINIMUM NUMBER OF DAYS THAT A PERMIT WILL ISSUE FROM NINE DAYS TO FIVE DAYS, AND WHICH WILL FORGO THE REQUIREMENT OF A \$100 DEPOSIT FOR CLEAN UP OF LITTER AND DEBRIS RELATED TO USE OF THE PRIVATE PROPERTY BY THE ITINERANT VENDOR; AND PROVIDING PENALTY AND SEVERABILITY CLAUSES, AS WELL AS AN EFFECTIVE DATE.					
FINANCIAL SUMMARY					
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS	
Budget	0	0	0	0	
Encumbered/Expended Amount	0	0	0	0	
This Item	0	0	0	0	
BALANCE	0	0	0	0	
FUND(S):					
COMMENTS:					
SUMMARY OF ITEM					
This ordinance is in response to discussions between City Council, staff and citizens regarding the minimum duration of temporary sales permits and the impact of the current ordinance on non-profit organizations. The ordinance reduces the minimum permit time from nine days to five days. The ordinance also eliminates the requirement for a clean-up deposit on temporary sales. Since these sales are held on private property, it is the responsibility of the property owner, not the City, to insure that the sites are clean following a sale.					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		

ORDINANCE NO. _____

AN ORDINANCE FOR THE CITY OF PLANO, TEXAS, REPEALING DIVISION 4, SECTION 11-156, *Itinerant Vendors on Private Property*, OF CHAPTER 11 OF THE CITY OF PLANO CODE OF ORDINANCES, AND REPLACING WITH REVISED REGULATIONS, WHICH WILL CHANGE THE MINIMUM NUMBER OF DAYS THAT A PERMIT WILL ISSUE FROM NINE DAYS TO FIVE DAYS, AND WHICH WILL FORGO THE REQUIREMENT OF A \$100 DEPOSIT FOR CLEAN UP OF LITTER AND DEBRIS RELATED TO USE OF THE PRIVATE PROPERTY BY THE ITINERANT VENDOR; AND PROVIDING PENALTY AND SEVERABILITY CLAUSES, AS WELL AS AN EFFECTIVE DATE.

WHEREAS, the City Council finds that the existence of temporary businesses within the City presents problems related to the health and safety of the public, including traffic congestion and obstruction, the lack of sanitary facilities, and failure to comply with City Codes, as well as to the impediment of aesthetics; and

WHEREAS, the City Council finds that reasonable regulations for temporary businesses operating within the City would promote the protection of the public health, safety, and welfare of the community; and

WHEREAS, the City Council finds that requiring an itinerant vendor to obtain a permit, which will only issue if the vendor complies with certain provisions, is in the best interest of the public; and

WHEREAS, the City Council finds it inappropriate for the City to require as part of its permit process a clean-up deposit for temporary sales that occur on private property.

NOW THEREFORE, THE CITY COUNCIL FOR THE CITY OF PLANO, TEXAS, ORDAINS THAT:

Section I. The City Council hereby repeals the portion of Ordinance No. 2002-7-13, Section I (July 22, 2002), that is currently codified as Division 4, *Itinerant Vendors*, Section 11-156 of Chapter 11 of the City of Plano Code of Ordinances. Further, all or any portion of the provisions of City of Plano ordinances, whether codified or not, that conflict with the provisions of this ordinance are repealed.

Section II. Division 4, Section 11-156 of Chapter 11 of the City of Plano Code of Ordinances, hereby repealed, is replaced verbatim with the following new language:

“Division 4.

Section 11-156. Itinerant vendors on private property.

- a) Permit required. No itinerant vendor may intermittently occupy any privately owned property for the purpose of operating a temporary business within the city without having previously obtained a temporary sales permit from the building

d-2

inspection department. The applicant must have such permit within his or her personal possession during the time that the temporary business is in operation and must display the permit in such a manner that it is clearly visible from the abutting street.

- b) Permit fee. Prior to the issuance of a permit, the applicant must pay the City of Plano a permit fee in the amount of twenty dollars (\$20.00). The city will not require payment of this permit fee by locally-based charitable organizations or organizations engaged in activities such as bake sales or car washes.
- c) Permit duration. A permit requested under this article will issue for a minimum of five (5) days, but not to exceed forty-five (45) days. Each eligible property may only allow use of the property for a temporary business for a maximum of forty-five (45) days per calendar year.
- d) Requirements for permit issuance. The building inspection department shall only issue a permit if the applicant has complied with the following requirements:
 - (1) The itinerant vendor must conduct his business on the property in a manner that does not violate any code of the city, including all zoning, building, and health codes. The city will exempt an itinerant vendor from zoning provisions where the proposed location of the temporary business is an improved property that contains an active institutional use, such as a church or school; and
 - (2) The itinerant vendor must possess a valid state sales tax certificate or proof of a tax exemption; and
 - (3) The itinerant vendor must provide the city with a copy of either a lease or written permission from the owner of the private property showing that the itinerant vendor may use the property; and
 - (4) The itinerant vendor must submit a dimensioned or scaled site plan indicating the location of the display area, curb cuts, and parking area. The city requires all parking on an all-weather surfaced area; and
 - (5) The itinerant vendor must provide one unisex portable sanitary facility. In lieu of the portable sanitary facility, the vendor may provide a permission letter from the owner or manager of a property located within a two-hundred-foot radius of the temporary business granting permission to use their sanitary facilities; however, the property where the itinerant vendor has permission to use the sanitary facilities cannot be located across a thoroughfare of four lanes or larger; and
 - (6) If the sale involves food products, the itinerant vendor must obtain all the necessary health permits.

d-3

e) An itinerant vendor may not use a tent or temporary building, except a portable sanitary facility, in conjunction with a temporary sale.”

Section III. Any person, firm, or corporation violating any provision of this ordinance commits a Class C misdemeanor offense, punishable by a fine as provided in Section 1-4(b) of the Plano Code of Ordinances. Every day a violation continues shall constitute a separate offense.

Section IV. City Council intends that this Ordinance, and every position thereof, is severable, and the invalidity or unconstitutionality of any section, clause, provision or portion of this Ordinance shall not effect the validity or constitutionality of any other portion of this Ordinance.

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

DULY PASSED AND APPROVED this the ____ day of _____, 2002.

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

d-4



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date:	11/4/02	Reviewed by Legal <i>WV</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Legal	Initials	Date	
Department Head	Diane C. Wetherbee <i>DW</i>	Executive Director		
Dept Signature:	<i>[Signature]</i>	City Manager	<i>RA</i>	10-29-02
Agenda Coordinator (include phone #):		Carol Jasien x7545		

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

CAPTION

AN ORDINANCE OF THE CITY OF PLANO, TEXAS APPROVING AND ADOPTING THE WRITTEN STATEMENT AND REPORT OF THE CITY'S ENGINEER, SHOWING THE ESTIMATES OF THE TOTAL COSTS OF ALL IMPROVEMENTS, THE ESTIMATE OF COSTS TO BE PAID BY THE CITY OF PLANO, THE ESTIMATES OF THE COSTS PER FRONT FOOT PROPOSED TO BE ASSESSED AGAINST THE ABUTTING PROPERTY AND THE REAL AND TRUE OWNERS THEREOF, AND THE ESTIMATES OF VARIOUS OTHER COSTS, FOR THE IMPROVING OF A PORTION OF SPRING CREEK PARKWAY FROM APPROXIMATELY 370 FEET EAST OF MIDWAY ROAD TO THE DALLAS NORTH TOLLROAD IN THE CITY OF PLANO, COLLIN COUNTY, TEXAS; AND OF OTHER MATTERS RELATING THERETO; DETERMINING AND FIXING THE PORTION OF THE COSTS AND THE RATE THEREOF PROPOSED TO BE ASSESSED AGAINST AND PAID BY ABUTTING PROPERTY, AND THE REAL AND TRUE OWNERS THEREOF, AND THE PORTION OF THE COSTS PROPOSED TO BE PAID BY THE CITY OF PLANO, TEXAS; DETERMINING THE NECESSITY OF LEVYING AN ASSESSMENT AGAINST SAID ABUTTING PROPERTY, AND THE REAL AND TRUE OWNERS THEREOF, FOR THE PART OF THE COSTS APPORTIONED TO THEM; ORDERING AND SETTING A HEARING AT 7:00 O'CLOCK P.M., ON THE 9TH DAY OF DECEMBER, 2002, IN THE COUNCIL CHAMBERS OF THE CITY COUNCIL IN THE MUNICIPAL CENTER OF PLANO, TEXAS, AS TO THE TIME AND PLACE FOR THE HEARING OF THE REAL AND TRUE OWNERS OF SAID ABUTTING PROPERTY; DIRECTING THE CITY SECRETARY OF THE CITY OF PLANO, TEXAS TO GIVE NOTICE OF SAID HEARING AS REQUIRED BY THE LAWS OF THE STATE OF TEXAS AND THE CHARTER OF THIS CITY; 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:



**CITY OF PLANO
COUNCIL AGENDA ITEM**

SUMMARY OF ITEM

This is the second Ordinance dealing with the assessment for Spring Creek Parkway from approximately 370 feet east of Midway Road to the Dallas North Tollroad. This Ordinance adopts the Engineer's Roll and sets forth the amount of the assessment to the abutting property owners. The Ordinance sets forth a proposed assessment of \$204.59 per abutting linear foot. This represents 90% of the total paving costs for Spring Creek Parkway, which is \$791,839.00. The total project costs are \$1,313,142.00 which includes Communications Parkway, right turn at Tollroad and other miscellaneous items.

The actual assessment cannot be greater than the special benefits in enhanced value resulting from the improvements. At the public hearing, testimony will be offered on this issue. The Ordinance provides that the assessment will be payable sixty (60) days from said date of acceptance together with interest on the unpaid balance from said date of acceptance until paid at the rate of eight percent (8%) per annum.

The Ordinance sets the public hearing for December 9, 2002.

List of Supporting Documents:

Other Departments, Boards, Commissions or Agencies

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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PLANO, TEXAS APPROVING AND ADOPTING THE WRITTEN STATEMENT AND REPORT OF THE CITY'S ENGINEER, SHOWING THE ESTIMATES OF THE TOTAL COSTS OF ALL IMPROVEMENTS, THE ESTIMATE OF COSTS TO BE PAID BY THE CITY OF PLANO, THE ESTIMATES OF THE COSTS PER FRONT FOOT PROPOSED TO BE ASSESSED AGAINST THE ABUTTING PROPERTY AND THE REAL AND TRUE OWNERS THEREOF, AND THE ESTIMATES OF VARIOUS OTHER COSTS, FOR THE IMPROVING OF A PORTION OF SPRING CREEK PARKWAY FROM APPROXIMATELY 370 FEET EAST OF MIDWAY ROAD TO THE DALLAS NORTH TOLLROAD IN THE CITY OF PLANO, COLLIN COUNTY, TEXAS; AND OF OTHER MATTERS RELATING THERETO; DETERMINING AND FIXING THE PORTION OF THE COSTS AND THE RATE THEREOF PROPOSED TO BE ASSESSED AGAINST AND PAID BY ABUTTING PROPERTY, AND THE REAL AND TRUE OWNERS THEREOF, AND THE PORTION OF THE COSTS PROPOSED TO BE PAID BY THE CITY OF PLANO, TEXAS; DETERMINING THE NECESSITY OF LEVYING AN ASSESSMENT AGAINST SAID ABUTTING PROPERTY, AND THE REAL AND TRUE OWNERS THEREOF, FOR THE PART OF THE COSTS APPORTIONED TO THEM; ORDERING AND SETTING A HEARING AT 7:00 O'CLOCK P.M., ON THE 9TH DAY OF DECEMBER, 2002, IN THE COUNCIL CHAMBERS OF THE CITY COUNCIL IN THE MUNICIPAL CENTER OF PLANO, TEXAS, AS TO THE TIME AND PLACE FOR THE HEARING OF THE REAL AND TRUE OWNERS OF SAID ABUTTING PROPERTY; DIRECTING THE CITY SECRETARY OF THE CITY OF PLANO, TEXAS TO GIVE NOTICE OF SAID HEARING AS REQUIRED BY THE LAWS OF THE STATE OF TEXAS AND THE CHARTER OF THIS CITY; AND PROVIDING AN EFFECTIVE DATE.

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

Section I. The City Council of the City of Plano, Texas, hereby finds and determines:

(A) That the City Council of the City of Plano, Texas, has, by Ordinance duly enacted on October 28, 2002, determined the necessity for and ordered the improvement by the City of Plano of a portion of Spring Creek Parkway in the City of Plano, Texas, within the limits hereafter defined, in the manner and according to the Plans and Specifications therefore, which Plans and Specifications have heretofore been approved and adopted by the City

Council (hereinafter "Improvements"). Said street and the portion thereof ordered to be improved is as follows:

The south side of Spring Creek Parkway shall be constructed from approximately 370 feet east of Midway Road (station 59+60.79) to the Dallas North Tollroad (station 98+67.78) to complete a six-lane divided thoroughfare. The Improvements shall consist of eight inch (8") thick reinforced concrete pavement, complete with curb and gutter, with six inch (6") lime treated subgrade, to provide a six (6) lane divided thoroughfare consisting of two (2) roadway(s) each thirty-seven feet (37') in width (back to back of curb), including drainage improvements, which are more fully described in the plans and specifications on file in the City Engineer's office. Said Improvements are located within one or more of the following surveys:

Henry B. Miller Survey, Abstract No. 614
Collin County School Land Survey No. 5, Abstract No. 150

All lying within the city limits of Plano, Collin County, Texas.

(B) That the City's Engineer (hereinafter called "Engineer") has prepared and filed estimates of the costs of such Improvements and estimates of the amount per front foot to be assessed against the property abutting said street, within the limits therein defined, and against the real and true owners thereof; and the Engineer has filed said estimates and a statement of other matters relating thereto with the City Secretary, and the same has been received, examined and approved by the City Council; and that in accordance with such statement of estimates, the amounts of said estimated costs are as set out in the schedule attached to and made a part of this Ordinance.

Section II. The written statement and report of the Engineer (attached hereto as Exhibit "A") showing the estimated total costs for the entire Spring Creek Parkway Project, which costs include all the Spring Creek Parkway Improvements within the limits above defined (called "Total Project Costs"), showing the amounts per front foot proposed to be assessed against the abutting property and the real and true owners thereof on the said street for the Spring Creek Parkway Improvements, showing the total estimated Spring Creek Parkway Costs of said Improvements proposed to be assessed against and paid by the abutting property and the real and true owners thereof, showing the total estimated Project Costs proposed to be paid by the City of Plano, Texas, and showing other matters relative thereto, having been received and examined by the City Council, said report and estimates therein shown are hereby in all things approved and adopted; and it is hereby found and determined by the City

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Council that the estimated amounts of the several respective items of costs of said Improvements, as above described, on said street are as is set out in the schedule attached hereto and made a part of this Ordinance.

Section III. A portion of the Costs of said Improvements shall be paid and defrayed by the City of Plano, Texas, and a portion of the Costs of said Improvements shall be assessed against and paid by the property abutting the Improvements, and the real and true owners thereof, in accordance with and in the manner provided by Chapter 313 of the Texas Transportation Code, as amended, and the total Improvements Costs as hereinabove described, shall be and the same are hereby apportioned between said parties and shall be paid and defrayed as follows:

(A) The abutting property within the limits hereinabove defined, and the real and true owners thereof, shall be assessed for and pay in accordance with the "front foot plan" **TWO HUNDRED FOUR AND 59/100 DOLLARS (\$204.59)** per abutting linear foot (called "Assessed Costs"¹).

(B) The City of Plano shall pay all of the remainder of the Project Costs of said Improvements after deducting the amounts herein specified to be paid by the abutting property and the real and true owners thereof as set out in subparagraph (A) above.

(C) There is included within the meaning of the terms "Cost," "Assessed Costs," "Paving Costs," or "Project Costs," when such terms are used herein, all other costs and expenses incident to the construction of the Improvements, including engineering and inspection expenses.

(D) When the Improvements herein ordered have been completed and accepted by the City of Plano, the amount of the assessment against each property abutting thereon and the real and true owners thereof shall be and become payable sixty (60) days from the date of acceptance by the City, together with interest on the unpaid balance from said date of acceptance until paid at the rate of eight percent (8%) per annum. If payment is not paid when due, then at the option of the City, the entire amount of the assessment upon which default is made, together with reasonable attorneys' fees and all collection costs incurred, shall be and become immediately due and payable.

Provided, notwithstanding anything contained herein to the contrary, if any tract or parcel of property abutting such Improvements (called "Tract"), or portion of the Tract, should after the date of acceptance, be sold or have filed and approved by the City of Plano a final plat, the entire assessment,

¹ The Assessed Costs are 90% of the Paving Costs.

together with accrued interest thereon, against the Tract shall become immediately due and payable.

(E) No assessment shall be made against any abutting property or the real and true owners thereof of costs in excess of the special benefits to such property or owners thereof in enhanced value thereof by means of such Improvements, as determined by the City Council at the hearing. The amounts of such assessments shall constitute a first and prior lien upon all such properties and a personal liability of the true and real owners thereof, whether correctly named or not.

Section IV. A hearing shall be held and notice given to the owners as shown on the City's tax roll of the abutting property within the limits set out above as to the assessment and as to the amount to be assessed against each parcel of abutting property, and the owners thereof, and as to the special benefits, if any, to said property to be received from said Improvements and concerning any error, invalidity, irregularity or deficiency in any proceeding or contract with reference thereto or concerning any matter or thing connected therewith. The hearing shall be held by the City Council of Plano, Texas, in the Council Chambers of the City Council in the Municipal Center in the City of Plano, Texas, at 7:00 o'clock p.m., on the 9th day of December, 2002, at which time and place all persons, firms, corporation, or estates owning or claiming any such abutting property, or any interest therein, and their agents or attorneys, and persons interested in said proceedings, shall be given an opportunity to appear and to be heard in person, or by counsel, and may offer evidence; and said hearing may in the sole discretion of the City Council be adjourned from day to day and from time to time kept open, until all evidence and protests have been duly offered and heard, and the City Secretary of the City of Plano, Texas, is hereby directed to give notice of said hearing by publication of notice in a newspaper of general circulation in the City of Plano, Texas; said notice shall be published at least three (3) times in said newspaper before the date set for said hearing, the first of which publications shall be at least twenty-one (21) days prior to the date of said hearing, and such notice by publication shall be valid and sufficient, without any further form or character of notice, as provided for by and in accordance with the terms and provisions of Chapter 313 of the Texas Transportation Code, as amended. Where required by said statute, the City Secretary shall give additional written notice. However, the City Secretary may, in addition to the contents of the notice of said hearing as required by law which shall be for all purposes valid and sufficient in itself, include in any one or all of the publications of said notice such further information regarding such proposed Improvements and assessments as the City Secretary may deem proper, and such general statement in connection therewith as the City Secretary may desire to acquaint those to whom the notice is directed with the facts and matters concerning said Improvements and assessments.

Section V. Following such hearing as herein provided, assessments will be levied against said abutting property, and the real and true owners thereof, for that portion of the cost of said Improvements hereinabove determined to be payable by said abutting property and the real and true owners thereof, which assessments shall be a first and prior lien upon the abutting property and a personal liability and charge against the real and true owners thereof. In levying the assessments, if the name of the owner be unknown, it shall be sufficient to so state that fact, and if said abutting property be owned by an estate or by any firm or corporation, it shall be sufficient to so state that fact, and it shall be unnecessary to give the correct name of any such owner and no error or mistake in attempting to name the owner or in describing any of the property shall invalidate any assessment or certificate issued in evidence thereof; but, nevertheless, the real and true owners of said abutting property shall be liable and the assessment against the abutting property shall be valid whether or not such owner may be named, or correctly named, or the property correctly described therein.

Section VI. This Ordinance shall become effective immediately from and after its passage.

DULY PASSED AND APPROVED this the ____ day of _____, 2002.

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

EXHIBIT "A"
ESTIMATES AND ROLLS FOR STREET ASSESSMENT

**TO THE MAYOR AND CITY COUNCIL MEMBERS
CITY OF PLANO, TEXAS**

In accordance with the proceedings heretofore had by the City Council, and at your direction and as required by law, I have prepared, and herewith submit to you, estimates of the costs of improving portions of Spring Creek Parkway in the City of Plano, Collin County, Texas, as ordered and described in an Ordinance duly adopted by the City Council on October 28, 2002, by excavating, grading, paving, installing drainage inlets, storm sewers and drainage structures, and by constructing concrete curbs and gutters where adequate curbs and gutters are not now in place, including all related improvements, all as provided for and in the approved plans and specifications therefore; said street and the portion thereof being described and identified by City of Plano Ordinance No. 2002-10-36.

The estimates hereinafter set out are based upon the actual bids, and the apportionment of the costs of said Improvements, as heretofore proposed and described; and said estimates contain the proposed amounts per front foot to be charged and assessed against the abutting property, and the real and true owners thereof, for the total dollar amount per front foot for all of said Improvements.

Said estimates further show the total costs of said Improvements proposed to be charged against and paid by said abutting properties, and the

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real and true owners thereof, the total cost of said Improvements to be paid by the City of Plano, Texas, and the total cost of all of said Improvements in reference to the street to be improved, as above described.

With said estimates, I have shown the proposed amounts to be assessed against the several parcels of abutting property, and the real and true owners thereof, together with the number of front foot frontage, names of apparent owners, and other matters, all as accurately as I have been able to determine.

Respectfully submitted,

ALAN UPCHURCH
City Engineer

ENGINEER'S ESTIMATE OF COSTS

Total Project Costs:	\$ 1,313,142.00
Spring Creek Parkway Improvement Costs	\$ 879,812.51
Total Number of Front Feet in Improvements (feet)	3,870.37
Total Costs to be Paid by Property Owners on a Per-Foot Basis at \$204.59 Per Foot	\$ 791,839.00 (90% of Paving Costs)
Total Costs to be Paid by City	\$521,303.00

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ENGINEER'S ASSESSMENT ROLL
ASSESSMENT CALCULATION FOR PAVING
SPRING CREEK PARKWAY EXTENSION
370 FEET EAST OF MIDWAY TO DALLAS NORTH TOLLROAD

PROPERTY OWNER	PROPERTY	ABUTTING FEET	TOTAL ASSESSMENT ²
<p>Laverne W. Baccus, Trustee For Earlane B. Croom Trust (Earlane Baccus Croom) 1421 Winrock Houston, TX 77057-1729</p>	<p>An approximate 4.28 acre tract of land in the Collin County School Land Survey No. 5, Abstract No. 150, Collin County, Texas, being a part of the property described in Deed recorded at Volume 4550, Page 1143 Account No. R6150-000-0070-1</p>	<p>551.77</p>	<p>\$112,886.62</p>
<p>City of Plano Park</p>	<p>Lot 8, Block O, Wolf Creek Estates, Phase II, Cabinet J, Page 922, Collin County, Texas Account No. R3677-000-0080-1</p>	<p>133.12</p>	<p>\$27,235.02</p>

² Assessment Per Abutting Foot = \$204.59

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Ordinance No. _____

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Charles and Michelle Michel 6205 Highview Drive Plano, TX 75024-6074	Lot 20, Block I, Wolf Creek Estates, Phase III, Cabinet J, Page 922, Collin County, Texas Account No. R3677-001-0200-1	60.61	\$12,400.20
City of Plano Alley and Street Right-of-Way	Dedicated by Plat, Wolf Creek Estates, Phase III, Cabinet J, Page 922, Collin County, Texas	793.57	\$162,356.49
Acres of Sunshine, Ltd. 520 East Central Parkway Suite 301 Plano, TX 75074-5528	An 11.385 acre tract of land in the Henry B. Miller Survey, Abstract No. 614, Collin County, Texas, as described in Deed recorded at Clerk's No. 98-0087483 Account No. R6614-000-0010-1	556.49	\$113,852.29
Ziff Associates, et al 701 East Bay Street Charleston, SC 29403-5033	A 37.721 acre tract of land in the Henry B. Miller Survey, Abstract No. 614, Collin County, Texas, as described in Deeds recorded at Clerk's No. 2001-0054074, Clerk's No. 2001-0054703, and Volume 2854, Page 547 Account No. R6614-000-0050-1	1,764.43	\$360,984.73
City of Plano, Texas	Dallas North Tollroad Right of Way	10.38	\$2,123.64
Total Frontage		3,870.37	\$791,838.99

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**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:	11/04/02		Reviewed by Legal	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Department:	Engineering Department		Initials	Date	
Department Head	Alan Upchurch	Executive Director	<i>[Signature]</i>	10/28/02	
Dept Signature:	<i>[Signature]</i>	City Manager	<i>[Signature]</i>	10/29/02	
Agenda Coordinator (include phone #):	Irene Pegues (7198)		(Project No. 4888)		

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

CAPTION

To Ed Bell Construction Company, Inc., increasing the contract by \$30,912.76 for Hedgcoxe Road Pavement Widening and Reconstruction from Preston Road to Custer Road, Change Order No. 2 (Bid No. B019-02).

FINANCIAL SUMMARY

NOT APPLICABLE OPERATING EXPENSE REVENUE CIP

FISCAL YEAR: 2002-03	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	1,607,592	1,311,408	0	2,919,000
Encumbered/Expended Amount	-1,607,592	-1,185,203	0	-2,792,795
This Item	0	-30,913	0	-30,913
BALANCE	0	95,292	0	95,292

FUND(S): STREET IMPROVEMENT CIP

COMMENTS: Funds are included in the 2002-03 Street Improvement Program. This item, in the amount of \$30,913 will leave a current year balance of \$95,292 for Hedgcoxe-Preston to Custer project.

SUMMARY OF ITEM

This change order is to increase the concrete removal quantity to reflect actual quantities and add an item to pay for manhole adjustments.

Staff recommends approval of Change Order No. 2. The contract total will be \$2,685,426.31, which includes change orders of 1.35% of the original contract amount of \$2,649,698.55.

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
Change Order No. 2	N/A
Location Map	

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D. EFFECT OF CHANGE ON CONTRACT TIME

The work required under this change order will add **1** day to this project:

Original Contract Time	<u>215 calendar days</u>
Amount (Including Previous Change Orders)	<u>216 calendar days</u>
Amount, Change Order No. 2	<u>1 calendar days</u>
Revised Contract Time	<u>217 calendar days</u>
Total Percent Increase Including Previous Change Orders	<u>0.93%</u>

E. AGREEMENT

By the signatures below, duly authorized agents of the City of Plano, Texas and ED BELL CONSTRUCTION COMPANY, INC., do hereby agree to append this Change Order No. 2 to the original contract between themselves, dated January 14, 2002.

CITY OF PLANO

**ED BELL CONSTRUCTION
COMPANY, INC.
CONTRACTOR**

OWNER

CONTRACTOR

By: _____
(signature)

By: _____
(signature)

Print
Name: Thomas Muehlenbeck

Print
Name: _____

Print
Title: City Manager

Print
Title: _____

Date: _____

Date: _____

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ACKNOWLEDGMENTS

STATE OF TEXAS)
)
COUNTY OF _____)

This instrument was acknowledged before me on the _____ day of _____, 2002, by _____, _____, of **ED BELL CONSTRUCTION COMPANY, INC.**, a **Texas Corporation**, on behalf of said corporation.

Notary Public, State of Texas

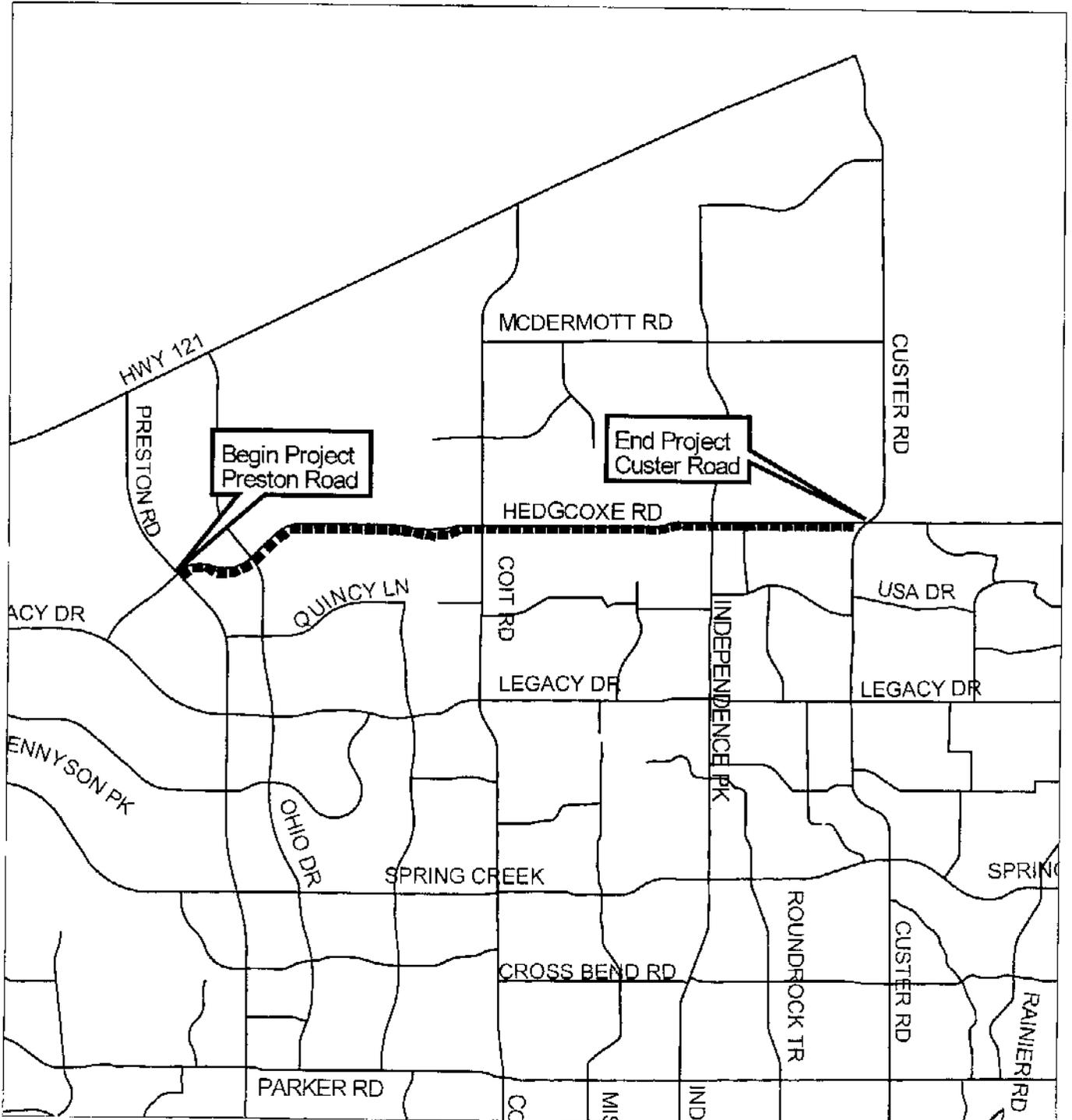
STATE OF TEXAS)
)
COUNTY OF COLLIN)

This instrument was acknowledged before me on the _____ day of _____, 2002, by **Thomas 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

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Hedgcoxe Rd Widening Preston Rd to Custer Rd Project 4888



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CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular	<input type="checkbox"/> Statutory	Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date: 11/4/02		Reviewed by Legal <i>DF</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable	
Department:	Engineering			Initials	Date
Department Head	Alan J. Upchurch			Executive Director	<i>[Signature]</i> 10/28/02
Dept Signature:	<i>[Signature]</i>			City Manager	<i>[Signature]</i> 10/29/02
Agenda Coordinator (include phone #):		Pegues (7198)	(Project No. 5287)		

ACTION REQUESTED:

<input type="checkbox"/> ORDINANCE	<input type="checkbox"/> RESOLUTION	<input type="checkbox"/> CHANGE ORDER	<input type="checkbox"/> AGREEMENT
<input type="checkbox"/> APPROVAL OF BID	<input checked="" type="checkbox"/> AWARD OF CONTRACT	<input type="checkbox"/> OTHER	

CAPTION

Approval and authorization for the selection of Chiang, Patel & Yerby Inc. to provide Professional Engineering Services for an amount not to exceed \$159,767.00 in connection with the design of Independence Square Water Line Renovation and Fire Hydrants and authorizing the City Manager or his designee to execute all necessary documents to effectuate this contract.

FINANCIAL SUMMARY

NOT APPLICABLE
 OPERATING EXPENSE
 REVENUE
 CIP

FISCAL YEAR: 2002-03	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	229,852	364,148	1,400,000	1,994,000
Encumbered/Expended Amount	-229,852	-20,322	0	-250,174
This Item	0	-159,767	0	-159,767
BALANCE	0	184,059	1,400,000	1,584,059

FUND(S): WATER CIP

COMMENTS: Funds are available in the 2002-03 Water CIP. This item, in the amount of \$159,767, will leave a current year balance of \$184,059 for the Independence Square Water Line and Fire Hydrant projects.

STRATEGIC PLAN GOAL: This item relates to the City's goal of Safe, Livable Neighborhoods.

SUMMARY OF ITEM

This agreement with Chiang, Patel & Yerby Inc. is for preparation of plans and specifications for the renovation of water mains and installation of fire hydrants in various locations in the City.

The contract fee is for \$159,767.00 and is detailed as follows:

- \$97,552 Engineering
- 17,215 Construction Services
- 45,000 Surveying
- \$159,767 Total**

Funding is available from the 2002-2003 Water Capital Improvement Program. Staff feels the fee is reasonable for this project estimated to cost \$1,530,200.

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

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INDEPENDENCE SQUARE WATER RENOVATION AND FIRE HYDRANTS

PROJECT NO. 5287

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 **CHIANG, PATEL & YERBY, INC.**, a **TEXAS** Corporation, hereinafter referred to as "Engineer", to be effective from and after the date as provided herein.

WITNESSETH:

WHEREAS, the City desires to engage the services of the Engineer to prepare construction plans, specifications, details and special provisions and to perform other related engineering services in connection with the **INDEPENDENCE SQUARE WATER RENOVATION AND FIRE HYDRANTS** 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:

Chiang, Patel & Yerby, Inc.
1820 Regal Row, Suite 200
Dallas, Texas 75235
Attn: Philip S. Yerby, P.E.

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.

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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.

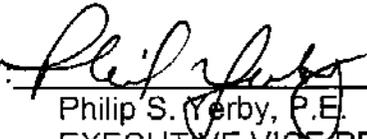
F. Effective Date:

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

SIGNED on the date indicated below.

CHIANG, PATEL & YERBY, INC.
A Texas Corporation

DATE: October 18, 2002

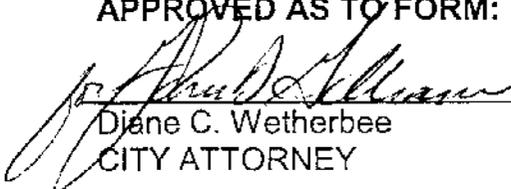
BY: 
Philip S. Yerby, P.E.
EXECUTIVE VICE PRESIDENT

CITY OF PLANO, TEXAS

DATE: _____

BY: _____
Thomas H. Muehlenbeck
CITY MANAGER

APPROVED AS TO FORM:

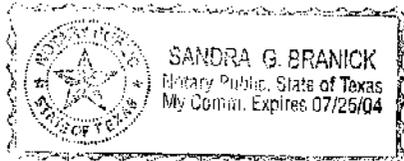

Diane C. Wetherbee
CITY ATTORNEY

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ACKNOWLEDGMENTS

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the 18th day of October, 2002, by **PHILIP S. YERBY, P.E., EXECUTIVE VICE PRESIDENT** of **CHIANG, PATEL & YERBY, INC.**, a **TEXAS** corporation, on behalf of said corporation.



Sandra G. Branick
Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2002, 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

JS

EXHIBIT A
SCOPE OF TECHNICAL SERVICES

WATER LINE REHABILITATION and FIRE HYDRANT INFILL
INDEPENDENCE SQUARE
PROJECT NUMBER 5287
CIP NUMBERS: 36-68166 & 36-68166
CITY OF PLANO, TEXAS

This document describes the engineering services authorized by the City of Plano, Texas (City), for Chiang, Patel & Yerby, Inc., Consulting Engineers – Planners – Project Managers, Dallas, Texas (Engineer), to proceed with on the above project.

PROJECT DESCRIPTION:

The design and preparation of construction plans for the replacement of the existing water mains and appurtenances along the following streets within the City of Plano (CIP #36-68166):

- Calumet Drive – 900 feet of 8" main from Lock Haven to Piedra Drive
- Nancy Court – 600 feet of 6" & 8" main from Mission Ridge Road west
- Longbow Lane – 1000 feet of 8" main from Coach House Lane to Windstone Drive
- K Avenue – 400 feet of 8" main in the 1800 Block in the alley behind shopping center
- 19th Street – 1200 feet of 8" main from P Avenue To N Avenue
- 18th Street – 1200 feet of 8" main from P Avenue To N Avenue
- Cross Bend – 1100 feet of 8" main from Canoncita Lane to Wilshire Drive
- Newcastle Circle – 1900 feet of 8" main from Huntington Drive to Huntington Drive

The design and preparation of construction plans for the addition of 28 fire hydrants at various locations in an area north of 14th Street and east of Jupiter Road. City of Plano CIP # 36-68166.

The proposed water line replacement shall consist of 6-inch and 8-inch PVC, C900 water line and the necessary fittings, fire hydrants, valves, service connections, encasement, and other related appurtenances. The location of the new water line shall be approximately 1-foot inside the face

of the existing curb, which will require replacement of 5 to 6-feet of the existing pavement. The pavement replacement will be with 8-inch thick concrete pavement.

The proposed fire hydrant additions shall consist of placing a tapping sleeve and valve on the existing water line and placement of a fire hydrant assembly complete in place with all necessary appurtenances.

The parameters for the design of the improvements shall include the following:

- The intent of the project is to bid the construction of the proposed water lines and pavement replace as one construction contract.
- Field surveys and project control for the water replacement projects shall be based on the City's Geodetic Monumentation Data.
- For this project, it is assumed that the existing stormwater drainage system is adequate to service the area. If additional new drainage facilities are necessary, the engineering design, survey, and plans will be an additional Special Service.
- Required demolition will be shown on the water plans. There will be no separate Demolition Plans.
- Minor driveway, alley approach, and sidewalk replacements will be required.
- Water service lead replacements will be required.
- Traffic control will be considered for the area of construction.
- Utility coordination will be required with all franchised utility companies as well as the private utility companies.
- All drawings will be prepared in MicroStation format.
- Submittals to the City of work-in-progress shall be made at the 60%, 95%, and 100% levels of design.
- Standards and typical construction details of the City will be referred to in the drawings and specifications. The details standard will not be redrawn.

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- Special details that are not included as a standard by the City shall be included in both the plans and specifications.

A preliminary opinion of probable construction costs has been prepared for the proposed improvements and is included at the end of this section. Projected cost for the water line rehabilitation and associated work is approximately \$1,295,159. The projected cost for the additional fire hydrants is approximately \$235,060. for a project total of \$1,530,219. The preliminary cost projection is prepared for budget purposes only and is not guaranteed as the exact amount, which will be bid for the work.

The Engineer shall perform the necessary engineering and related technical services for the Basic Design and Construction Phase Services, including any necessary Special Services for the development of this project according to the following sections of this agreement.

BASIC SCOPE OF SERVICES:

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.

B. Design Survey – (This section is for the water line rehabilitation projects only)

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., Verizon Telephone, 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. Perform field surveying to establish ground control.
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.

C. Preliminary Design –

1. Prepare preliminary construction plans. Prepare the following sheets at the engineering scale indicated for the water line rehabilitation plans:
 - Cover sheet.
 - Quantity sheet.
 - Typical sections and detail sheets.
 - Both existing and proposed top of curb elevations must be shown for the curb line adjacent to the water main.
 - Water plan & profile sheets. Scale 1" = 20'. (Profile for curb only)
 - 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.

2. Provide phasing plan – May be either a written description or an additional drawing.
3. Coordinate with affected utilities such as sewer, 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.
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. Copy City of Plano with all correspondence with franchise utilities.
9. Prepare plans for the additional fire hydrants on 8.5" x 11" plan sheets. Each location will be on an individual sheet. The sheet background will be on aerial photography provided by the City of Plano.

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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. Distribute copy of final plans and proposed schedule for bid letting and construction to all affected franchise utilities. Copy City of Plano with all correspondence with 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. Prepare and distribute addenda to bid documents as necessary.
5. Assist City staff as required in bid opening. Submit list of plan holders to the City, 48-hours prior to the bid letting.
6. Provide bid tabulation to the City of Plano within four working days of the bid letting.
7. 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.
8. Assist City staff in a pre-construction conference.
9. Furnish thirteen (full size) and two half-size sets of final construction plans and six sets of the contract documents manual to the City for construction.

F. Construction Administration –

1. Provide periodic site visits by the design engineer with a written inspection report submitted to the City for each visit.
2. Provide written responses to requests for information or clarifications.
3. Utilizing City and Contractor construction record information, prepare one set of black line 24"x 36" drawings (with "record drawing" stamp) and CD ROM disk containing scanned images of the 24" x 36" final "record drawing" black-line drawings. 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-specking, de-shading, de-skewing, etc). Each file shall be named in numeric order.

G. Construction Control Survey – (This section is for the water line rehabilitation projects only)

1. Set vertical control stakes for construction at 500' intervals for each location, or a minimum of one at each end of each water line in the project.
2. Set horizontal control stakes for construction including PI's, PC's and PT's for each water line.

H. Special Services –

1. Any special services required for the project will be performed at the rate negotiated with the City of Plano. No Special Services will be performed without the prior written authorization of the City of Plano. Environmental mitigation, geotechnical investigations, etc., are considered Special Services. At this time no Special Services are envisioned.

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City of Plano
Water Line Rehabilitation
Independence Square Project No. 5286
CIP Number: 36-68166

Preliminary Opinion of Probable Constructin Cost

Summary CIP No. 36-68166					
Item No.	Item Description	Unit	Total Quantity	Unit Cost	Cost
1	R.O.W. Preparation & Mobilization	L.S.			\$ 40,000
2	8" PVC C900	L.F.	7800	\$ 45	\$ 351,000
3	6" PVC C900	L.F.	500	\$ 40	\$ 20,000
4	1" Copper Service Leads	EA.	147	\$ 900	\$ 132,300
5	8" Gate Valve	EA.	22	\$ 800	\$ 17,600
6	6" Gate Valve	EA.	6	\$ 750	\$ 4,500
7	8" x 8" Tapping Sleeve & Valve	EA.	12	\$ 2,000	\$ 24,000
8	Fire Hydrant Assembly	EA.	25	\$ 2,000	\$ 50,000
9	Remove Paving, Drive & Sidewalk	S.Y.	5785	\$ 15	\$ 86,775
10	8" Concrete Pavement	S.Y.	5575	\$ 50	\$ 278,750
11	6" Curb	L.F.	7900	\$ 5	\$ 39,500
12	4" Sidewalk Pavement	S.Y.	210	\$ 30	\$ 6,300
13	Trench Safety	L.S.			\$ 15,500
14	Erosion Control (SWPPP)	L.S.			\$ 21,500
15	Sodding	L.S.			\$ 22,500
16	Traffic Control	L.S.			\$ 16,000
	Subtotal				\$ 1,126,225
	Contingencies (15%)				\$ 168,934
	TOTAL				\$ 1,295,159

City of Plano
Fire Hydrant Infill Projects (28 Locations)
Independence Square Project No. 5286
CIP Number: 36-68166

Preliminary Opinion of Probable Constructin Cost

Summary CIP No. 36-68166					
Item No.	Item Description	Unit	Total Quantity	Unit Cost	Cost
1	Mobilization	EA.	28	\$ 200	\$ 5,600
2	Excavation & Backfill	EA.	28	\$ 500	\$ 14,000
3	"x6" Tapping Sleeve & Valve	EA.	28	\$ 2,500	\$ 70,000
4	Fire Hydrant Assembly	EA.	28	\$ 2,500	\$ 70,000
5	Flust, Test, & Place In Service	EA.	28	\$ 500	\$ 14,000
6	Pavement Replacement	S.Y.	112	\$ 100	\$ 11,200
7	Sidewalk Replacement	S.Y.	56	\$ 50	\$ 2,800
8	Trench Safety	EA.	28	\$ 100	\$ 2,800
9	Traffic Control	EA.	28	\$ 300	\$ 8,400
10	SWPPP	EA.	28	\$ 200	\$ 5,600
	Subtotal				\$ 204,400
	Contingencies (15%)				\$ 30,660
	TOTAL				\$ 235,060

SUMMARY	
Water Line Rehabilitation	\$ 1,295,159
Fire Hydrant Infill Projects (28 Locations)	\$ 235,060
GRAND TOTAL	\$ 1,530,219

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EXHIBIT "B"
Project Schedule
For
City of Plano
Water Line Rehabilitation and Additional Fire Hydrants
Independence Square Project No. 5286
CIP Numbers: 36-68166 & 36-68166

The following schedule is based on a Notice to Proceed by December 1, 2002. The schedule allows for a construction bid letting in June of 2003.

ID	TASK	DURATION (Working Days)	DURATION (Working Weeks)
1	Engineer's Notice to Proceed	0	0
2	Research and Data Collection	10	2
3	Design Survey	15	3
4	Preliminary Design (60%)	20	4
5	City's first Review	10	2
6	Final Design (95%)	25	5
7	City's Second Review	10	2
8	Revise Final Plans & Specifications (100%)	10	2
9	City's Final Review	5	1
10	Advertise for Bids & Receive Bids	20	4
11	Recommend Award	5	1
12	Prepare Council Agenda & Award	15	3
13	Prepare Contract	10	2
14	Schedule Pre-Construction Meeting	5	1
15	Construction Notice to Proceed	5	1
16	Construction	130	26
17	Schedule & Final Acceptance	5	1
	TOTALS	300	60

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EXHIBIT "C"
BASIS OF COMPENSATION
FOR
WATER LINE REHABILITATION AND FIRE HYDRANT INFILL:
INDEPENDENCE SQUARE
PROJECT NUMBER 5287
CIP NUMBERS: 36-68166 & 36-68166
CITY OF PLANO, TEXAS

A. COMPENSATION FOR BASIC SERVICES:

For and in consideration of the services to be rendered by the Engineer, the City shall pay, and the Engineer shall receive the fees hereinafter set forth for the preliminary, the Design, and the Construction Phases of the work.

The basis of the fee for performing the engineering services as described in EXHIBIT "A", is calculated from the per diem rate of the personnel's Direct Salary times a multiplier of 3.0, with reimbursement of all direct non-labor and subcontract expenses, plus a fifteen percent (15%) service charge.

The Engineer shall therefore be paid based on a per diem rate of the personnel's Direct Salary times a multiplier of 3.0, with reimbursement for direct non-labor and subcontract expenses, plus fifteen percent (15%) service charge.

Partial payments for services shall be made monthly in proportion to that part of the services, which have been accomplished, as evidenced by monthly statements submitted to the City. Final payment for services authorized and performed for each phase shall be due upon the completion of the services.

"Direct Salary" is defined as the cost of salaries of engineers, technicians, designers, stenographers, surveyors, clerks, laborers, etc., for time directly chargeable to the project, without the cost of social security contributions, unemployment excise and payroll taxes, employment compensation insurance, retirement benefits, medical and insurance benefits, sick leave, vacation, and holiday pay applicable thereto.

"Subcontract Expense" is that incurred by the Engineer in employment of consultants in specialized fields and outside firms for services in the nature of foundation borings and soil testing, surveying, aerial photography, materials testing, and similar services.

"Direct Non-Labor Expense" for any assignment is that incurred by the Engineer for supplies, transportation, equipment, travel, communications, subsistence and lodging away from home, and similar incidentals in connection with that assignment.

The projected total fee for the basic design phase services is based on 7.5% of the projected opinion of probable construction cost of approximately \$1,530,219. The

projected Basic Design Fee including the Basic Survey shall not exceed \$159,767.00 without authorization from the City of Plano.

B. SPECIAL SERVICES: (If Requested by the City)

If authorized in writing by the City, the Engineer shall furnish other services or tasks in addition to the scope of Basic Services proposed herein. For performing these special services, the Engineer shall be paid on a monthly billing basis at a per diem rate of the personnel's Direct Salary times a multiplier of 3.0, with the reimbursement of all direct non-labor and subcontract expenses at the invoice cost, plus a fifteen percent (15%) service charge.

C. SUMMARY OF COSTS

Basic Services

Water Line Rehabilitation & Additional Fire Hydrants

- | | |
|----------------------------------------------------------------------------------------------------------------|--------------|
| 1. Basic Engineering Services
(including research, preliminary design, final design,
bid-phase services) | \$ 97,552.00 |
| 2. Basic Construction Services
(including construction administration services) | \$ 17,215.00 |
| 3. Basic Survey Services
(including design survey and construction control survey) | \$ 45,000.00 |

TOTAL FEES **\$159,767.00**

Itemized Engineering Services Costs

<u>Task</u>	<u>Water Line Rehabilitation</u>	<u>Additional Fire Hydrants</u>	<u>Total</u>
Basic Design	\$ 82,566.00	\$14,986.00	\$ 97,552.00
Basic Construction	\$ 14,571.00	\$ 2,644.00	\$ 17,215.00
Basic Survey	\$ 45,000.00	\$ 0.00	\$ 45,000.00
TOTAL	\$142,137.00	\$17,630.00	\$159,767.00

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

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

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

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

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

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ENGINEERING

City of Plano - Insurance Checklist

("X" means the coverage is required.)

Coverages Required

Limits (Figures Denote Minimums)

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

18. Garagekeepers' Legal \$ _____ - Comprehensive
 \$ _____ - Collision
19. Owners Protective Liability \$500,000 Combined single limits

20. City named as additional insured on General Liability policy. This coverage is primary to all other coverages the City may possess.
21. City provided with Waiver of Subrogation on Workers' Compensation or Alternative program if applicable.
22. Ten (10) days notice of cancellation, ~~no reasonable, consistent, or change of coverage or reduction of coverage is required.~~ The words "endeavor to" and "but failure" (to end of sentence) are to be eliminated from the Notice of Cancellation provision on standard ACORD certificates.
23. The City of Plano prefers an A.M. Best's Guide Rating of "A-", "VI" or better or Standard and Poors Rating AA or better; Authorized to do business in the State of Texas (not applicable for workers' compensation assigned through pool or alternative compensation programs).
24. The Certificate must state project title and project number.
25. Other Insurance Required:

INSURANCE AGENT'S STATEMENT

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

26. The above policy(s) carry the following deductibles: Professional Liability-\$100,000. Deductible
- Full limits of coverage available for:
 General Liability To the best of our knowledge Professional Liability To the best of our knowledge
 Automobile Liability To the best of our knowledge

27. Liability policies are (Indicate):

OCCURRENCE CLAIMS MADE - Professional Liability

Patrick P. McLaughlin 10/18/2002
 Signature Date

Patrick P. McLaughlin - McLaughlin Brunson Ins. Agency
 Insurance Agent (Print)

Chiang, Patel & Yerby, Inc.
 Name of Insured

10/18/2002
 Date

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EXHIBIT "E"

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.

Chiranjeev Patel & Yerby Inc
Name of Engineering Firm

By: Philip S. Yerby
Signature

Philip S. Yerby
(Print Name)

Executive Vice President
Title

October 18, 2002
Date

STATE OF TEXAS §
COUNTY OF Dallas §

SUBSCRIBED AND SWORN TO before me this 18th day of October, 2002.

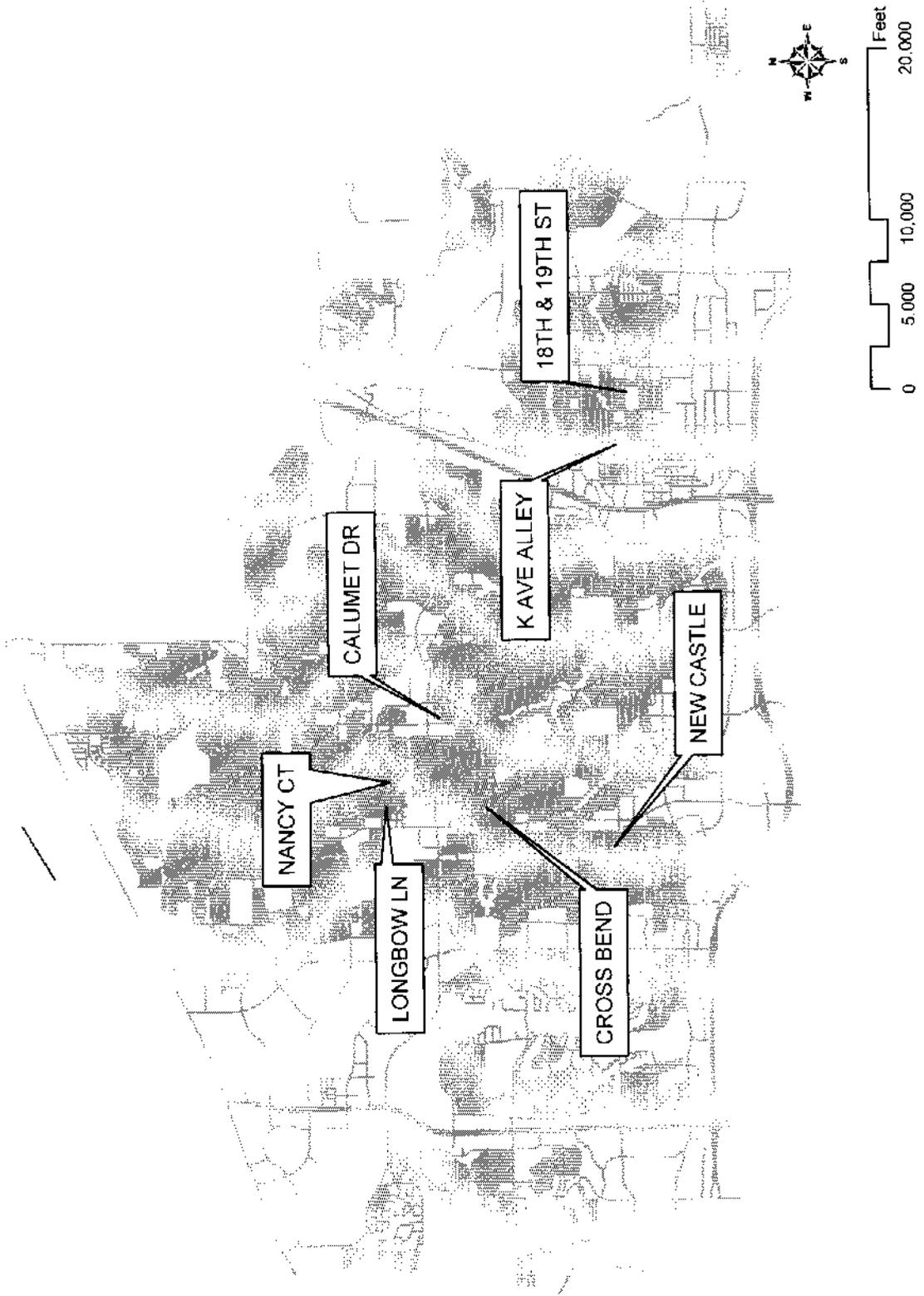


Sandra S. Branick
Notary Public, State of Texas

9-24

INDEPENDENCE SQUARE

WATER LINE REHABILITATION
AND FIRE HYDRANTS



9-25



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not Applicable
Council Meeting Date:	11/25/02	Reviewed by Legal <i>aw</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Community Response & Technology Business Center		<i>[Signature]</i>	Date
Department Head	Bruce D. Glasscock	Executive Director	<i>[Signature]</i>	10-24-02
Dept Signature:		City Manager	<i>[Signature]</i>	10-29-02
Agenda Coordinator (include phone #): Cindy Potrykus, Ext. 7747				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input checked="" type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
A Resolution of the City Council of the City of Plano, Texas, adopting a 2003 state legislative program for the City of Plano; directing the City Manager or his designee to act with regard to the City's legislative program; and providing an effective date.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(s):				
COMMENTS:				
SUMMARY OF ITEM				
Adopting City of Plano 2003 Legislative Program.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
City of Plano 2003 Legislative Program				

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RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, ADOPTING A 2003 STATE LEGISLATIVE PROGRAM FOR THE CITY OF PLANO; DIRECTING THE CITY MANAGER OR HIS DESIGNEE TO ACT WITH REGARD TO THE CITY'S LEGISLATIVE PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the 78th Texas Legislature will convene in January of 2003; and

WHEREAS, it is anticipated that many legislative issues affecting local government will be considered during this Session; and

WHEREAS, City Staff prepared the recommended City of Plano 2003 Legislative Program attached hereto as Exhibit "A" and the Legislative Program has been reviewed by the City Council of the City of Plano; and

WHEREAS, the City Council is of the opinion that such Legislative Program is in the best interest of the City and its citizens, should be adopted, and should be forwarded for consideration by the Legislature; and

WHEREAS, the City Council is of the further opinion that the City Manager or his designee should be directed to take action with regard to the Legislative Program as outlined below.

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

Section I. The City of Plano 2003 Legislative Program that is attached hereto as "Exhibit A" is hereby adopted and approved as the Legislative Program for the City of Plano.

Section II. The City Manager or his designee is directed to communicate the items included in the City's Legislative Program to the members of the Texas Legislature.

Section III. For those items designated as "seek introduction and passage", the City Manager or his designee is directed to attempt to find a legislative sponsor of the initiative and actively pursue passage of the appropriate legislation if it is introduced by some other entity. The City Manager's efforts to obtain passage of the legislation may include drafting appropriate legislation, seeking a sponsor, and actively pursuing passage of such legislation by providing testimony and through other means.

Section IV. For those items designated as "support", the City Manager or his designee is directed to actively pursue passage of the appropriate legislation if it is introduced by some other entity. The City Manager's efforts to obtain passage of the legislation may include drafting appropriate legislation, seeking a sponsor, and actively pursuing passage of such legislation by providing testimony and through other means.

Section V. For those items designated as "oppose", the City Manager or his designee is directed to attempt to impede the passage of any such legislation.

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

DULY PASSED AND APPROVED this the _____ day of _____, 2002.

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, CITY SECRETARY

APPROVED AS TO FORM:



Diane Wetherbee, CITY ATTORNEY

**City of Plano
2003 Legislative Program**

Seek introduction and passage of legislation that would:

- Amend the Development Corporation Act of 1979 to further promote economic development, provide for greater accountability and reporting of tax incentives, and promote the expansion of metropolitan transit authorities.
- Amend the Texas Tax Code with regard to homestead exemptions to (1) define "temporarily," and (2) remove the requirement to prove an owner's intent to return to and occupy a structure as a principal residence.
- Modify the requirements of the Texas Alcoholic Beverage Code to authorize the holding of a city-wide local option election to permit or prohibit the legal sale of alcoholic beverages for off-premises consumption for a city located in more than one county.
- Amend Title 6, Chapter 251 of the Texas Alcoholic Beverage Code to permit cities having a population greater than 200,000 persons to conduct a local option election to permit the holder of a food and beverage certificate to sell alcoholic beverages, provided the election results from a citizen initiative under the terms specified by the city charter.
- Amend the Texas Utilities Code to include some form of escalation provision in Section 33.008.
- Amend the Truth-in-Taxation Law (Chapter 26 of the Texas Property Code) to exclude funding for major infrastructure maintenance projects from the calculation of the rollback rate.

Support legislation that would:Open Government

- Clarify that the Texas Open Meetings Act only requires posting of a meeting of a quorum of public decision-making body to conduct business within its authority.
- Amend the Texas Open Meetings Act to allow security briefings for any appointed body to be conducted in executive session.
- Clarify the Texas Public Information Act to permit restricting public access to materials related to threatened litigation or contemplated prosecution.

- Create an exception to disclosure under the Texas Public Information Act for sensitive security information, including information relating to the location of key facilities existing in the public rights-of-way.
- Amend Section 552.116 of the Texas Public Information Act to exempt from public disclosure the audit working papers of the auditor(s) of political subdivisions.
- Amend the Texas Public Information Act that would create an exception allowing a city to withhold sensitive security information.

Transportation

- Expand funding for transportation projects, including mass transit.

Public Safety

- Provide direct funding to local governments (first responders) to enhance local efforts with incentives for regional collaboration and without any match requirements.
- Authorize use of sobriety checkpoints as deterrent and enforcement tools for intoxicated drivers.
- Authorize photographic enforcement of red light violations.

Utilities and Rights-of-Way

- Amend Chapter 283 of the Texas Local Government Code to:
 - Require certificated telecommunications providers (CTPs) to submit to an independent, verifiable audit of access lines in cities;
 - Clearly establish liability of CTPs to cities for erroneous access line reports through civil penalties or treble damages and attorney fees enforceable at the Public Utility Commission or in a court of competent jurisdiction; and
 - Prohibit the certification of telecommunications companies as CTPs if they do not actually have access lines to retail end users within cities.
- Amend various sections of the Texas Utilities Code to re-establish consumer protections guaranteed under electric deregulation (Senate Bill 7) that have been eroded and/or eliminated in the first year of competition.

Eminent Domain

- Amend state statute to explicitly grant to condemning authorities the right to perform surveys, environmental studies, borings and other appropriate procedures to determine suitability of the property for the proposed public use prior to condemnation.

Tax Code

- Repeal Section 11.182 of the Tax code (relating to the property tax exemption for a community housing development organization [CHDO]), or restrict its application by, for example: (1) imposing more stringent public benefit requirements for CHDOs, (2) granting exemptions only for properties that serve the greatest need, or (3) providing that the affected local governments may certify or withhold certification of CHDOs.

Oppose legislation that would:

- Erode municipal authority to regulate development, including procedures pertaining to the issuance and termination of permits.
- Erode municipal authority to use exactions, assessments, fees and similar means to provide infrastructure required by growth and development.
- Restrict municipal power of eminent domain.
- Decrease municipal authority to control the use of right-of-way, including authority to charge utility and telecommunication franchise fees.
- Diminish municipal economic development authority.
- Diminish existing authority to collect and use telephone line and wireless fees to provide 911 emergency response services.
- Expand sales (including internet and catalog sales) and property tax exemptions or otherwise reduce municipal revenue.
- Create or increase fees paid directly or indirectly by municipalities to state agencies related to administrative or other costs not clearly benefiting cities.
- Require the city to assess or collect a fee for another governmental entity.
- Authorize or impose municipal employee collective bargaining.
- Mandate performance of a duty or impose a standard on a municipal service without funding.

- Mandate the method or manner by which municipalities offer Internet access to municipal services.
- Create detrimental amendments to the Public Information Act.
- Create detrimental amendments to the Open Meetings Act.
- Place any mandated or minimum staffing levels on Fire Departments.
- Decrease municipal authority to control the carrying of firearms in public buildings.

November 2002



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY		Reviewed by Purchasing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory		Reviewed by Budget	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Council Meeting Date:	11/4/02	Reviewed by Legal <i>SSG</i>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not Applicable
Department:	Parks and Recreation	Initials	Date	
Department Head	Don Wendell	Executive Director		
Dept Signature:	<i>Don Wendell</i>	City Manager	<i>DMW</i>	<i>10/30/02</i>
Agenda Coordinator (include phone #): Linda Benoit (7255)				
ACTION REQUESTED: <input type="checkbox"/> ORDINANCE <input checked="" type="checkbox"/> RESOLUTION <input type="checkbox"/> CHANGE ORDER <input type="checkbox"/> AGREEMENT <input type="checkbox"/> APPROVAL OF BID <input type="checkbox"/> AWARD OF CONTRACT <input type="checkbox"/> OTHER				
CAPTION				
Approving the terms and conditions of a modification of lease agreement between the City of Plano and Ken Grantham; Authorizing its execution by the City Manager, or in his absence, an Executive Director; and providing an effective date. Pulled and Held 10-28-02.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input checked="" type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: 2002-03	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	23,700	0	23,700
Encumbered/Expended Amount	0	0	0	0
This Item	0	6,000	0	6,000
BALANCE	0	29,700	0	29,700
FUND(S): GENERAL FUND				
COMMENTS: Approval of this resolution will add additional revenue of \$6,000 to the FY 2002-03 Budget for a total of \$29,700. The City will also receive \$6,000 the following year per the lease agreement.				
SUMMARY OF ITEM				
Ken Grantham currently leases approximately 23 acres from the City of Plano. The land is part of Oak Point Park and Nature Preserve and is located near the intersection of Jupiter Road and Morton Vale Road.				
The land was purchased from Mr. Grantham in 1993 in conjunction with the construction of Jupiter Road. At the time of the purchase, the City then leased the land back to Mr. Grantham for nine years at \$500 per month.				
It is requested that the lease be renewed for two more years, under the same terms and conditions as the original lease. The lease allows the City a termination option with six months notice. This could become important if the City begins development of Oak Point Park and Nature Preserve before the end of the lease.				
In addition to the monthly lease payment, the City receives the added benefit of having someone maintain and look after the property.				
List of Supporting Documents:		Other Departments, Boards, Commissions or Agencies		
Resolution Lease Agreement				

Barbara Newell

From: Don Wendell
Sent: Wednesday, October 30, 2002 9:28
To: Tom Muehlenbeck
Cc: Barbara Newell
Subject: Park Leases
Tom –

We currently have leases with three individuals which allow them to use of City of Plano park land. These people are Bill Donihoo, Todd Moore, and Ken Grantham. All land is located in east Plano.

The Donihoo and Moore leases are actually maintenance agreements that have been in effect since the 1980s. They automatically renew each year. The City derives little cash income, and the real value of the agreements to the City is in the area of maintenance. Since this is undeveloped park land, having these agreements means that the City does not have to maintain the land. It also means that we have someone looking after the property. These agreements will be terminated when development of the land is imminent.

The Grantham lease is somewhat different. The City purchased the Grantham property in 1993 and then leased it back to Mr. Grantham for a period of 9 years at \$500 per month. The lease expires this month. Like the Donihoo and Moore agreements, the City also receives the benefit of not having to maintain the land.

We would like to renew the Grantham lease for 2 more years, under the same terms and conditions as the lease. The lease gives the City a termination option with 6 months notice. This may become important if we begin development of Oak Point Park and Nature Preserve before the end of the lease.

The Grantham lease involves several buildings that the City will have to deal with once the lease is terminated. Most (if not all) of the buildings are in the flood plain, so re-use is unlikely.

Don

I-b

10/30/2002

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, APPROVING THE TERMS AND CONDITIONS OF A MODIFICATION OF LEASE AGREEMENT BETWEEN THE CITY OF PLANO AND KEN GRANTHAM; AUTHORIZING ITS EXECUTION BY THE CITY MANAGER, OR IN HIS ABSENCE AN EXECUTIVE DIRECTOR; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City and Ken Grantham entered into a Lease Agreement and Addendum to Lease dated October 25, 1993, which provides for the leasing to Ken Grantham of approximately 22.846 acres of land located at 2808 Morton Vale Road, Plano, Texas 75074-8712; and

WHEREAS, under the terms of the Lease Agreement the City and Ken Grantham have agreed to modify the Lease to extend the term for an additional two (2) year term; and

WHEREAS, the current term of the Lease Agreement expires on October 25, 2002, and Lessee has requested the Lease be extended for an additional two (2) years; and

WHEREAS, the City Council hereby finds that it is in the public interest to acknowledge modification of the Lease Agreement and authorize the City Manager or his designee to execute the Modification of Lease Agreement, attached hereto as Exhibit "A" which is incorporated herein by reference (the "Modification"); and

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

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

Section II. The City Manager, or in his absence, an Executive Director, is hereby authorized to execute the Modification 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 Modification.

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RESOLUTION NO. _____

Page 2

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

DULY PASSED AND APPROVED, this the ___ day of _____, 2002.

Pat Evans, MAYOR

ATTEST:

Elaine Bealke, City Secretary

APPROVED AS TO FORM:

Diane Wetherbee, City Attorney

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MODIFICATION OF LEASE AGREEMENT

THIS MODIFICATION AGREEMENT is entered into between the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation ("Lessor") and **KEN GRANTHAM** ("Lessee").

Recitals

WHEREAS, Lessor and Lessee entered into a written Lease Agreement and Addendum to Lease dated October 25, 1993 (collectively the "Lease") for the premises commonly known as 2808 Morton Vale Road, Plano, TX 75074-8712. The Lease and Addendum are attached as Exhibit "A" and is incorporated herein by reference; and

WHEREAS, Lessor and Lessee wish to modify the Lease to extend the term of the Lease for a two (2) year period.

THE PARTIES THEREFORE AGREE AS FOLLOWS:

1. For valuable consideration received by Lessor, paragraph 1 of the Addendum to Lease is modified to read as follows:

"The Effective Date and Commencement Date of this Lease Agreement are hereby amended from October 8, 1993, to October 25, 1993. Expiration of the initial term is hereby amended to be October 25, 2004."

2. Except for the modification made in paragraph 1 of the Addendum to Lease, all provisions of the Lease will continue in full force and effect.

3. This Modification will become effective on the date of the last of the parties to sign below.

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

Date: _____

By: _____

Thomas H. Muehlenbeck
CITY MANAGER

R-4

I-e

APPROVED AS TO FORM:

Diane C. Wetherbee
City Attorney

Date: 10-4-2002 
KEN GRANTHAM

I-6

~~2-5~~

EXHIBIT "A"
Lease Agreement and Addendum to Lease

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into on the effective date as hereinafter provided, by and between the CITY OF PLANO, TEXAS, (hereinafter referred to as "Lessor"), and KEN GRANTHAM (hereinafter referred to as "Lessee").

ARTICLE 1. DEMISE OF LEASED PREMISES

Lessor for and in consideration of the rents, covenants, and promises herein contained to be kept, performed, and observed by Lessee, does hereby lease and demise to Lessee, and Lessee does hereby rent and accept from Lessor, that real property, referred to as the Leased Premises and more particularly described in Exhibit "A", attached hereto and made a part hereof.

ARTICLE 2. LEASE TERM

Commencement and Termination Date

This lease shall be for a term of nine (9) years, commencing on October 8, 1993, and ending on October 8, 2002 (the "Initial Term"). After the Initial Term Lessee shall be permitted to lease the Leased Premises on a year to year basis on the same terms and conditions unless Lessor has given Lessee six (6) months written notice of termination prior to the end of the Initial Term. Thereafter, the Lease may be terminated by Lessor by giving Lessee six (6) months written notice of termination prior to the expiration of each annual term. After the Initial Term, Lessor agrees not to lease the Leased Premises to a third party for private purposes without giving Lessee a thirty (30) day written notice to renew this Lease on the same terms and conditions as this Lease. If Lessee fails to exercise this option within said thirty (30) day period, Lessor is free to lease the Leased Premises to a third party for private purposes. Notwithstanding anything herein to the contrary, Lessee may terminate this Lease at any time by giving Lessor six (6) months notice of termination.

ARTICLE 3. RENT

3.01. Lessee shall pay to Lessor the sum of FIVE HUNDRED AND NO/100 DOLLARS (\$500.00) per month, with the first monthly payment being due and payable on the commencement of the term of this Lease, and with al

at

I-g

subsequent payments being due and payable on the same day of each succeeding month during the term of this Lease.

Payment of Rent

3.02. All installments of rent hereunder, when and as the same become due and payable, shall be paid in lawful money of the United States to the Accounting Department of the City of Plano, P.O. Box 860358, 1520 Avenue K, Plano, Texas 75074, unless Lessor notifies Lessee in writing to make payments to someone else. Rent installments unpaid for thirty (30) days after their due date, shall bear interest at the rate of ten percent (10%) per annum.

ARTICLE 4. POSSESSION AND WARRANTIES

Delivery of Possession

4.01. At the commencement of the term of this Lease, Lessor shall deliver the Leased Premises to Lessee.

Lessor's Warranty of Quiet Enjoyment

4.02. Lessor covenants and agrees that Lessee on paying the rent and other charges herein provided for and observing and keeping the covenants, conditions, and terms of this Lease on Lessee's part to be kept or performed, shall lawfully and quietly hold, occupy and enjoy the Leased Premises during the term of this Lease without hindrance or molestation of Lessor or any person claiming under Lessor.

ARTICLE 5. TAXES

In the event the Leased Premises should be taxed, the Landlord agrees to indemnify and hold Lessee and Joan Germany Grantham harmless from all ad valorem taxes against the Leased Premises including any rollback taxes.

ARTICLE 6. UTILITIES

Lessee shall pay or cause to be paid all charges for water, heat, gas, electricity, sewer, if any, and any and all other utilities used on the Leased Premises throughout the term of this Lease, including any connection fees. Nothing herein shall be construed to require Lessee to

I-h

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extend utilities to the Leased Premises or pay for the extension thereof.

ARTICLE 7. USE OF PREMISES

Lessee shall have the right to use the Leased Premises for residential, equestrian, agricultural and ranch purposes, and for no other purposes. No other improvements will be made to the Leased Premises and no other use shall be made of the Leased Premises without the prior written consent of the Lessor. If improvements are authorized, their cost shall be borne exclusively by the Lessee. The Leased Premises shall at all times be kept free of Mechanics' and Materialmen's Liens and Lessee shall notify Lessor in writing prior to the commencement of any construction of any improvements on the Leased Premises.

ARTICLE 8. MECHANICS' LIENS

(1) Lessee shall not suffer or permit any mechanics' liens or other liens to be filed against the fee interest of Lessor of the Leased Premises nor against Lessee's leasehold interest in the land nor any buildings or improvements on the Leased Premises, unless made subordinate to this Lease Agreement, by reason of any work, labor, services, or materials supplied or claims to have been supplied to Lessee or to anyone holding the Leased Premises or any part thereof through or under Lessee.

(2) If any such mechanics' liens or materialmen's liens shall be recorded against the Leased Premises, or any improvements thereof, Lessee shall cause the same to be removed or, in the alternative, if Lessee in good faith desires to contest the same, Lessee shall be privileged to do so, but in such case Lessee hereby agrees to indemnify and save Lessor harmless from all liability for damages occasioned thereby and shall, in the event of a judgment of foreclosure on said mechanics' lien, cause the same to be discharged and removed prior to the execution of said judgment.

ARTICLE 9. INSURANCE AND INDEMNIFICATION

Insurance

9.01. (1) Lessee, at its own expense agrees to provide and keep in force during the term of this Lease bodily injury (including death) and property damage

Handwritten initials: RB

Handwritten initials: I-n

Lease Agreement

Page 4

insurance covering Lessor as well as Lessee in an amount of ONE MILLION AND 00/100 DOLLARS (\$1,000,000.00) for injuries and damages to persons, and in an amount of ONE HUNDRED THOUSAND AND 00/100 DOLLARS (\$100,000.00) for property damage to any person, including employees and servants of Lessee arising out of or in connection with the occupation, use, or condition of the Leased Premises.

(2) Lessee shall furnish Lessor with certificates of all insurance required by this Article. Lessee agrees if he does not keep such insurance in full force and effect that Lessor may notify Lessee of such failure and if Lessee does not deliver to Lessor within ten (10) days after such notice certificates showing all such insurance to be in full force and effect, Lessor may, ~~at his option,~~ take out the necessary insurance to comply with the provisions hereof and pay the premiums on the items specified in such notice and Lessee covenants thereupon on demand to reimburse and pay Lessor any amount so paid or expended in the payment of the insurance premiums required hereby and specified in the notice, with interest thereon at the rate of ten percent (10%) per annum from the date of such payment by Lessor until repaid by Lessee. All such policies and certifications shall require thirty (30) days written notice to Lessor prior to cancellation and shall provide for waiver of subrogation by the insurance company.

Indemnification of Lessor

9.02. Lessor shall not be liable for any loss, damage, or injury of any kind or character to any person or property arising from any use of the Leased Premises, or any part thereof, or caused by any defect in any building, structure, or other improvement thereon or in any equipment or other facility therein, or caused by or arising from any act or omission of Lessee, or of any of his agents, employees, licensees, or invitees, or by or from any accident on the land or any fire or other casualty thereon, or occasioned by the failure of Lessee to maintain the premises in safe condition, or arising from any other cause whatsoever, excluding, however, negligent acts of the Lessor; and Lessee hereby waives on its behalf all claims and demands against Lessor for any such loss, damage, or injury of Lessee, and hereby agrees to indemnify, defend and hold Lessor entirely free and harmless from all liability for any such loss, damage, or injury of other persons, and from all costs, reasonable attorney's fees and expenses arising therefrom. Notwithstanding anything herein to the contrary, such indemnification does not apply to the

Lease Agreement

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negligent or willful acts of the employees, agents and representatives of Lessor.

Fire and Extended Coverage

9.03. Lessor shall provide fire and extended coverage insurance on the buildings located on the Leased Premises for not less than eighty percent (80%) of full value. If any building or buildings on the Leased Premises should be damaged or destroyed by fire, tornado, flood, act of God, or other casualty, the Lessor at its option (except for the primary house) may either keep the proceeds of the insurance or cause such building or buildings to be rebuilt or restored, provided, however, if Lessor elects not to make repairs of an insured loss and Lessee elects to make such repairs, Lessor will reimburse Lessee for the cost thereof in an amount not to exceed the amount of insurance loss proceeds paid for such loss to Lessor. If the Lessor elects not to restore or rebuild such building or buildings, then the Lessee at its option may elect to terminate this Lease. With regard to the primary house, Lessor will restore or rebuild the building.

Furthermore, the Lessee recognizes that the Leased Premises are in a flood prone area and therefore agrees the Lessor will not be liable to Lessee for damages or repairs to the Leased Premises resulting from flooding or erosion caused by flooding.

ARTICLE 10. ASSIGNMENT AND SUBLEASE

Lessee shall not assign or sublease its leasehold interest to anyone, without the written consent of the Lessor, which consent will not be unreasonably withheld. Lessor gives its consent to the current subleases on the Leased Premises. Lessor further agrees that no consent to sublease will be required by Lessor to permit Lessee to sublease any individual improvement (but not substantially all to one sublessee) located on the Leased Premises such as horse stalls, barns, houses, out buildings, etc. provided any such subleases are and remain subject and subordinate to this Lease.

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Lease Agreement

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ARTICLE 11. DEFAULT AND REMEDIES

Termination on Default

11.01. Should Lessee default in the performance of any covenant, condition, or agreement in this Lease, and such default is not corrected within ten (10) days after receipt of written notice with regard to monetary default and within thirty (30) days written notice with regard to all other defaults, Lessor may declare this Lease, and all rights and interest created by it, to be terminated. Upon Lessor electing to terminate, this Lease shall cease and come to an end as if that were the day originally fixed herein for the expiration of the term hereof. Lessor, its agent or attorney, may resume possession of the premises and relet the same for the remainder of the term at the best rent Lessor, his agent or attorney may obtain, and Lessee shall make good any deficiency.

Other Remedies

11.02 Any termination of the Lease because of Lessee's default shall not relieve Lessee from the payment of any sum or sums that shall then be due and payable to Lessor hereunder, or any claim for damages then or theretofore accruing against Lessee hereunder, and any such termination shall not prevent Lessor from enforcing the payment of any such sum or sums or claim for damages by any remedy provided for by law, or from recovering damages from Lessee for any default thereunder. All rights, options, and remedies of Lessor contained in this Lease shall be construed and held to be cumulative, and no one of them shall be exclusive of the other, and Lessor shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law, whether or not stated in this Lease. No waiver by Lessor of a breach of any of the covenants, conditions, or restrictions of this Lease shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition, or restriction herein contained.

ARTICLE 12. GENERAL PROTECTIVE PROVISIONS

Maintenance

12.01. Lessee shall maintain the Leased Premises in good condition, causing no waste, and shall deliver the Leased Premises to Lessor at the termination of this Lease in as good condition as it was at the commencement of this

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Lease Agreement

Lease, normal wear and tear and loss by fire or casualty excepted.

Right of Entry and Inspection

12.02. Lessee shall permit Lessor, Lessor's agents, representatives, or employees to enter on the Leased Premises at reasonable times for the purpose of inspection, to determine whether Lessee is in compliance with the terms of this Lease and for purposes of inspection for any proposed right-of-way purposes upon reasonable notice.

No Partnership

12.03. The relationship between Lessor and Lessee at all times shall remain solely that of landlord and tenant and not be deemed a partnership or joint venture.

No Termination on Bankruptcy

12.04. Neither bankruptcy, insolvency, assignment for the benefit of creditors, nor the appointment of a receiver shall affect this Lease so long as all covenants of the Lessee or Lessor are continued in performance by Lessee or Lessor and their respective successors or legal representatives.

No Waiver

12.05. No waiver by Lessor of any default or breach of any covenant, condition, or stipulation herein contained shall be treated as a waiver of any subsequent default or breach of the same or any other covenant, condition, or stipulation hereof.

Use Clause

12.06. Lessee agrees not to use the Leased Premises or any building situated upon said premises, or any part thereof, for any use or purpose in violation of any valid and applicable law, regulation, or ordinance of the United States, the State of Texas, or the City of Plano, or other lawful authority having jurisdiction over the Leased Premises, provided that if the Purchaser adopts an ordinance in the future which prohibits Lessee's use of the Property as permitted in paragraph 7 above during the term of the

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Lease, Lessee's non-compliance with such ordinances will not be deemed to be a breach of this Lease Agreement.

ARTICLE 13. DISCLAIMER OF WARRANTIES

LESSOR HEREBY SPECIFICALLY DISCLAIMS ANY WARRANTY, GUARANTY OR REPRESENTATIONS, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, OR CONCERNING: (1) THE NATURE AND CONDITION OF THE LEASED PREMISES AND THE IMPROVEMENTS, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY AND THE SUITABILITY THEREOF FOR ANY AND ALL ACTIVITIES AND USES WHICH LESSEE MAY ELECT TO CONDUCT THEREON; (2) THE NATURE AND EXTENT OF ANY RIGHT-OF-WAY, ENCUMBRANCE, RESERVATION, CONDITION OR OTHERWISE; (3) COMPLIANCE OF THE LEASED PREMISES AND IMPROVEMENTS OR THE OPERATION THEREOF WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY GOVERNMENT OR OTHER BODY; (4) ANY ENVIRONMENTAL CONDITIONS WHICH MAY EXIST ON THE LEASED PREMISES, OR MAY BE INCORPORATED IN THE IMPROVEMENTS; AND (5) THE FINANCIAL EARNING CAPACITY OR HISTORY OR EXPENSE HISTORY OF THE OPERATION OF THE LEASED PREMISES.

THE LEASE OF THE LEASED PREMISES IS MADE ON AN "AS IS" BASIS, AND LESSEE EXPRESSLY ACKNOWLEDGES THAT, IN CONSIDERATION OF THE AGREEMENTS OF LESSOR HEREIN, EXCEPT AS OTHERWISE SPECIFICALLY STATED HEREIN, LESSOR MAKES NO WARRANTY OR REPRESENTATIONS, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY OF CONDITION, HABITABILITY, TENANTABILITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE LEASED PREMISES. LESSEE ACKNOWLEDGES, WARRANTS AND REPRESENTS TO LESSOR THAT NO REPRESENTATIONS HAVE BEEN MADE BY LESSOR, ITS AGENTS, BROKERS OR EMPLOYEES IN ORDER TO INDUCE LESSEE TO ENTER INTO THIS TRANSACTION OTHER THAN AS EXPRESSLY STATED HEREIN. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, LESSEE ACKNOWLEDGES, WARRANTS AND REPRESENTS TO LESSOR THAT NEITHER LESSOR, NOR LESSOR'S AGENTS, BROKERS OR EMPLOYEES HAVE MADE ANY REPRESENTATION OR STATEMENT TO LESSEE CONCERNING THE LEASED PREMISES' INVESTMENT POTENTIAL AT ANY FUTURE DATE, AT A PROFIT OR OTHERWISE, NOR HAS LESSOR OR LESSOR'S AGENTS, BROKERS OR EMPLOYEES RENDERED ANY ADVICE OR EXPRESSED ANY OPINION TO LESSEE REGARDING ANY INCOME TAX CONSEQUENCES OF LEASING OF THE LEASED PREMISES.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, LESSEE ACKNOWLEDGES THAT ANY REPORT SUPPLIED OR MADE AVAILABLE BY LESSOR, WHETHER WRITTEN OR ORAL, OR IN THE FORM OF MAPS, SURVEYS, PLATS, SOIL REPORTS, ENGINEERING STUDIES, ENVIRONMENTAL STUDIES, OR OTHER INSPECTION REPORTS

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PERTAINING TO THE LEASED PREMISES ("REPORTS") OR BEING DELIVERED TO LESSEE ON AN "AS IS/WHERE IS" BASIS, SOLELY AS A COURTESY, AND THAT LESSOR HAS NEITHER VERIFIED THE ACCURACY OR STATEMENTS OR OTHER INFORMATION THEREIN CONTAINED, NOR ANY METHOD USED TO COMPILE THE REPORTS, NOR THE QUALIFICATIONS OF THE PERSONS PREPARING THE REPORTS, AND LESSOR MAKES NO REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, AS TO THE ACCURACY, COMPLETENESS OR ANY OTHER ASPECT OF THE REPORTS.

ARTICLE 14. MISCELLANEOUS

Delivery of Rents and Notices

14.01. All rents or other sums, notices, demands, or requests from one party to another may be personally delivered or sent by mail, certified or registered, postage prepaid, to the addresses stated in this paragraph, and shall be deemed to have been given at the time of personal delivery or three days after the time of mailing.

All payments, notices, demands, or requests from Lessee to Lessor shall be given to Lessor at P.O. Box 860358, 1520 Avenue K, Plano, Texas 75074, or at such other address as Lessor shall request in writing.

All payments, notices, demands, or requests from Lessor to Lessee shall be given to Lessee at Route 1, Box 86-A, Plano, Texas 75074, or at such other address as Lessee shall request in writing.

Parties Bound

14.02. This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns.

Texas Law to Apply

14.03. This agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Collin County, Texas.

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Legal Construction

14.04. 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 as if such invalid, illegal, or unenforceable provision had never been contained herein.

Prior Agreements Superseded

14.05. This agreement constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the within subject matter.

Amendment

14.06. No amendment, modification, or alteration of the terms hereof shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the parties hereto.

Rights and Remedies Cumulative

14.07. The rights and remedies provided by this Lease Agreement are cumulative and the use of any one right or remedy by either party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

Attorney's Fees

14.08. In the event Lessor or Lessee breaches any of the terms of this agreement whereby the party not in default employs attorneys to protect or enforce its rights hereunder and prevails, then the defaulting party agrees to pay the other party reasonable attorney's fees so incurred by such other party.

Time of Essence

14.09. Time is of the essence of this agreement.

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Lease Agreement

Further Documents

14.10. Lessor agrees that it will from time to time and at any reasonable time execute and deliver to Lessee such other and further instruments and assurances as Lessee may reasonably request approving, ratifying, and confirming this Lease and the leasehold estate created hereby and certifying that the same is in full force and effect and that no default thereunder on the part of Lessee exists, except that if any default on the part of the Lessee does exist, Lessor shall specify in said certificate each such default.

Effective Date

14.11. The effective date shall be the last date of any signature set forth below.

THIS LEASE has been executed by the parties as set forth herein.

CITY OF PLANO, TEXAS, a Home-Rule
Municipal Corporation

BY: *Elvonn J.A. Richardson*
ELVENN J.A. RICHARDSON
Assistant City Manager
1520 Avenue K
P.O. Box 860358
Plano, Texas 75086-0358

Date: 100793

APPROVED AS TO FORM:

Gary F. Chatham
Gary F. Chatham, CITY ATTORNEY

Ken Grantham
KEN GRANTHAM
Route 1, Box 86-A
Plano, Texas 75074

Date: 10-8-93

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LEASED PREMISES

The Leased Premises are described as the following described 22.846 acre tract, save and except the following described 0.407 acre Jupiter Road Right-of-Way tract and also encumbered by the following described 0.6426 acre drainage easement (the "Drainage Easement"). The Lease shall be subordinate to the Lessor's right to use the Drainage Easement for drainage purposes.

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Ken Grantham
and
Joan Germany Grantham
Metes and Bounds Description
22.846 Acre
J. Muncy Survey, A-621
Plano, Collin County, Texas

BEING a tract of land situated in the City of Plano, Collin County, Texas, part of the Jeremiah Muncy Survey, Abstract No. 621 and being part of those same tracts previously described by instruments recorded in Volume 1248, Page 131 of the Deed of Trust Record for Collin County, Texas, Volume 1450, Page 826 and Volume 2623, Page 601 of the Deed Records of Collin County, Texas (DRCCT), and being more particularly described by metes and bounds as follows (bearings referenced to City of Plano monument O-8):

BEGINNING at a 60d nail at the middle of the bridge for centerline intersection of existing Jupiter Road and Rowlett Creek, same being the northwest corner of that certain called 19.05 acres described by Quit Claim Deed recorded by Volume 1248, Page 129, same being the common northerly point for Tracts I and II described by the aforesaid Deed of Trust:

THENCE North 35°53'33" East, with the centerline of existing Jupiter Road, 128.50 feet to a point for the intersection of said Road and the projection of Morton Vale Road (called 40' wide), said point being the northwest corner for said Tract I:

THENCE southeasterly along the centerline of Morton Vale Road the following:

- South 33°23'11" East at 39.20 pass a found 1/2-inch iron rod, continuing for a total distance of 429.72 feet to a set 5/8-inch iron rod for the beginning of a curve;
- Along the arc of said curve to the left, having a delta angle of 53°09'46", a radius of 250.86 feet and an arc length of 232.74 feet to a set iron rod;
- South 86°28'56" East, 25.64 feet to a found 1/2-inch iron rod, the common easterly corner of the aforesaid Tracts I and II;

THENCE South 02°26'06" West, generally parallel to and 15 feet easterly of an existing fence line, 1139.72 feet to a 5/8-inch iron rod set in an existing fence line, the southeast corner of said Tract II;

THENCE North 87°45'17" West, with said fence, 323.7 feet to a point in the center of Rowlett Creek;

THENCE northerly with said creek the following:

- North 17°32' West, 38.7 feet;
- North 07°04' West, 103.7 feet;
- North 29°14' West, 173.2 feet;
- North 61°35' West, 90.1 feet;
- North 80°19' West, 177.9 feet;
- North 64°09' West, 62.1 feet;
- North 51°06' West, 103.7 feet;
- North 00°59' East, 79.9 feet;
- North 53°46' East, 68.1 feet;
- North 70°22' East, 84.8 feet to a point for the southeast corner of that called 1.346 acre tract described by Volume 1450, Page 826, DRCCT;

THENCE North 83°09'51" West, with the south line of said tract, 381.25 feet to a point for corner in Jupiter Road, the southwest corner of said tract;

THENCE northerly with said Road the following:

- North 32°58'38" East, 170.86 feet to a point for the beginning of a curve;
- Along the arc of a curve to the right, having a delta angle of 04°41'48", a radius of 10,437.60 feet and an arc length of 855.59 feet to the POINT OF BEGINNING and containing 22.846 acres.

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PARCEL 5a
Jupiter Road ROW
Kenneth Grantham

Metes and Bounds Description
0.407 Acre
J. Muncy Survey, A-621
Plano, Collin County, Texas

BEING a tract of land situated in the City of Plano, Collin County, Texas, part of the Jeremiah Muncy Survey, Abstract No. 621 and being part of those same tracts previously described by instruments recorded in Volume 1248, Page 131 and Volume 1450, Page 826 of the Deed Records of Collin County, Texas (DRCCT), and being more particularly described by metes and bounds as follows (bearings referenced to City of Plano monument O-3):

BEGINNING at a 60d nail at the middle of the bridge for centerline intersection of existing Jupiter Road and Rowlett Creek;

THENCE North $35^{\circ}53'33''$ East, with the centerline of existing Jupiter Road, 128.50 feet to a point for the intersection of said Road and the projection of Morton Vale Road (called 40' wide);

THENCE South $33^{\circ}23'11''$ East, along the projected centerline of Morton Vale Road, 21.24 feet to a point, from which a found 1/2-inch iron rod bears South $33^{\circ}23'11''$ East, 18.0 feet;

THENCE South $36^{\circ}01'51''$ West, with the proposed easterly right-of-way for Jupiter Road (proposed 110' ROW), 1045.00 feet to a PK nail in the centerline of existing Jupiter Road;

THENCE northerly with said existing centerline the following:

- North $32^{\circ}38'38''$ East, 68.85 feet to a point for the beginning of a curve;
- Along the arc of a curve to the right, having a delta angle of $04^{\circ}41'48''$, a radius of 10,437.60 feet and an arc length of 855.59 feet to the POINT OF BEGINNING and containing 0.407 acres.

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FIELD NOTE DESCRIPTION
DRAINAGE EASEMENT

BEING a 0.643 acre tract of land situated in the Jeremiah Muncy Survey Abstract No. 621 in the City of Plano, Collin County, Texas and being a portion of the land described in a deed to Kenneth Grantham as recorded in Volume 1248, Page 129 of the Deed Records of Collin County, Texas (DRCCT) and being more particularly described as follows:

COMMENCING at the point of intersection of the centerline of Jupiter Road with the centerline of Morton Vale Road, said point being the most northerly corner of said Grantham Tract;

THENCE along the centerline of said Jupiter Road, South $34^{\circ}54'20''$ West a distance of 129.05 feet to a point in the centerline of Rowlett Creek for the POINT OF BEGINNING;

THENCE departing the centerline of said Jupiter Road and along the centerline of said Rowlett Creek as follows:

South $29^{\circ}38'52''$ East a distance of 31.60 feet to a point for corner;

South $14^{\circ}04'06''$ East a distance of 94.96 feet to a point for corner;

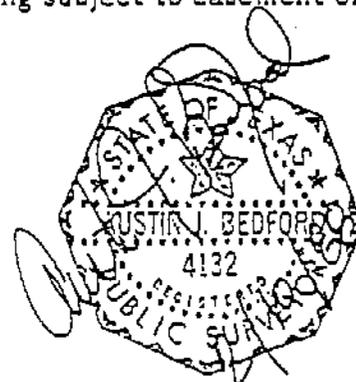
South $08^{\circ}53'02''$ West a distance of 122.35 feet to a point for corner;

South $10^{\circ}48'38''$ East a distance of 80.85 feet to a point for corner;

THENCE departing the centerline of said Rowlett Creek, North $54^{\circ}48'34''$ West a distance of 208.56 feet to a point in the centerline of said Jupiter Road;

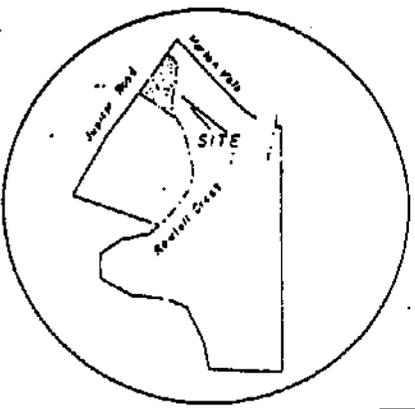
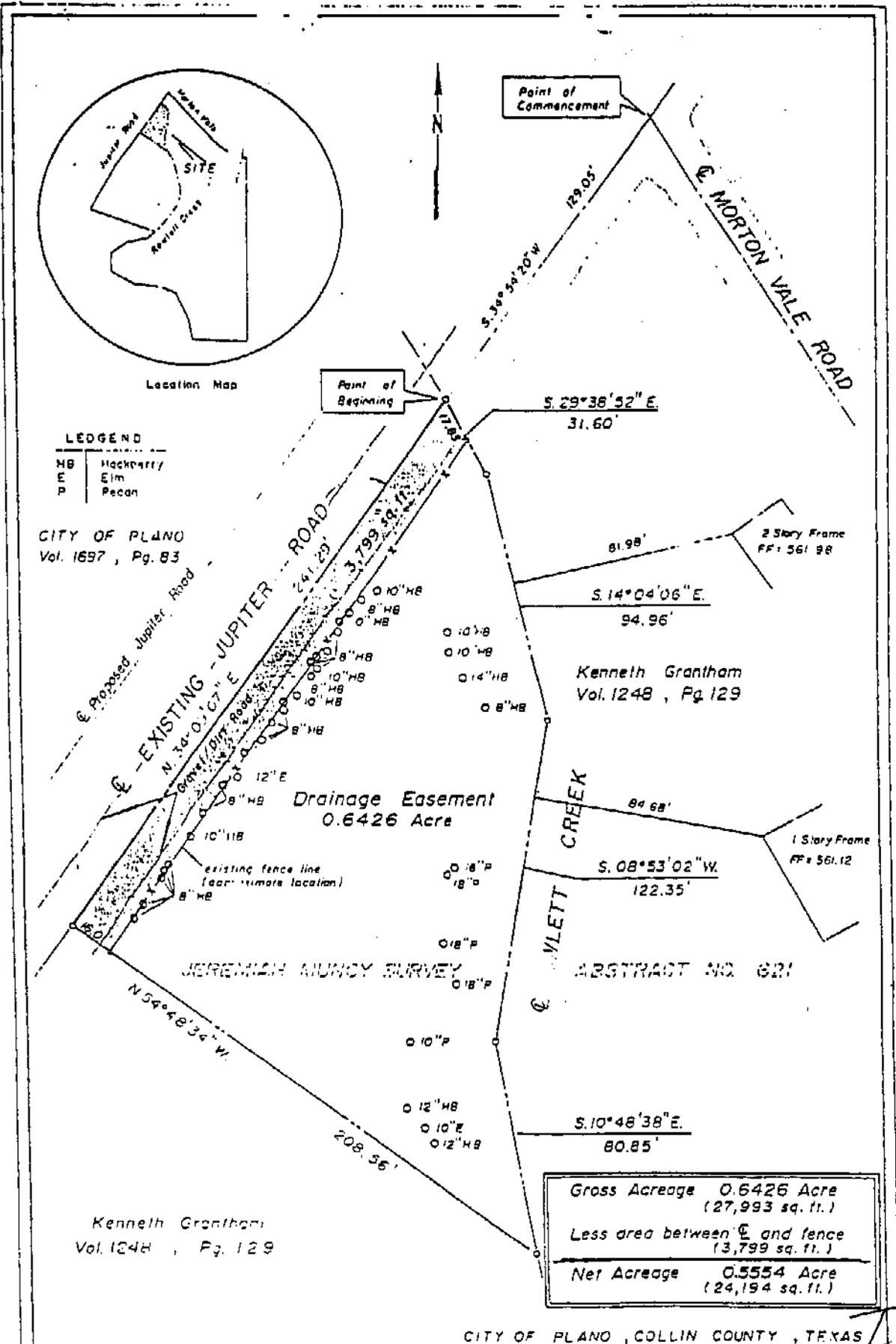
THENCE along the centerline of said Jupiter Road, North $34^{\circ}09'07''$ East a distance of 241.29 feet to the POINT OF BEGINNING;

CONTAINING within these metes and bounds 0.6426 acre or 27,993 square feet of land less 0.0872 acre or 3,799 square feet of land lying between the existing centerline and the east fence line of Jupiter Road, leaving a net area of 0.5554 acre or 24,194 square feet of land more or less and being subject to easement of record.



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LEGEND

NB	Hickory
E	Elm
P	Pecan

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Gross Acreage	0.6426 Acre (27,993 sq. ft.)
Less area between E and fence	(3,799 sq. ft.)
Net Acreage	0.5554 Acre (24,194 sq. ft.)

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**ADDENDUM TO LEASE AGREEMENT BY AND
BETWEEN THE CITY OF PLANO, TEXAS,
AND KEN GRANTHAM**

The parties to this Lease Agreement hereby agree to the following:

1. The Effective Date and Commencement Date of this Lease Agreement are hereby amended from October 8, 1993, to October 25, 1993. Expiration of the initial term is hereby amended to be October 25, 2002.

2. Notwithstanding the provisions of Article 9 of the Lease Agreement, the parties agree that that certain insurance policy issued by the Insurance Company of Evanston, Policy Number FROC000113-00 ("Insurance Policy"), satisfies Lessor's and Lessee's insurance requirements under Article 9 providing the following:

a. Lessor shall be named an additional insured under the Insurance Policy.

b. Lessee shall pay the entire insurance premium for the Insurance Policy but will receive a reimbursement from Lessor for that portion of the Insurance Policy attributable to the fire and extended coverage. Lessee shall be responsible for that portion of the premium attributable to liability coverage. The Insurance Policy is currently effective from February 19, 1993, to February 19, 1994. The total annual premium is \$2,710.00. The portion attributable to the fire and extended coverage is \$2,310.00, and the portion attributable to liability coverage is \$397.00. The unearned premium remainder for the policy period attributable to fire and extended coverage is \$769.00, which the Lessor shall reimburse Lessee.

c. Lessee shall also name Lessor an additional insured under its Commercial Equine Liability Policy.

d. Future insurance premiums upon renewal of the Insurance Policy shall be prorated in the same manner.

e. It is understood and the parties agree that the Insurance Policy that presently exists satisfies the requirements of Article 9 of the Lease Agreement. However, if the Insurance Company modifies the terms of the Insurance

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Addendum to Lease Agreement

Policy the parties reserve the right to withdraw their approval of the Insurance Policy.

f. Nothing herein shall be construed to prevent the parties from providing other insurance that meets the requirements of Article 9 of the Lease Agreement.

SIGNED BY THE PARTIES BELOW on October 22, 1993.

CITY OF PLANO, TEXAS

Date: 10.22.93

BY: Elvonn J.A. Richardson
Elvonn J.A. Richardson
ASSISTANT CITY MANAGER

APPROVED AS TO FORM:

Gary F. Chatham
Gary F. Chatham, CITY ATTORNEY

Date: 10.22.93

Ken Grantham
KEN GRANTHAM

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