

# CITY COUNCIL

1520 AVENUE K



DATE: 12/9/2013  
CALL TO ORDER: 7:00 p.m.  
INVOCATION: Tommy Shumate, Minister of Education  
First Baptist Church Plano  
PLEDGE OF ALLEGIANCE: Cub Scout Pack 261  
Christie Elementary

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p>OUR MISSION - THE CITY OF PLANO IS A REGIONAL AND NATIONAL LEADER, PROVIDING OUTSTANDING SERVICES AND FACILITIES THROUGH COOPERATIVE EFFORTS THAT ENGAGE OUR CITIZENS AND THAT CONTRIBUTE TO THE QUALITY OF LIFE IN OUR COMMUNITY.</p> <p><b>The City Council may convene into Executive Session to discuss posted items in the regular meeting as allowed by law.</b></p> <p><b><u>PROCLAMATIONS &amp; SPECIAL RECOGNITION</u></b></p> <p>PRESENTATION: The Friends of the Plano Public Library organization is presenting a large donation to the Plano Public Library System.</p> <p><b><u>OATHS OF OFFICE</u></b></p> <p>Parks and Recreation Planning Board - Gary Fleming</p> <p>Plano Housing Authority - George J. Elking</p> <p><b><u>CERTIFICATES OF APPRECIATION</u></b></p> <p>Parks and Recreation Planning Board - Eralyn McLarty, Chris L. White</p> <p>Plano Housing Authority - Earnest R. Burke</p> <p><b><u>COMMENTS OF PUBLIC INTEREST</u></b></p> <p><b><u>This portion of the meeting is to allow up to five (5) minutes per speaker with thirty (30) total minutes on items of interest or concern and not on items that are on the current agenda. The Council may not discuss these items, but may respond with factual or policy information. The Council may choose to place the item on a future agenda.</u></b></p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p><b><u>CONSENT AGENDA</u></b>  <b><u>The Consent Agenda will be acted upon in one motion and contains items which are routine and typically noncontroversial. Items may be removed from this agenda for individual discussion by a Council Member, the City Manager or any citizen. Citizens are limited to two (2) items and discussion time of three (3) minutes each.</u></b></p> <p><b><u>Approval of Minutes</u></b>  (a) November 25, 2013</p> <p><b><u>Approval of Expenditures</u></b>  <b>Award/Rejection of Bid/Proposal: (Purchase of products/services through formal procurement process by this agency)</b>  (b) Bid No. 2013-382-B for the purchase of Fire Administration Building Floor Slab Repairs to Gilbert May Inc. d/b/a Phillips/May Corporation in the amount of \$77,033 and authorizing the City Manager to execute all necessary documents.  (c) Bid No. 2013-383-B for the purchase of Warehouse Roof and Wall Sealant Replacement to Roof Management Services, Inc. in the amount of \$275,484 and authorizing the City Manager to execute all necessary documents.</p> <p><b><u>Purchase from an Existing Contract</u></b>  (d) To approve the purchase of Microsoft software licenses for one (1) year with one (1) City optional one (1) year renewal, through a Microsoft Enterprise Agreement in the annual amount of \$896,476 from SHI Government Solutions, Inc. through an existing DIR (Department of Information Resources) contract and authorizing the City Manager to execute all necessary documents. (DIR-SDD-2503)</p> <p><b><u>Approval of Expenditure</u></b>  (e) To approve the purchase of thirteen (13) Stryker Power PRO XT cots from Stryker, the sole source provider, in the amount of \$186,138 and authorizing the City Manager to execute all necessary documents.</p> <p><b><u>Adoption of Resolutions</u></b>  (f) To approve the terms and conditions of a First Modification to the Tax Abatement Agreement between the City of Plano, Texas, Eltek, Inc. and FFII TX Plano, L.P. successor to Argent Plano Realty, L. P.; authorizing its execution by the City Manager; and providing an effective date.  (g) To rescind the authorization of the Tax Abatement Agreement between Rent-A-Center Texas, L.P. and the City of Plano, Texas, pursuant to Resolution No. 2013-9-13(R); and providing an effective date.</p>	

ITEM NO.	EXPLANATION	ACTION TAKEN
(h)	To rescind the authorization of the Economic Development Incentive Agreement between Rent-A-Center Texas, L.P. and the City of Plano, Texas pursuant to Resolution No. 2013-9-2(R); and providing an effective date.	
(i)	To approve the purchase of a 5,089 square foot tract of land for Custer Road Right of Way and a 4,860 square foot Temporary Construction easement, both located at the southwest corner of Custer Road and Plano Parkway from Custer/190 Joint Venture, in the total amount of \$51,801 and authorizing the City Manager to execute any necessary documents; and providing an effective date.	
(j)	To approve the terms and conditions of an Interlocal Agreement by and between the City of Plano, Texas, the City of Allen, Texas and the Town of Fairview, Texas to add the Town of Fairview to the Plano-Allen radio communications system and to lease certain communications services to the City of Fairview; authorizing the City Manager to take such action and execute such documents as necessary to effectuate the agreement herein; and providing an effective date.	
(k)	To approve the terms and conditions of a Master Communications Facilities License by and between the City of Plano, Texas, and Dallas MTA, L.P. d/b/a Verizon Wireless, authorizing its execution by the City Manager; and providing an effective date.	
<p><b><u>ITEMS FOR INDIVIDUAL CONSIDERATION:</u></b></p>		
<p><b><u>Public Hearing Items: Applicants are limited to fifteen (15) minutes presentation time with a five (5) minute rebuttal, if needed. Remaining speakers are limited to thirty (30) total minutes of testimony time, with three (3) minutes assigned per speaker. The presiding officer may extend these times as deemed necessary.</u></b></p>		
<p><b><u>Non-Public Hearing Items: The Presiding Officer may permit limited public comment for items on the agenda not posted for a Public Hearing. The Presiding Officer will establish time limits based upon the number of speaker requests, length of the agenda, and to ensure meeting efficiency, and may include a cumulative time limit. Speakers will be called in the order cards are received until the cumulative time is exhausted.</u></b></p>		
(1)	Public Hearing and consideration of an Ordinance as requested in Zoning Case 2013-30 to amend Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 640 so as to allow the additional use of Private Recreation Facility or Area on 0.6± acre of land located at the northeast corner of Montville Way and Thetford Lane, in the City of Plano, Collin County, Texas, presently zoned Single-Family Residence-6; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, a publication clause, and an effective date. Applicant: Lennar Homes	

ITEM NO.	EXPLANATION	ACTION TAKEN
	<p><u>Municipal Center is wheelchair accessible. A sloped curb entry is available at the main entrance facing Municipal/L Avenue, with specially marked parking spaces nearby. Access and special parking are also available on the north side of the building. The Senator Florence Shapiro Council Chambers is accessible by elevator to the lower level. Requests for sign interpreters or special services must be received forty-eight (48) hours prior to the meeting time by calling the City Secretary at 972-941-7120.</u></p>	



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		12/9/2013		
Department:		City Manager's Office		
Department Head		Bruce Glasscock		
Agenda Coordinator (include phone #): <b>Melinda White X7548, Cindy Pierce X5161</b>				
<b>CAPTION</b>				
PRESENTATION: The Friends of the Plano Public Library organization is presenting a large donation to the Plano Public Library System.				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
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:				
<b>SUMMARY OF ITEM</b>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	

**PLANO CITY COUNCIL  
PRELIMINARY OPEN MEETING  
November 25, 2013**

**COUNCIL MEMBERS PRESENT**

Harry LaRosiliere, Mayor  
Lissa Smith, Mayor Pro Tem  
Ben Harris, Deputy Mayor Pro Tem  
Pat Miner  
André Davidson  
Jim Duggan  
Patrick Gallagher  
David Downs

**STAFF PRESENT**

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

Mayor LaRosiliere called the meeting to order at 5:02 p.m., Monday, November 25, 2013, in Training Room A of the Municipal Center, 1520 K Avenue. A quorum was present. Mayor LaRosiliere then stated that the Council would retire into Executive Session in compliance with Chapter 551, Government Code, Vernon's Texas Codes, Annotated, in order to consult with an attorney and receive Legal Advice and discuss Litigation, Section 551.071; receive information regarding Economic Development, Section 551.087; and Real Estate, Section 551.072; and to discuss Personnel, Section 551.074 for which a certified agenda will be kept in the office of the City Secretary for a period of two years as required.

Mayor LaRosiliere reconvened the meeting back into the Preliminary Open Meeting at 6:31 p.m. in the Senator Florence Shapiro Council Chambers.

**Consideration and action resulting from Executive Session discussion**

Mayor LaRosiliere advised that action on both the Collin and Denton County Appraisal District Boards will be taken during the regular session.

**Personnel**

Parks and Recreation Planning Board

Upon a motion made by Council Member Miner and seconded by Deputy Mayor Pro Tem Harris, the Council voted 8-0 to appoint Gary Fleming. The Council deferred a second appointment.

Plano Housing Authority

Upon a motion made by Mayor LaRosiliere and seconded by Deputy Mayor Pro Tem Harris, the Council voted 8-0 to appoint George Elking.

**Council items for discussion/action on future agendas**

No items were discussed.

**Consent and Regular Agendas**

No items were discussed.

Nothing further was discussed. Mayor LaRosiliere adjourned the Preliminary Meeting at 6:32 p.m.

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**Harry LaRosiliere, MAYOR**

ATTEST

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Diane Zucco, City Secretary

**PLANO CITY COUNCIL**  
**November 25, 2013**

**COUNCIL MEMBERS PRESENT**

Harry LaRosiliere, Mayor  
Lissa Smith, Mayor Pro Tem  
Ben Harris, Deputy Mayor Pro Tem  
Pat Miner  
André Davidson  
Jim Duggan  
Patrick Gallagher  
David Downs

**STAFF PRESENT**

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

Mayor LaRosiliere convened the Council into the Regular Session on Monday, November 25, 2013, at 7:00 p.m. in the Senator Florence Shapiro Council Chambers of the Plano Municipal Center, 1520 K Avenue. A quorum was present.

Rabbi Stefan Weinberg of Congregation Anshai Torah led the invocation and The Men of Note Chorus led the Pledge of Allegiance and sang several songs.

Mayor LaRosiliere received a presentation from the Plano Senior Men's Golf Association and recognized the Finance Department for receipt of the Certificate of Achievement for Excellence in Financial Reporting.

**Comments of Public Interest**

No one appeared to speak

**CONSENT AGENDA**

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

**Approval of Minutes** (Consent Agenda Item "A")  
November 11, 2013

### **Approval of Expenditures**

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

**Bid No. 2013-398-B** for Sunset Park Improvements Project No. 6130 to UCS Group, LLC in the amount of \$1,051,426 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item "B")

**Bid No. 2013-373-C** for a one (1) year contract to purchase Tires- New for Inventory Control & Assets Disposal (ICAD) from American Tire Distributors, A to Z Tire & Battery, Inc., Southern Tire Mart, and Blagg Tire & Service in an estimated annual amount of \$278,702 and authorizing the City Manager to execute all necessary documents. (Consent Agenda Item "C")

### **Approval of Expenditure**

To approve the purchase of CommVault Software License Upgrade and subsequent Premier Support Maintenance Coverage in the amount of \$248,411 from CDW Government, LLC through an existing contract with The Cooperative Purchasing Network (TCPN) and authorizing the City Manager to execute all necessary documents. (TCPN Contract No. R5106) (Consent Agenda Item "D")

### **Adoption of Resolutions**

**Resolution No. 2013-11-12(R):** To approve the terms and conditions of a Second Amendment to Communications Facilities License by and between the City of Plano, Texas, and New Cingular Wireless PCS, LLC, a Delaware limited liability company, authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item "E")

**Resolution No. 2013-11-13(R):** To approve the terms and conditions of a Third Amendment to Communications Facilities License by and between the City of Plano, Texas, and New Cingular Wireless PCS, LLC, a Delaware limited liability company, authorizing its execution by the City Manager; and providing an effective date. (Consent Agenda Item "F")

**Resolution No. 2013-11-14(R):** To review and approve the City's written Public Funds Investment Policy; and providing an effective date. (Consent Agenda Item "G")

### **Adoption of Ordinances**

**Ordinance No. 2013-11-15:** To transfer the sum of \$218,393 from the Water & Sewer Fund Unappropriated fund balance to the Water & Sewer Fund Operating Appropriation and transfer the sum of \$218,393 from the Municipal Drainage Utility Fund Unappropriated fund balance to the Municipal Drainage Utility Fund Operating Appropriation for Fiscal Year 2013-14 for the purpose of providing funding for two (2) work crews totaling eight (8) positions, two (2) Construction Inspector positions and the operational costs related to the Curb Repair Program and Utility Cut Repairs, amending the Budget of the City and Ordinance No. 2013-9-8, Section 1, Items "J" and "W" to reflect the actions taken herein; declaring this action to be a case of public necessity; and providing an effective date. (Consent Agenda Item "H")

## END OF CONSENT

**Resolution No. 2013-11-16(R):** To approve the Investment Portfolio Summary for the quarter ending September 30, 2013 and providing an effective date. (Regular Agenda Item “1”)

Treasurer Conklin advised that the quarterly investment report must be formally presented on an annual basis to comply with the Texas Public Funds Investment Act. She spoke to maintaining a market value greater than the book value of assets, the fluctuation of assets over the fiscal year as ad valorem taxes flow into the City and expenses occur, diversification of assets and maturities and comparison of the portfolio to benchmarks. Ms. Conklin spoke to the City’s yield in the quarter and fiscal year, the level of interest rates, laddering of investments and the portfolio’s value. She responded to Deputy Mayor Pro Tem Harris, advising that the City cannot invest in its own bonds.

Upon a motion made by Council Member Miner and seconded by Mayor Pro Tem Smith, the Council voted 8-0 to approve the Investment Portfolio Summary for the quarter ending September 30, 2013 and further to adopt Resolution No. 2013-11-16(R).

**Resolution No. 2013-11-17(R):** To cast the City of Plano's ballot for the election of members to the Collin County Central Appraisal District Board of Directors under the provision of the Property Tax Code; authorizing the Mayor to execute the ballot for and on behalf of the City of Plano; and providing an effective date. (Regular Agenda Item “2”)

Upon a motion made by Council Member Downs and seconded by Council Member Miner, the Council voted 8-0 to cast the City of Plano's ballot for the election of members to the Collin County Central Appraisal District Board of Directors for Michael A. Pirek (351 votes); and further to adopt Resolution No. 2013-11-17(R).

**Resolution No. 2013-11-18(R):** To cast the City of Plano's ballot for the election of members to the Denton Central Appraisal District Board of Directors under the provision of the Property Tax Code; authorizing the Mayor to execute the ballot for and on behalf of the City of Plano; and providing an effective date. (Regular Agenda Item “3”)

Upon a motion made by Council Member Downs and seconded by Council Member Miner, the Council voted 8-0 to cast the City of Plano's ballot for the election of members to the Denton Central Appraisal District Board of Directors for John Mahalik (9 votes) and Connie Smith (8 votes); and further to adopt Resolution No. 2013-11-18(R).

**Consideration of an Appeal of the Planning & Zoning Commission’s denial** of the Concept Plan for Swaminarayan Gurukul Addition, Block A, Lot 1, including consideration of requested variances from the Subdivision Ordinance - Religious facility on one lot on 22.9± acres located on the west side of Park Vista Road, 1,500± feet south of 14th Street. Zoned Agricultural. Applicant: Swaminarayan Gurukul (Regular Agenda Item “4”)

### **Consideration of an Appeal of the Planning & Zoning Commission's denial (cont'd)**

Director of Planning Jarrell advised that on October 7, 2013, the Planning and Zoning Commission denied the concept plan due to concerns raised regarding one of the three variances requested. She spoke to the property's limited opportunity to obtain a second point of access as required by the Subdivision Ordinance and Fire Code and the applicant's request to provide access via an offsite hike and bike trail easement to be used for emergency vehicles only. Ms. Jarrell advised that the Fire Department approved this request and the Commission supported it. She stated that the applicant requested a variance from the Subdivision Ordinance restriction limiting maximum street length to 1,200 feet between intersections (outlets) and advised that the Commission supported this second request.

Ms. Jarrell stated that the Commission ultimately denied the concept plan due to concerns related to a requested variance to forego improvement of Park Vista Road as a dedicated paved street between the railroad tracks and 14<sup>th</sup> Street. She spoke to additional Staff review following the meeting, indicating that the undedicated roadway will provide adequate emergency access with completion of the above-referenced secondary access. Ms. Jarrell spoke to future development of a public street connecting 14<sup>th</sup> Street to the property (Type F thoroughfare) with an alignment yet undetermined. She requested Council consider the three variances, the overall concept plan and provide direction to the Planning and Zoning Commission to call a public hearing adding a Type F roadway to the Thoroughfare Plan. Art Anderson, representing the applicant thanked Staff for their efforts and stated agreement with the recommendations.

Upon a motion made by Mayor Pro Tem Smith and seconded by Council Member Davidson, the Council voted 8-0 to approve a variance which provides the second point of access via an offsite hike and bike trail easement connection which would be limited to use by emergency vehicles if the first point of access to the property was blocked.

Upon a motion made by Council Member Miner and seconded by Council Member Gallagher, the Council voted 8-0 to approve a variance allowing for a temporary over-length street.

Upon a motion made by Council Member Gallagher and seconded by Council Member Miner, the Council voted 8-0 to approve a variance from the requirement for improved roadway access.

Upon a motion made by Council Member Miner and seconded by Council Member Gallagher, the Council voted 8-0 to conditionally approve the concept plan subject to provision of modifications as required by the flood study.

Upon a motion made by Mayor LaRosiliere and seconded by Council Member Duggan, the Council voted 8-0 in directing the Planning and Zoning Commission to call a public hearing to add a Type F, secondary undivided thoroughfare to the Thoroughfare Plan connecting the improved rail crossing adjacent to the property to 14<sup>th</sup> Street.

Nothing further was discussed. Mayor LaRosiliere adjourned the meeting at 7:25 p.m.

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**Harry LaRosiliere, MAYOR**

ATTEST

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Diane Zucco, City Secretary



# CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		12/9/13		
Department:		Engineering		
Department Head		Jack Carr		
Agenda Coordinator (include phone #): <b>Michael Parrish x7554</b>				
<b>CAPTION</b>				
Bid No. 2013-382-B for the purchase of Fire Administration Building Floor Slab Repairs to Gilbert May Inc. d/b/a Phillips/May Corporation in the amount of \$77,033, and authorizing the City Manager to execute all necessary documents.				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR:	<b>2013-14</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>
				<b>TOTALS</b>
Budget		40,299	191,701	65,000
Encumbered/Expended Amount		-40,299	-97,098	0
This Item		0	-77,033	0
BALANCE		0	17,570	65,000
<b>FUND(s):    CAPITAL RESERVE FUND</b>				
<b>COMMENTS:</b> This item, in the amount of \$77,033, will leave a current year balance of \$17,570 for other repairs and maintenance to the Fire Station #1/Fire Administration facility.				
<b>STRATEGIC PLAN GOAL:</b> Conducting necessary repairs to keep City facilities in good condition relates to the City's Goal of Financially Strong City with Service Excellence.				
<b>SUMMARY OF ITEM</b>				
Staff recommends the bid of Gilbert May Inc. d/b/a Phillips/May Corporation in the amount of \$77,033, be accepted as the lowest, responsive, responsible bid, and conditioned upon timely execution of any necessary contract documents. This purchase is for the Fire Administration Building (2013-382-B).				
List of Supporting Documents: Award Memo, Bid Recap			Other Departments, Boards, Commissions or Agencies	



City of Plano  
1520 K Avenue  
Plano, TX 75074

P.O. Box 860358  
Plano, TX 75086-0358  
Tel: 972.941.7000  
plano.gov

TO: Michael Parrish, Sr. Buyer

FROM: Richard Medlen,  
Facilities Maintenance Superintendent

DATE: November 6, 2013

SUBJECT: **Fire Administration Building – Floor Slab Repairs – Bid #2013-382-B**

I have reviewed the bids submitted for the Building Floor Slab Repairs at Fire Administration. I recommend award to the overall lowest, responsive, responsible bid submitted by Gilbert May Inc. d/b/a Phillips/May Corporation for the base bid of \$68,333 and alternate 1 for \$8,700 with a total bid of \$77,033. An additional bid was received from Mart, Inc. with a total bid including alternate 1 for \$82,800.

The repairs to the slab are required to prevent further structural damage to the slab and to repair drainage problems surrounding the north east corner of the building.

The project was budgeted for in the Capital Reserve Account #54478.

Please contact me if you have any questions.

Thanks

/liw

Xc: Jim Razinha  
Matt Yager  
Steve Healy  
Alan Storck  
David Crapps

# CITY OF PLANO

## BID NO. 2013-382-B FIRE ADMINISTRATION BUILDING FLOOR SLAB REPAIRS BID RECAP

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**Bid Opening Date/Time:** November 5, 2013 @ 1:00 PM

**Number of Vendors Notified:** 891

**Vendors Submitting "No Bids":** 0

**Number of Non-Responsive Bids:** 0

**Number of Responsive Bids Submitted:** 2

Gilbert May Inc. d/b/a Phillips/May Corporation	\$77,033
Mart, Inc.	\$82,800

**Recommended Vendor:**

Gilbert May Inc. d/b/a Phillips/May Corporation	\$77,033
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*Michael Parrish*

*November 21, 2013*

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Michael Parrish, Senior Buyer

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Date



# CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		12/9/13		
Department:		Engineering		
Department Head		Jack Carr		
Agenda Coordinator (include phone #): <b>Michael Parrish x7554</b>				
<b>CAPTION</b>				
Bid No. 2013-383-B for the purchase of Warehouse Roof and Wall Sealant Replacement to Roof Management Services, Inc. in the amount of \$275,484, and authorizing the City Manager to execute all necessary documents.				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR: <b>2013-14</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	16,800	440,800	0	<b>457,600</b>
Encumbered/Expended Amount	-16,800	-2,600	0	<b>-19,400</b>
This Item	0	-275,484	0	<b>-275,484</b>
BALANCE	0	162,716	0	<b>162,716</b>
<b>FUND(S):    CAPITAL RESERVE FUND</b>				
<p><b>COMMENTS:</b> This item, in the amount \$275,484, will leave a current year balance of \$162,716 for other work related to the maintenance and repair of the City of Plano's Warehouse.</p> <p><b>STRATEGIC PLAN GOAL:</b> Keeping City facilities in good repair and the inventories stored at City facilities protected relates to the City's goal of Financially Strong City with Service Excellence.</p>				
<b>SUMMARY OF ITEM</b>				
Staff recommends the bid of Roof Management Services, Inc. in the amount of \$275,484, be accepted as the lowest, responsive, responsible bid, and conditioned upon timely execution of any necessary contract documents. This purchase is for the Municipal Warehouse (2013-383-B).				
List of Supporting Documents: Award Memo, Bid Recap			Other Departments, Boards, Commissions or Agencies	



City of Plano  
1520 K Avenue  
Plano, TX 75074

P.O. Box 860358  
Plano, TX 75086-0358  
Tel: 972.941.7000  
plano.gov

TO: Michael Parrish, Sr. Buyer

FROM: Richard Medlen,  
Facilities Maintenance Superintendent

DATE: November 6, 2013

SUBJECT: **Warehouse – Roof and Wall Sealant Replacement – Bid #2013-383-B**

I have reviewed the bids submitted for the replacement of the roof and wall sealant at the Municipal Warehouse. The bidder with the lowest proposal of \$270,135 which is from Chamberlin Dallas, LLC has requested to withdraw their bid which is recommended to be accepted. Therefore, I recommend award of the bid from the lowest responsive responsible bid submitted by Roof Management Services, Inc. for \$275,484. Additional bids were received from Heritage One Roofing, Inc. in the amount of \$286,300, Supreme Roofing in the amount of \$301,668, AA Applicators in the amount of \$307,485, Anchor Roofing in the amount \$321,000, CS Advantage USAA, Inc. in the amount of \$332,000, Progressive Roofing in the amount of \$333,020 and KPost Company in the amount of \$393,528.

The existing roof and sealants are over 20 years old and are at the end of their life expectancy and have deteriorated such that replacement is recommended.

The project was budgeted for in Capital Reserve Account #54418 and there are sufficient funds available for the project.

Please contact me if you have any questions.

Thanks

/liw

Xc: Jim Razinha  
Matt Yager  
Steven Drennan  
Steve Healy  
Todd Luxem  
Josh Mathewes

# CITY OF PLANO

## BID NO. 2013-383-B WAREHOUSE ROOF AND WALL SEALANT REPLACEMENT BID RECAP

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**Bid Opening Date/Time:** October 22, 2013 @ 2:00 PM

**Number of Vendors Notified:** 1166

**Vendors Submitting "No Bids":** 0

**Number of Non-Responsive Bids:** 0

**Number of Responsive Bids Submitted:** 8

Roof Management Services, Inc.	\$275,484
Heritage One Roofing, Inc.	\$286,300
Supreme Roofing	\$301,668
AA Applicators	\$307,485
Anchor Roofing	\$321,000
CS Advantage USAA, Inc.	\$332,000
Progressive Roofing	\$333,020
KPost Company	\$393,528

**Recommended Vendor:**

Roof Management Services, Inc. \$275,484

*Michael Parrish*

*November 21, 2013*

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Michael Parrish, Senior Buyer

---

Date



# CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>					
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory					
Council Meeting Date:		12/9/2013			
Department:		Technology Services			
Department Head		David Stephens			
Agenda Coordinator (include phone #): <b>Dianna Wike x7549</b>					
<b>CAPTION</b>					
To approve the purchase of Microsoft software licenses for one year with one City optional one year renewal, through a Microsoft Enterprise Agreement in the annual amount of \$896,476, from SHI Government Solutions, Inc. through an existing DIR (Department of Information Resources) contract and authorizing the City Manager to execute all necessary documents. (DIR-SDD-2503)					
<b>FINANCIAL SUMMARY</b>					
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	<b>2013-14, 2014-15</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget		0	3,291,924	896,476	<b>4,188,400</b>
Encumbered/Expended Amount		0	-909,001	0	<b>-909,001</b>
This Item		0	-896,476	-896,476	<b>-1,792,952</b>
BALANCE		0	1,486,447	0	<b>1,486,447</b>
<b>FUND(S):    TECHNOLOGY SERVICES FUND</b>					
<b>COMMENTS:</b> This item approves price quotes and expenditure for FY 2013-14. Funds are available in the Technology Services Budget for annual maintenance contracts and licensing renewals. Expenditures will be made within the approved budget appropriations for each year of the contract. The not to exceed annual contract amount for both 2013-14 and 2014-15 is \$896,476. The 2013-14 remaining balance will be used for other maintenance agreements and contracts.					
<b>STRATEGIC PLAN GOAL:</b> True-up and Annual Microsoft License renewals relate to the City's Goal of Financially Strong City with Service Excellence.					
<b>SUMMARY OF ITEM</b>					
Technology Services staff recommends approval of the purchase of Microsoft software licenses for one year with one City optional one year renewal through a Microsoft Enterprise Agreement from SHI Government Solutions, Inc., utilizing their DIR Contract, in the annual amount of \$896,476. The Microsoft Enterprise agreement allows the City of Plano to use a defined number of licenses for all Microsoft products and perform true-up at the end of the year. This alleviates the burden of ordering software licenses for each new installation by allowing for a mass update at the end of the year. The City is authorized to purchase from the State Contract list pursuant to Chapter 271 Subchapter D of the Local Government Code and by doing so satisfies any State Law requiring local governments to seek competitive bids for items. (DIR-SDD-2503)					



# CITY OF PLANO COUNCIL AGENDA ITEM

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



# Memorandum

**Date:** November 21, 2013  
**To:** Diane Palmer-Boeck, Chief Purchasing Officer  
**From:** David Stephens, Director Technology Services  
**Subject:** Microsoft Enterprise Agreement Renewal

Technology Services proposes changing its Microsoft Enterprise Agreement (EA) from Dell Marketing, LP to SHI-Government Solutions, Inc. (SHI). SHI currently holds the master contract with the State of Texas Department of Information Resources for all Microsoft Enterprise Agreement contracts issued to any governmental agency in Texas. The contract number is DIR-SDD-2503. Dell Marketing, LP had held the DIR contract last year but they lost the master contract after it was rebid.

The Microsoft Enterprise Agreement allows the City of Plano to use a defined number of licenses for all Microsoft products and perform a true-up at the end of the year. This alleviates the burden of ordering software licenses for each new installation by allowing for a mass update at the end of the year. This facilitates the deployment process and reduces the amount of paperwork required to keep track of licenses for compliance purposes.

Through the Microsoft EA, and the associated Subscription Assurance (SA), there are other benefits provided to the City including training vouchers for technical training, reduced pricing for home use of selected Microsoft software, the ability to upgrade or downgrade licenses based on specific needs, and access to Microsoft's TechNet portal for early access to software and problem resolution. If these features were purchased individually they would cost substantially more than as part of the SA bundle.

If we do not renew our Microsoft EA, the City of Plano will have to purchase licenses for all the Microsoft products that are currently being used at retail prices. This cost for procuring all these licenses would be substantially more than the renewal cost of the EA.

This will be a two year agreement with both years having a not to exceed price of \$896,475.56 for each year.



# CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		12/9/2013		
Department:		Fire		
Department Head		Brian Crawford		
Agenda Coordinator (include phone #): <b>Teresa Shelstad x7539</b>				
<b>CAPTION</b>				
To approve the purchase of 13 Stryker Power PRO XT cots from Stryker the sole source provider in the amount of \$186,138 and authorizing the City Manager to execute all necessary documents.				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	2013-14	Prior Year (CIP Only)	Current Year	Future Years
		0	195,000	0
Budget				<b>195,000</b>
Encumbered/Expended Amount		0	0	0
This Item		0	-186,138	0
BALANCE		0	8,862	0
<b>FUND(S):    FIRE EQUIPMENT REPLACEMENT FUND</b>				
<p><b>COMMENTS:</b> Funds are available in the 2013-14 Fire Equipment Replacement Fund budget for the purchase of thirteen (13) new Stryker Power Pro XT cots for the City ambulances. Remaining funds will be used for other replacement equipment purchases.</p> <p><b>STRATEGIC PLAN GOAL:</b> Periodic replacement of the ambulance cots relates to the City's Goal of Financially Strong City with Service Excellence and Safe Large City.</p>				
<b>SUMMARY OF ITEM</b>				
The Fire Department recommends the purchase of thirteen (13) Stryker Power PRO XT cots from Stryker the sole source provider in the amount of \$186,138. The City is exempt from the competitive bid process for this purchase as allowed by Local Government Code Chapter 252 Subchapter B Section 252.022(a)(7)(A).				
List of Supporting Documents: Memo			Other Departments, Boards, Commissions or Agencies	



# Memorandum

## *From the Office of the Fire Chief*

**Date:** November 20, 2013  
**To:** Diane Palmer-Beck, Purchasing Director  
**From:** Brian Crawford, Fire Chief  
**Subject:** Sole Source for Stryker Power Pro XT Cots

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The Fire Department is requesting approval for the purchase of thirteen (13) new Stryker Power Pro XT cots to be used in our ambulances. This purchase will replace our current Stryker cots.

Our current cots are 2006 models and are nearing the end of their mechanical lifespan. The new cots not only serve the need to replace old cots, but there are several upgrades to the new model. The most important upgrade with the new cots is the compatibility with Stryker's new load system. The load system automatically loads and unloads the cot and patient from the rear of the ambulance. This feature will greatly decrease potential back injuries in the EMTs and Paramedics. The load system will be included in the upcoming ambulance purchases this fiscal year and next. Our current cots will not work with the new load system.

This product is available to the City of Plano only through Stryker and no other vendor or cooperative.

---

Brian Crawford



# CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>					
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory					
Council Meeting Date:		12/09/13			
Department:		Economic Development			
Department Head		Sally Bane			
Agenda Coordinator (include phone #): <b>Linda Thomason x8301</b>					
<b>CAPTION</b>					
A Resolution of the City Council of the City of Plano, Texas approving the terms and conditions of a First Modification to the Tax Abatement Agreement between the City of Plano, Texas, Eltek, Inc. and FFII TX Plano, L.P. successor to Argent Plano Realty, L. P.; authorizing its execution by the City Manager or his designee; and providing an effective date.					
<b>FINANCIAL SUMMARY</b>					
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	<b>2012/2013 through 2022/2023</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget		0	0	0	0
Encumbered/Expended Amount		0	0	0	0
This Item		0	0	0	0
BALANCE		0	0	0	0
<b>FUND(S):     N/A</b>					
<b>COMMENTS:</b> This item has no fiscal impact. Strategic Plan Goal: Providing economic development incentives relates to the City's goal of Strong Local Economy					
<b>SUMMARY OF ITEM</b>					
A request from Eltek, Inc., a Delaware corporation, and FFII TX Plano, L.P., a Delaware limited partnership, for a First Modification to Tax Abatement in Reinvestment Zone 127. <a href="http://goo.gl/maps/S5K1n">http://goo.gl/maps/S5K1n</a>					
List of Supporting Documents: Resolution First Modification of Tax Abatement			Other Departments, Boards, Commissions or Agencies		

**A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of a First Modification to the Tax Abatement Agreement between the City of Plano, Texas, Eltek, Inc. and FFII TX Plano, L.P., successor to Argent Plano Realty, L.P.; authorizing its execution by the City Manager or his designee; and providing an effective date.**

**WHEREAS**, the City Council has been presented a proposed First Modification to the Tax Abatement Agreement by and between City of Plano ("City"), Eltek, Inc., a Delaware corporation ("Eltek"), and FFII TX Plano, L.P., a Delaware limited partnership, successor to Argent Plano Realty, L.P., a Texas limited partnership, ("FFII TX") a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "First Modification"); and

**WHEREAS**, City, Eltek and FFII TX entered into a Tax Abatement Agreement on September 10, 2012; and

**WHEREAS**, City, Eltek and FFII TX desire to amend said Tax Abatement Agreement to reflect the revised agreement between the parties changing the value required for Personalty; and

**WHEREAS**, upon full review and consideration of the First Modification, 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 First Modification 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 First 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 Agreement.

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

**DULY PASSED AND APPROVED** this the 9th day of December, 2013.

\_\_\_\_\_  
Harry LaRosiliere, MAYOR

ATTEST:

\_\_\_\_\_  
Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY

**THE STATE OF TEXAS** § **First Modification of Tax Abatement**  
 § **Agreement By and Between City of**  
 § **Plano, Eltek, Inc. and FFII TX Plano,**  
 § **L.P., Successor to Argent Plano Realty,**  
 § **L.P.**  
 §  
**COUNTY OF COLLIN** §

This first modification of Tax Abatement Agreement (hereinafter "First Modification") is made and entered by and between **ELTEK, INC.**, a Delaware corporation (hereinafter "Tenant"), **FFII TX PLANO, L.P.**, a Delaware limited partnership, successor to **ARGENT PLANO REALTY, L.P.**, a Texas limited partnership, (hereinafter "Owner"), and the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation (hereinafter "City"), acting by and through its City Manager or his designee.

**WITNESSETH:**

**WHEREAS**, City, Tenant and Owner entered into a Tax Abatement Agreement on September 10, 2012 (hereinafter "Agreement"); and

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

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

**I.**

Beginning on the effective date of this Modification and continuing through the remaining term of the Agreement, Section 2 is hereby modified to read in its entirety as follows:

"2. The tangible personal property subject to this Agreement shall be personal property, excluding inventory and supplies, used within Reinvestment Zone No. 127, which shall be hereinafter referred to as the "Personalty." The Personalty is to have an assessed taxable value as determined by

the Collin County Appraisal District of not less than One Million One Hundred Thousand Dollars (\$1,100,000) on the Real Property by January 1, 2014, and is or will be owned by Tenant."

This First Modification shall be effective from and after the date of execution by the last signatory hereto as evidenced below.

**In Witness Whereof**, the parties have executed this First Modification by signing below.

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

Date: \_\_\_\_\_

\_\_\_\_\_  
Bruce D. Glasscock, CITY MANAGER

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane Wetherbee, CITY ATTORNEY

TENANT  
Eltek, Inc., a Delaware corporation

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

OWNER  
FFII TX Plano, L.P., a Delaware limited  
partnership, successor to Argent Plano Realty,  
L.P., a Texas limited partnership

By: FFII TX Plano GP, L.L.C., a Delaware  
limited liability company

Its: General Partner

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



# CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		12/09/13		
Department:		Economic Development		
Department Head		Sally Bane		
Agenda Coordinator (include phone #): <b>Linda Thomason x8301</b>				
<b>CAPTION</b>				
A Resolution of the City Council of the City of Plano, Texas, rescinding the authorization of the Tax Abatement Agreement by and between Rent-A-Center Texas, L.P. and the City of Plano, Texas; pursuant to Resolution No. 2013-9-13(R); and providing an effective date.				
<b>FINANCIAL SUMMARY</b>				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	<b>2015-2016 through 2025- 2026</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>
		<b>TOTALS</b>		
Budget	0	0	0	<b>0</b>
Encumbered/Expended Amount	0	0	0	<b>0</b>
This Item	0	0	0	<b>0</b>
<b>BALANCE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>FUND(S):    N/A</b>				
<b>COMMENTS:</b> This item has no fiscal impact. Strategic Plan Goal: Providing economic development incentives relates to the City's goal of Strong Local Economy.				
<b>SUMMARY OF ITEM</b>				
On September 9, 2013 City Council authorized a Tax Abatement Agreement by and between Rent-A-Center Texas, L.P. and the City of Plano. Subsequent to City Council authorization, Rent-A-Center Texas, L.P. has declined to enter into the Agreement. This item rescinds the authorization of the Tax Abatement Agreement authorized by Resolution No. 2013-9-13(R).				
<a href="http://goo.gl/maps/ZiqKK">http://goo.gl/maps/ZiqKK</a>				
List of Supporting Documents: Resolution			Other Departments, Boards, Commissions or Agencies	

**A Resolution of the City Council of the City of Plano, Texas, rescinding the authorization of the Tax Abatement Agreement between Rent-A-Center Texas, L.P. and the City of Plano, Texas, pursuant to Resolution No. 2013-9-13(R); and providing an effective date.**

**WHEREAS**, on September 9, 2013, the City Council approved the authorization of a Tax Abatement Agreement by and between Rent-A-Center Texas, L.P. and the City of Plano ("Agreement"); and

**WHEREAS**, subsequent to City Council authorization of the Agreement, Rent-A-Center Texas, L.P. has declined to enter into the Agreement; and

**WHEREAS**, the City of Plano wishes to rescind the authorization of the Tax Abatement Agreement by and between Rent-A-Center Texas, L.P. and the City of Plano.

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

**Section I.** The City Council rescinds the authorization of the Tax Abatement Agreement authorized by Resolution No. 2013-9-13(R).

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

**DULY PASSED AND APPROVED** this the 9th day of December, 2013.

---

Harry LaRosiliere, MAYOR

ATTEST:

---

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

---

Diane C. Wetherbee, CITY ATTORNEY



# CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		12/09/13		
Department:		Economic Development		
Department Head		Sally Bane		
Agenda Coordinator (include phone #): <b>Linda Thomason x8301</b>				
<b>CAPTION</b>				
A Resolution of the City Council of the City of Plano, Texas, rescinding the authorization of the Economic Development Incentive Agreement by and between Rent-A-Center Texas, L.P. and the City of Plano, Texas; pursuant to Resolution No. 2013-9-2(R); and providing an effective date.				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	<b>2014-2015 through 2024- 2025</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>
		<b>TOTALS</b>		
Budget	0	31,258,236	0	<b>31,258,236</b>
Encumbered/Expended Amount	0	0	-15,272,398	<b>-15,272,398</b>
This Item	0	515,000	0	<b>515,000</b>
<b>BALANCE</b>	<b>0</b>	<b>31,773,236</b>	<b>-15,272,398</b>	<b>16,500,838</b>
<b>FUND(S):    ECONOMIC DEVELOPMENT INCENTIVE FUND</b>				
<b>COMMENTS:</b> Strategic Plan Goal: Providing economic development incentives relates to the City's goal of Strong Local Economy.				
<b>SUMMARY OF ITEM</b>				
<p>On September 9, 2013 City Council authorized an Economic Development Incentive Agreement by and between Rent-A-Center Texas, L.P. and the City of Plano. Subsequent to City Council authorization of the Agreement, Rent-A-Center Texas, L.P. has declined to enter into the Agreement. This item rescinds the authorization of the Economic Development Incentive Agreement authorized by Resolution No. 2013-9-2(R).</p> <p><a href="http://goo.gl/maps/ZiqKK">http://goo.gl/maps/ZiqKK</a></p>				
List of Supporting Documents: Resolution			Other Departments, Boards, Commissions or Agencies	

**A Resolution of the City Council of the City of Plano, Texas, rescinding the authorization of the Economic Development Incentive Agreement between Rent-A-Center Texas, L.P. and the City of Plano, Texas pursuant to Resolution No. 2013-9-2(R); and providing an effective date.**

**WHEREAS**, on September 9, 2013, the City Council approved the authorization of an Economic Development Incentive Agreement by and between Rent-A-Center Texas, L.P. and the City of Plano ("Agreement"); and

**WHEREAS**, subsequent to City Council authorization of the Agreement, Rent-A-Center Texas, L.P. has declined to enter into the Agreement; and

**WHEREAS**, the City of Plano wishes to rescind the authorization of the Economic Development Incentive Agreement by and between Rent-A-Center Texas, L.P. and the City of Plano.

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

**Section I.** The City Council rescinds the authorization of the Economic Development Incentive Agreement approved pursuant to Resolution No. 2013-9-2(R).

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

**DULY PASSED AND APPROVED** this the 9th day of December, 2013.

\_\_\_\_\_  
Harry LaRosiliere, MAYOR

ATTEST:

\_\_\_\_\_  
Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		12/9/13		
Department:		Engineering		
Department Head:		Gerald P. Cosgrove, P.E.		
Agenda Coordinator (include phone #): <b>Kathleen Schonne (7198)</b>				<b>Project No. 6157</b>
<b>CAPTION</b>				
<p>A Resolution of the City Council of the City of Plano, Texas, approving the purchase of a 5,089 square foot tract of land for Custer Road Right of Way and a 4,860 square foot Temporary Construction easement, both located at the southwest corner of Custer Road and Plano Parkway from Custer/190 Joint Venture, in the total amount of \$51,801, and authorizing the City Manager or his authorized designee to execute any necessary documents; and providing an effective date.</p>				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input checked="" type="checkbox"/> CIP				
FISCAL YEAR: <b>2013-14</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	26,400	957,600	0	<b>984,000</b>
Encumbered/Expended Amount	-26,400	-54,260	0	<b>-80,660</b>
This Item	0	-51,801	0	<b>-51,801</b>
<b>BALANCE</b>	<b>0</b>	<b>851,539</b>	<b>0</b>	<b>851,539</b>
<b>FUND(S): STREET IMPROVEMENT CIP</b>				
<p><b>Comments:</b> Funds are available in the 2013-14 Street Improvement CIP. This item, in the amount of \$51,801, is anticipated to leave a balance of \$851,539 for the Coit at 15<sup>th</sup> and Custer at Plano Parkway project.</p> <p><b>STRATEGIC PLAN GOAL:</b> Obtaining easements for sidewalks and utilities relates to the City's goals of Financially Strong City with Service Excellence and Strong Local Economy.</p>				
<b>SUMMARY OF ITEM</b>				
<p>This purchase is for the acquisition of a 5,089 square foot Right of Way and a 4,860 square foot Temporary Construction easement, both located at the southwest corner of Custer Road and Plano Parkway. The purchase price for the Right of Way is \$50,801. The purchase price for the Temporary Construction easement is \$1,000, for a total cost of \$51,801.</p> <p>The tracts are needed to widen Custer Road in order to construct a double left turn lane for northbound Custer Road to westbound Plano Parkway.</p> <p>To see a Google Map location, click the link below:  <a href="http://goo.gl/maps/JdZEF">http://goo.gl/maps/JdZEF</a></p>				
List of Supporting Documents: Resolution; Right of Way drawing and legal description; Temporary Construction Easement legal description and drawing			Other Departments, Boards, Commissions or Agencies N/A	

**A Resolution of the City Council of the City of Plano, Texas, approving the purchase of a 5,089 square foot tract of land for Custer Road Right of Way and a 4,860 square foot Temporary Construction easement, both located at the southwest corner of Custer Road and Plano Parkway from Custer/190 Joint Venture, in the total amount of \$51,801, and authorizing the City Manager or his authorized designee to execute any necessary documents; and providing an effective date.**

**WHEREAS**, the City of Plano (“City”) wants to acquire a 5,089 square foot Right of Way tract and a 4,860 square foot Temporary Construction easement (attached hereto as Exhibits “A” and “B,” respectively), from Custer/190 Joint Venture, for the Intersection Improvements- Custer Road at Plano Parkway and Coit Road at 15<sup>th</sup> Street Project No. 6157 (the “Project”); and

**WHEREAS**, the Engineering Department requests that City Council authorize the purchase of the Right of Way tract in the amount of FIFTY THOUSAND EIGHT HUNDRED ONE and NO/100 DOLLARS (\$50,801.00) and the purchase of the Temporary Construction easement in the amount of ONE THOUSAND and NO/100 DOLLARS (\$1,000.00) for a total amount of FIFTY-ONE THOUSAND EIGHT HUNDRED ONE and NO/100 DOLLARS (\$51,801.00) (the “Purchase Price”); and

**WHEREAS**, upon full review and consideration of the acquisition request, and all matters attendant and related thereto, the City Council finds that it is in the best interest of the City to approve the amount of the Purchase Price for the acquisition of the Right of Way tract and the Temporary Construction easement for the Project.

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

**Section I.** The Purchase Price for the acquisition of Right of Way tract and the Temporary Construction easement by the City from Custer/190 Joint Venture, 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 and its citizens, is hereby in all things approved.

**Section II.** The City Manager, or his authorized designee, is hereby authorized to execute all documents in connection therewith on behalf of the City to facilitate the purchase of Right of Way tract and the Temporary Construction easement.

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

**DULY PASSED AND APPROVED** this the 9th day of December, 2013.

\_\_\_\_\_  
Harry LaRosiliere, MAYOR

ATTEST:

\_\_\_\_\_  
Diane Zucco, CITY SECRETARY

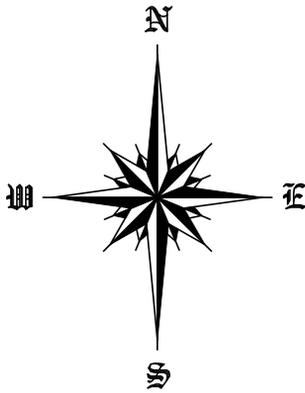
APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY

# PLANO PARKWAY

CITY OF PLANO  
VOL. 4373, PG. 2530

POB ROW



NORTH  
SCALE 1" = 50'

C.M. = CONTROLLING MONUMENT

- = CAPPED 1/2" IRON ROD SET
- = CAPPED 1/2" IRON ROD FOUND

13.1988 ACRES  
Custer Highway 190 JV  
C.C. NO. 96-0012813

0.117 ACRES  
ROW DEDICATION

LINE	BEARING	DISTANCE
L1	S 00°18'51" E	70.10'
L2	N 00°18'48" W	65.07'
L3	N 45°19'59" W	35.34'
L4	N 89°41'12" E	18.00'
L5	S 45°22'56" E	28.25'

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	1150.00'	379.31'	377.59'	S 09°45'45" E	18°53'53"
C2	750.00'	70.90'	70.87'	N 21°44'56" W	5°24'58"
C3	600.00'	138.15'	137.84'	N 15°29'14" W	13°11'32"
C4	1163.00'	174.11'	173.95'	N 04°36'08" W	8°34'40"



**SURDUKAN SURVEYING, INC.**

P.O. BOX 126  
ANNA, TEXAS 75409  
(972) 924-8200



ROW DEDICATION  
CUSTER ROAD  
CITY OF PLANO  
COLLIN COUNTY, TEXAS

LEGAL DESCRIPTION  
ROW DEDICATION

BEING an a tract of land situated in the L.M. Marshall Survey, Abstract No. 595, City of Plano. Collin County, Texas and being part of a 13.1988 acre tract as conveyed to Custer Highway 190 JV and recorded in County Clerks No. 96-0012813 Land Records of Collin County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a capped 1/2" iron rod set for corner at the southeast corner of a corner clip and also being the southeast corner of a tract conveyed to the City of Plano and recorded in Volume 4373, Page 2530, L.R.C.C.T., said iron rod being in the west Right Of Way line of Custer Road;

THENCE S 00°18'51" E following the west ROW line of said Custer Road a distance of 70.10' to a capped 1/2" iron rod found for corner at the beginning of a curve to the left;

THENCE along said curve to the left following the west ROW line of said Custer Road through a central angle of 18°45'48", a radius of 1150.00', a chord bearing of S 09°41'42" E, a chord length of 374.92', and an arc length of 376.61' to a capped 1/2" iron rod set for corner at the beginning of a curve to the left;

THENCE along said curve to the left through a central angle of 05°12'35", a radius of 750.00', a chord bearing of N 21°51'08" W, a chord length of 68.17', and an arc length of 68.20' to a capped 1/2" iron rod set for corner at the beginning of a curve to the right;

THENCE along said curve to the right through a central angle of 13°11'32", a radius of 600.00', a chord bearing of N 15°29'14" W, a chord length of 137.84', and an arc length of 138.15' to a capped 1/2" iron rod set for corner;

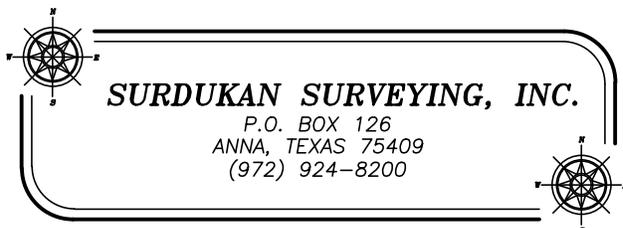
THENCE along said curve to the right through a central angle of 08°34'40", a radius of 1163.00', a chord bearing of N 04°36'08" W, a chord length of 173.95', and an arc length of 174.11' to a capped 1/2" iron rod set for corner;

THENCE N 00°18'48" W a distance of 65.07' to a capped 1/2" iron rod set for corner;

THENCE N 45°19'59" W a distance of 35.34' to a capped 1/2" iron rod set for corner in the south Right Of Way line of Plano Parkway;

THENCE N 89°41'12" E following the south ROW line of said Plano Parkway a distance of 18.00' to a capped 1/2" iron rod found for corner at the north end of said corner clip;

THENCE S 45°22'56" E following the corner clip a distance of 28.25' to the POINT OF BEGINNING and containing 5,089 square feet or 0.117 acres of land.



ROW DEDICATION  
CUSTER ROAD  
CITY OF PLANO  
COLLIN COUNTY, TEXAS

LEGAL DESCRIPTION  
10' TEMPORARY CONSTRUCTION EASEMENT

BEING across a tract of land situated in the L.M. Marshall Survey, Abstract No. 595, City of Plano. Collin County, Texas and being across a 13.1988 acre tract as conveyed to Custer Highway 190 JV and recorded in County Clerks No. 96-0012813 Land Records of Collin County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a point that bears S 68°31'42" W a distance of 613.94' from the southeast corner of a corner clip and also being the southeast corner of a tract conveyed to the City of Plano and recorded in Volume 4373, Page 2530, L.R.C.C.T.;

THENCE S 00°18'48" E a distance of 65.07' to a point;

THENCE along said curve to the left through a central angle of 08°34'40", a radius of 1163.00', a chord bearing of S 04°36'08" E, a chord length of 173.95', and an arc length of 174.11' to a point;

THENCE along said curve to the left through a central angle of 13°11'32", a radius of 600.00', a chord bearing of S 15°29'14" E, a chord length of 137.84', and an arc length of 138.15' to a point;

THENCE along said curve to the right through a central angle of 05°12'35", a radius of 750.00', a chord bearing of S 21°51'08" E, a chord length of 68.17', and an arc length of 68.20' to a point;

THENCE along said curve to the right through a central angle of 00°12'23", a radius of 750.00', a chord bearing of S 19°08'39" E, a chord length of 2.70', and an arc length of 2.70' to a point;

THENCE S 70°57'33" W a distance of 10.00' to a point;

THENCE along said curve to the left through a central angle of 05°25'56", a radius of 740.00', a chord bearing of N 21°45'25" W, a chord length of 70.13', and an arc length of 70.16' to a point;

THENCE along said curve to the right through a central angle of 13°12'42", a radius of 610.00', a chord bearing of N 15°29'49" W, a chord length of 140.35', and an arc length of 140.66' to a point;

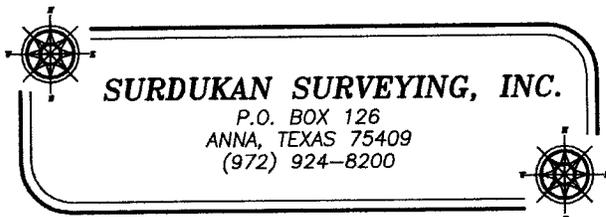
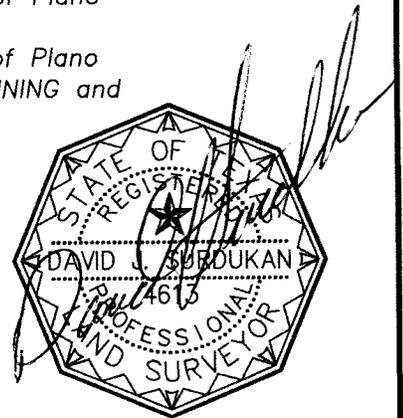
THENCE along said curve to the right through a central angle of 08°34'40", a radius of 1173.00', a chord bearing of N 04°36'08" W, a chord length of 175.44', and an arc length of 175.61' to a point;

THENCE N 00°18'48" W a distance of 60.92' to a point;

THENCE N 45°19'59" W a distance of 41.09' to a point in the south ROW line of Plano Parkway;

THENCE N 89°21'59" E following the south ROW line of Plano Parkway a distance of 14.07' to a point;

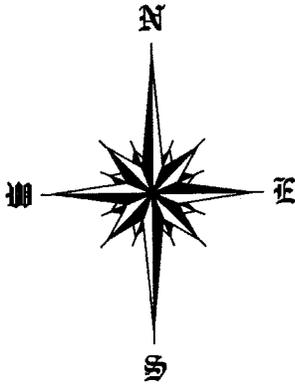
THENCE S 45°19'59" E following the south ROW line of Plano Parkway a distance of 35.34' to a point the POINT OF BEGINNING and containing 4860 square feet or 0.112 acres of land.



10' TEMPORARY CONSTRUCTION  
EASEMENT  
CUSTER ROAD  
CITY OF PLANO  
COLLIN COUNTY, TEXAS

# PLANO PARKWAY

CITY OF PLANO  
VOL. 4373, PG. 2530



NORTH  
SCALE 1" = 50'

C.M. = CONTROLLING MONUMENT

- = CAPPED 1/2" IRON ROD SET
- = CAPPED 1/2" IRON ROD FOUND

**POB 10'  
TEMPORARY  
CONSTRUCTION  
EASEMENT**

10' TEMPORARY CONSTRUCTION  
EASEMENT

13.1988 ACRES  
Custer Highway 190 JV  
C.C. NO. 96-0012813

LINE	BEARING	DISTANCE
L3	N 45°19'59" W	35.34
L6	S 70°57'33" W	10.00
L7	N 00°18'48" W	60.92
L8	N 45°19'59" W	41.09
L9	N 89°21'59" E	14.07
L10	S 68°31'42" W	13.94

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C5	1163.00'	174.11'	173.95'	S 04°36'08" E	8°34'40"
C6	600.00'	138.15'	137.84'	S 15°29'14" E	13°11'32"
C7	750.00'	70.90'	70.87'	S 21°44'56" E	5°24'58"
C8	740.00'	70.16'	70.13'	N 21°45'25" W	5°25'56"
C9	610.00'	140.66'	140.35'	N 15°29'49" W	13°12'42"
C10	1173.00'	175.61'	175.44'	N 04°36'08" W	8°34'40"



**SURDUKAN SURVEYING, INC.**

P.O. BOX 126  
ANNA, TEXAS 75409  
(972) 924-8200



SCALE 1" = 60'

DATE: JUNE 11, 2013

SHEET 2 OF 2

JOB NO. 2012-07

10' TEMPORARY CONSTRUCTION  
EASEMENT  
CUSTER ROAD  
CITY OF PLANO  
COLLIN COUNTY, TEXAS



# CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>					
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory					
Council Meeting Date:		12/09/2013			
Department:		Public Safety Communications			
Department Head		Susan Carr			
Agenda Coordinator (include phone #): <b>Sharron Mason - Ext. 7247</b>					
<b>CAPTION</b>					
<p>A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an interlocal agreement by and between the City of Plano, Texas, the City of Allen, Texas and the Town of Fairview, Texas to add the Town of Fairview to the Plano-Allen radio communications system and to lease certain communications services to the City of Fairview; authorizing the City Manager or his designee to take such action and execute such documents as necessary to effectuate the agreement herein; and providing an effective date.</p>					
<b>FINANCIAL SUMMARY</b>					
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input checked="" type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	<b>2013-14 thru 2017-18</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget		0	0	0	<b>0</b>
Encumbered/Expended Amount		0	0	0	<b>0</b>
This Item		0	5,571	29,716	<b>35,287</b>
BALANCE		0	5,571	29,716	<b>35,287</b>
<b>FUND(S):    INTERGOVERNMENTAL RADIO FUND</b>					
<p><b>COMMENTS:</b> Approval of this item will result in total estimated revenues of \$35,287 over a five-year period to the Interlocal Radio System Access Fund. Plano's annual share is \$3,714 for 2013-14, and \$19,810 for the remaining contract period. Allen's share is \$1,857 for 2013-14, and \$9,906 for the remaining contract period.</p> <p><b>STRATEGIC PLAN GOAL:</b> Interlocal agreements for the use of the Allen and Plano Radio Communications System relate to the City's Goals of Financially Strong City with Service Excellence and Partnering for Community Benefit</p>					
<b>SUMMARY OF ITEM</b>					
<p>Staff requests Council approval of a five (5) year Interlocal cooperation agreement between the Cities of Allen and Plano and the Town of Fairview for the use of the Allen and Plano Radio Communications Systems. (City of Plano Tracking #2014-7-1)</p>					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
Resolution and Interlocal Agreement					

**A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of an interlocal agreement by and between the City of Plano, Texas, the City of Allen, Texas and the Town of Fairview, Texas to add the Town of Fairview to the Plano-Allen radio communications system and to lease certain communications services to the City of Fairview; authorizing the City Manager or his designee to take such action and execute such documents as necessary to effectuate the agreement herein; and providing an effective date.**

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

**WHEREAS**, the City Council has been presented a proposed Interlocal Cooperation Agreement to add the Town of Fairview, Texas to the Plano-Allen radio communications system and to lease certain communications services to the Town of Fairview, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and

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

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

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

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

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

**DULY PASSED AND APPROVED** this the 9th day of December, 2013.

\_\_\_\_\_  
Harry LaRosiliere, MAYOR

ATTEST:

\_\_\_\_\_  
Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY

**AGREEMENT BETWEEN THE CITIES OF ALLEN AND PLANO AND  
THE TOWN OF FAIRVIEW FOR THE USE OF THE ALLEN AND  
PLANO RADIO COMMUNICATIONS SYSTEM**

The CITIES OF PLANO, TEXAS, AND ALLEN, TEXAS, both Texas home-rule municipalities (hereinafter referred to as "Cities"), and the TOWN OF FAIRVIEW, TEXAS, a Texas home-rule municipality (hereinafter referred to as "Town of Fairview"), agree as follows:

**WHEREAS**, the Cities and Town of Fairview are political subdivisions within the State of Texas, each of which engages in the provision of governmental services for the benefit of their citizens; and

**WHEREAS**, the Interlocal Cooperation Act under Chapter 791 of the Texas Government Code (the "Act") provides authority for local governments of the State of Texas to enter into Interlocal agreements with each other regarding governmental functions and services as set forth in the Act; and

**WHEREAS**, the Cities jointly own, operate, and maintain the radio communications system exclusive of the radios owned individually by each city (hereinafter referred to as "System") for the purpose of providing radio communications in support of its governmental operations; and

**WHEREAS**, Town of Fairview wishes to use certain portions of the System for its governmental operations; and

**WHEREAS**, the use of the System in the provision of governmental services benefits the public health and welfare, promotes efficiency and effectiveness of local governments, and is of mutual concern to the contracting parties; and

**WHEREAS**, Town of Fairview and the Cities have current funds available to satisfy any fees and costs required pursuant to this Agreement.

**NOW, THEREFORE**, the Cities and Town of Fairview, for and in consideration of the recitals set forth above and terms and conditions below, agree as follows:

**Article I. TERM**

The term of this Agreement is for a period of five (5) years, beginning on the 1<sup>st</sup> day of October 2013, and ending on the 30<sup>th</sup> day of September 2018 ("Initial Term"), with a three (3) year automatic renewal ("Renewal Term"), unless terminated earlier by any party by giving the other parties written notice of termination at least 180 days before the Initial Term. At any time during the Initial Term or Renewal Term, this Agreement may be terminated in accordance with Section 4.02 or Article VI of this Agreement.

**Article II. OBLIGATIONS OF TOWN OF FAIRVIEW**

**Section 2.01** Town of Fairview shall use the System in accordance with this Agreement to provide integration of communications by Town of Fairview between its users on the System for governmental operations.

**Section 2.02** When using the System, Town of Fairview shall abide by all applicable federal and state laws and regulations, including any regulations of the Allen and Plano Radio System. When Town of Fairview uses the System for interoperability with Talkgroups (hereinafter defined) other than those provided by this Agreement, Town of Fairview will also abide by the user rules of those Talkgroups.

**Section 2.03** Town of Fairview must provide a written request to the Plano System Manager to activate radios (hereinafter referred to as "Subscriber Units") on the System. Such request must include the model and serial number of the Subscriber Unit, the name of the user, and identifying Talkgroups required in the Subscriber Unit.

**Section 2.04** Town of Fairview is responsible for furnishing its own Subscriber Units, which must be compatible with the APCO P-25 Digital system, and for maintenance of the Subscriber Units. Town of Fairview is responsible for all software and hardware required to program these Subscriber Units should it choose a different manufacturer than the Cities.

**Section 2.05** Town of Fairview shall use reasonable efforts to acquire equipment necessary to utilize the System in accordance with all applicable local, state, and federal law. In the event Town of Fairview is unable to obtain equipment necessary to utilize the System prior to January 1, 2014, Town of Fairview shall provide written notice to the Cities prior to that date. In the event Town of Fairview provides written notice to the Cities prior to January 1, 2014, in accordance with this Section 2.05, this Agreement shall terminate automatically without further obligation of the parties.

### **Article III. OBLIGATIONS OF CITIES**

**Section 3.01** The Cities will lease to Town of Fairview three (3) Talkgroups, which are a primary level of communication for users on the System (hereinafter referred to as "Talkgroup"), comparable to a channel on a conventional radio system, for the exclusive use of Town of Fairview. Talkgroups will be established for Town of Fairview by the Cities.

**Section 3.02** The Cities will not activate radios on Town of Fairview Talkgroups nor make changes to Town of Fairview radios without first receiving authorization from the designated representative of Town of Fairview, unless in the opinion of the Cities, such action is necessary to eliminate harmful interference, in which case the Cities shall provide written notice of any such change to Town of Fairview.

**Section 3.03** Cities are also responsible for:

- (1) Coordinating Talkgroups among System users;
- (2) Grouping of Talkgroups to allow transmitting and receiving on all associated Talkgroups as required by Town of Fairview;
- (3) The operation, maintenance, and control of the System.

### **Article IV. FEES**

**Section 4.01** The fees assessed against Town of Fairview and due annually for services and use of the System are as follows:

(1)	Lease radio airtime (per radio, per month)	\$ 8.56
(2)	Lease Talkgroup (per Talkgroup, per month)	\$ 62.97
(3)	Administrative and Technical fee (per month)	\$ 96.30

None of the charges listed above include the cost of maintenance of mobiles, portables, or control stations/points.

**Section 4.02** The Cities may increase the fees listed in Section 4.01 at the beginning of each fiscal year by an amount not to exceed seven percent (7%) of the previous year's fees. The Cities will provide 120 days' notice to Town of Fairview before increasing the fees. Notwithstanding any other provision of this Agreement, if the Cities provide notice to Town of Fairview of an increase to any of the fees referenced in this Article, Town of Fairview may terminate this Agreement by providing 90 days' advanced written notice.

**Section 4.03** Based on the fees set out in this Article, the Cities will calculate the annual fee due based upon the total number of radios and Talkgroups and submit an invoice to Town of Fairview on or before October 1<sup>st</sup> of each year. This amount is subject to change when Town of Fairview adds or deletes the number of radios and/or Talkgroups in service. Town of Fairview must notify the Plano System Manager in writing of any addition or deletion of radios and/or Talkgroups by facsimile to 972-941-7945 or by sending an e-mail to the following address: Rongo@plano.gov. This notification need not be sent in accordance with the notice requirements under Article XI of this Agreement. The amount owed for annual fees for additions of radio/Talkgroups will be prorated for the fiscal year added, invoiced immediately, and amounts will be due within 30 days of receipt of the invoice for the addition(s). The amount owed for annual fees will be adjusted for deletions the next fiscal year. No refunds will be given for payments made for radios/Talkgroups deleted after annual payment until the next fiscal year.

#### **Article V. PAYMENT DUE**

Town of Fairview agrees to pay the Cities the annual fees specified under Article IV within thirty (30) days of the receipt of the invoice. Should Town of Fairview add radios or Talkgroups to the service within a term, Town of Fairview agrees to pay the additional fee(s) due within thirty (30) days of invoice. All payments for expenses incurred as a result of the performance of this Agreement shall be made only from current revenues legally available to each respective party.

#### **Article VI. TERMINATION**

Termination of this Agreement may occur by any of the following:

- (1) Either party may terminate this Agreement at any time by giving one hundred and eighty (180) days' advance written notice. Town of Fairview shall pay for all fees incurred through the effective date of termination.
- (2) If the Cities permanently discontinue the operation of its System, the Cities shall provide written notice to Town of Fairview of the discontinuation as soon as is reasonably practicable, and this Agreement

shall terminate on the date of discontinuance without further notice, and no fees paid will be reimbursed by the Cities to Town of Fairview.

**Article VII. RELEASE AND HOLD HARMLESS**

To the extent allowed by law, each party does hereby agree to waive all claims against, release, and hold harmless the other party and its respective officials, officers, agents, employees, in both their public and private capacities, from any and all liability, claims, suits, demands, losses, damages, attorney's fees, including all expenses of litigation or settlement, or causes of action which may arise by reason of injury to or death of any person or for loss of, damage to, or loss of use of any property arising out of or in connection with this Agreement. In the event that a claim is filed, each party is responsible for its proportionate share of liability, if any.

**Article VIII. IMMUNITY**

In the execution of this Agreement, none of the parties waive, nor shall be deemed hereby to have waived, its sovereign immunity or any legal or equitable defense to any form of liability. The parties by entering into this Agreement do not create any obligations, express or implied, other than those set forth herein, and this Agreement shall not create any rights in parties not signatories hereto.

**Article IX. ASSIGNMENT**

Town of Fairview agrees to retain control and to give full attention to the fulfillment of this Agreement; Town of Fairview cannot assign or sublet this Agreement without the prior written consent of the Cities. Further, Town of Fairview cannot sublet any part or feature of the work to anyone objectionable to the Cities. Town of Fairview also agrees that the subletting of any portion or feature of the work, or materials required in the performance of this Agreement, does not relieve Town of Fairview from its full obligations to the Cities as provided by this Agreement.

**Article X. ENTIRE AGREEMENT**

This Agreement represents the entire and integrated agreement between the Cities and Town of Fairview, and supersedes all prior negotiations, representations and/or agreements, either written or oral. The parties may amend this Agreement only by written instrument signed by Town of Fairview and the Cities, except that execution of an amendment for assignment or subletting only requires the signature of the Cities.

**Article XI. NOTICES**

Unless expressly set forth otherwise in this Agreement, all notices are required to be given to either party in writing and delivered in person or send via certified mail to the other party at the following respective addresses:

Town of Fairview Representative:  
Town Manager  
Town of Fairview  
372 Town Place  
Town of Fairview, Texas 75069

Plano Representative:  
Director, Public Safety  
City of Plano  
P.O. Box 860358  
Plano, Texas 75086-0358

Allen Representative:  
Police Chief  
City of Allen  
205 W. McDermott  
Allen, Texas 75013

## **Article XII. AUTHORITY TO SIGN/CITY COUNCIL AUTHORIZATION**

The undersigned officer and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto. Cities have executed this Agreement pursuant to duly authorized action of their respective City or Town Councils, (as applicable), on the dates indicated below.

## **Article XIII. SEVERABILITY**

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

## **Article XIV. VENUE**

This Agreement and any of its terms or provisions, as well as the rights and duties of the parties hereto, shall be governed by the laws of the State of Texas. The parties agree that this Agreement shall be enforceable in Collin County, Texas, and, if legal action is necessary, exclusive venue shall lie in Collin County, Texas.

## **Article XV. INTERPRETATION OF AGREEMENT**

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

## **Article XVI. REMEDIES**

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

## **Article XVII. SUCCESSORS AND ASSIGNS**

The parties each bind themselves, their respective successors, executors, administrators and assigns to the other party to this contract. Neither party will assign, sublet, subcontract or transfer any interest in this Agreement without the prior written consent of the other party. No assignment, delegation of duties or subcontract under this Agreement will be effective without the written consent of all parties.

**EXECUTED** on the dates indicated below:

**TOWN OF FAIRVIEW, TEXAS**

BY: \_\_\_\_\_  
Julie Couch  
Town Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Clark McCoy, Town Attorney

**CITY OF PLANO, TEXAS**

BY: \_\_\_\_\_  
Bruce D. Glasscock  
City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, City Attorney

**CITY OF ALLEN, TEXAS**

BY: \_\_\_\_\_  
Peter H. Vargas, City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Peter G. Smith, City Attorney

**ACKNOWLEDGEMENTS**

**STATE OF TEXAS** §  
§  
**COUNTY OF COLLIN** §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2013, by **JULIE COUCH**, Town Manager of the **TOWN OF FAIRVIEW, TEXAS**, a home-rule municipality, on behalf of such municipality.

\_\_\_\_\_  
Notary Public, State of Texas

**STATE OF TEXAS** §  
§  
**COUNTY OF COLLIN** §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2013, by **BRUCE D. GLASSCOCK**, City Manager of the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, on behalf of such municipal corporation.

\_\_\_\_\_  
Notary Public, State of Texas

**STATE OF TEXAS** §  
§  
**COUNTY OF COLLIN** §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2013, by **PETER H. VARGAS**, City Manager of the **CITY OF ALLEN, TEXAS**, a home-rule municipality, on behalf of such Municipality.

\_\_\_\_\_  
Notary Public, State of Texas



# CITY OF PLANO COUNCIL AGENDA ITEM

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		12/09/2013		
Department:		Office of Policy and Government Relations		
Department Head		Mark Isrealson		
Agenda Coordinator (include phone #): <b>Nancy Rodriguez X7510</b>				
<b>CAPTION</b>				
A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of a Master Communications Facilities License By and Between the City of Plano, Texas, and Dallas MTA, L.P. d/b/a Verizon Wireless, authorizing its execution by the City Manager or his designee; and providing an effective date.				
<b>FINANCIAL SUMMARY</b>				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: <b>2013-14</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
<b>BALANCE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>FUND(S):     N/A</b>				
<b>COMMENTS:</b> This item has no financial impact.				
STRATEGIC PLAN GOAL: Resolutions to approve terms and conditions of master communication licenses relate to the City's Goals of Financially Strong City with Service Excellence and Partnering for Community Benefit.				
<b>SUMMARY OF ITEM</b>				
This Resolution approves the terms and conditions of a Master Communications Facilities License for Verizon Wireless for Small Cell Technology.				
List of Supporting Documents: Staff Memorandum, Brochure, Resolution, Master Communications Facilities License			Other Departments, Boards, Commissions or Agencies	

**Date:** November 25, 2013

**To:** Bruce Glasscock, City Manager

**From:** Mark Israelson, Director of Policy & Government Relations

**Subject:** Verizon Wireless – Small Cell master Agreement

Earlier this fall, Verizon Wireless (Verizon) approached the City of Plano regarding deployment of small cell sites on city facilities. Verizon is in the process of filling in portions of their service area with smaller equipment that will enhance service, including 4G LTE. This service is highly utilized by citizens of Plano.

Verizon sought a master agreement from the City to provide consistency among various sites and expedite the process for submitting to City Council for approval. Verizon currently has two communications facilities license agreements with the City for ground equipment used to support towers attached to Oncor transmission lines. The master lease agreement used the language contained within our existing agreements as the basis for the master agreement, which includes the following key provisions:

- Term – 10 years
- Renewal – (3) 5 year terms
- Initial Rent - \$2,000 annually per site
- Escalation – 3% annually on the effective date

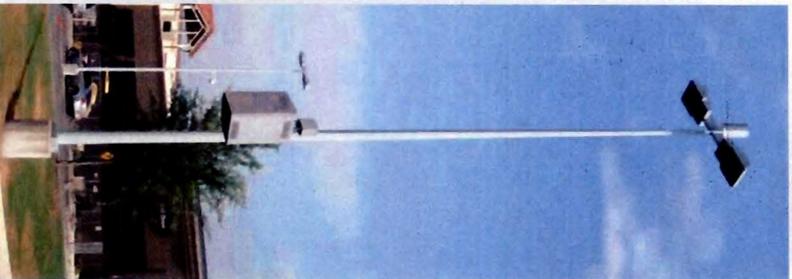
The current agenda item approves the master agreement. Each individual site will be added to Appendix A and sent to Council with an amended agreement for approval. The amendment will be limited to the addition of sites on Appendix A and the corresponding revenue.

## Strategic Partnerships

Verizon Wireless is looking to form strategic partnerships across the country for the implementation of small cells.

Benefits include:

1. Revenue stream
2. Enhanced 4G LTE coverage
3. Equipment needs are small and unobtrusive



### Verizon Wireless

**Chad Schmelzer**

**South Area Small Cell Real Estate Specialist**

Phone: (704) 510-8673

Chad.schmelzer@verizonwireless.com

**Amanda Eastin**

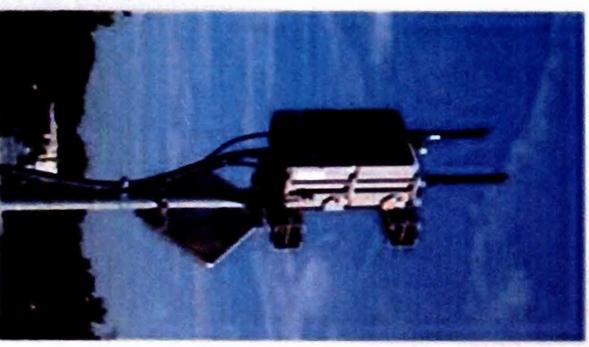
**South Area Small Cell Real Estate Specialist**

Phone: (830) 837-2827

Amanda.eastin@verizonwireless.com

**verizon**wireless

### Small Cell Technology



**An innovative approach to coverage and capacity needs**



## Installation Requirements

- Low power (2x5W)
- Low antenna height (<45')
- Power consumption approximately 200 watts
- Easement for power and fiber
- Equipment lease space average 6' x 6'

## Deployment Methodology

- Identify locations where the addition of small cells will benefit the users most
- Acquire the specified location(s)
- Determine requirements for deployment such as power, backhaul, and equipment
- Establish timeline for project completion
- Upon completion of installation, optimize for peak efficiency

## Who Is Involved

Verizon Wireless has a team of professionals who will work with the property owners to insure that small cell installations meet the highest industry standards and enhance the quality that users demand.

- Site qualification and acquisition (Real Estate)
- Design modeling (RF Engineers)
- Fiber backhaul (Transport Engineers)
- Power, equipment, cables, antennas, etc. (Equipment Engineers)
- Construction, installation, integration (Construction Engineers)

## Currently

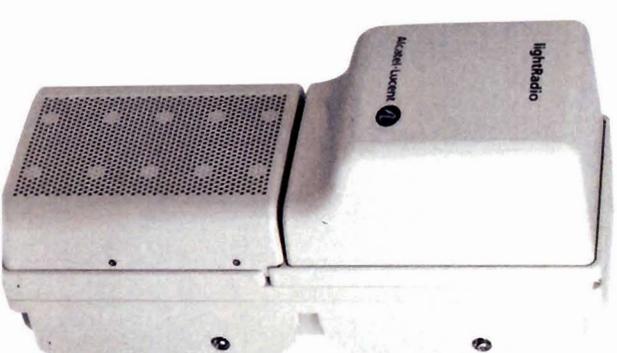
Verizon Wireless is actively looking to deploy small cells across our entire network. Where small cells are deployed, users will experience improved 4G LTE coverage. The strategic partners will benefit from the revenue stream as well as having the ability to offer their customers an improved 4G LTE experience.

## Small Cells

- Lightweight, small form cell
- Full cell capability mounted below 45 ft.
- Help meet capacity needs where subscriber density peaks
- Can be located on malls, parking lots, street lights, lamp posts, flag poles, etc.

## Definition

Within Verizon Wireless, a small cell is defined as a surgical coverage/capacity solution with an average coverage footprint of 500'. The distinguishing feature is our unobtrusive equipment.



**A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of a Master Communications Facilities License By and Between the City of Plano, Texas, and Dallas MTA, L.P. d/b/a Verizon Wireless, authorizing its execution by the City Manager or his designee; and providing an effective date.**

**WHEREAS**, the City Council has been presented a proposed Master Communications Facilities License between the City of Plano, Texas and Dallas MTA, L.P. d/b/a Verizon Wireless, a substantial copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Agreement"); and,

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

**WHEREAS**, Specific sites will be added to Appendix A as needed and agreed to and be submitted to City Council for approval.

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

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

**Section II.** The City Manager, or his designee, is hereby authorized to execute the Third Amendment and all other documents in connection therewith on behalf of the City of Plano.

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

**DULY PASSED AND APPROVED** on this the 9th day of December, 2013.

\_\_\_\_\_  
Harry LaRosiliere, MAYOR

ATTEST:

\_\_\_\_\_  
Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY

Exhibit "A"

STATE OF TEXAS

§

§

KNOW ALL BY THESE PRESENTS:

COUNTY OF COLLIN

§

**MASTER COMMUNICATIONS FACILITIES LICENSE**

This Master Communications Facilities License ("Agreement") is made by and between the **CITY OF PLANO, TEXAS**, a home rule municipal corporation (hereinafter referred to as the "CITY") and **DALLAS MTA, L.P. d/b/a VERIZON WIRELESS**, with its principal offices at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920 (telephone number 866-862-4404) (hereinafter referred to as "LICENSEE"), for the use of certain premises and/or facilities according to the following terms and conditions. CITY and LICENSEE are at times collectively referred to hereinafter as the "Parties" or individually as the "Party."

WITNESSETH:

WHEREAS, CITY desires to provide LICENSEE with facilities for housing and operating certain communications equipment, including the installation of antennas or antenna systems and the space required to run cable between the equipment and the antenna or antenna systems; and

WHEREAS, LICENSEE is a communications services company duly authorized to provide certain telecommunications services and desires to lease certain property(ies) owned by CITY for installation and operation of IMPROVEMENTS, as defined herein, to operate a communications facility(ies) and all related purposes; and

WHEREAS, CITY and LICENSEE desire to enter into this Agreement to define the general terms and conditions which would govern their relationship with respect to particular sites at which CITY may wish to permit LICENSEE to install, maintain and operate communications equipment as hereinafter set forth; and

WHEREAS, CITY and LICENSEE acknowledge that they will enter into a lease supplement ("Supplement"), a copy of which is attached hereto as Exhibit A, with respect to any particular location or site which the Parties agree to lease; and

WHEREAS, CITY owns the premises and facilities described below and desires to allow LICENSEE to enter and utilize designated areas of the facilities and premises.

NOW, THEREFORE, in consideration of the terms and conditions hereinafter set forth, the Parties agree as follows:

**1. Location**

**1.1.** The premises and facilities (hereinafter referred to as the "PREMISES") provided by CITY are described in the SITE PLAN attached to the respective Supplement and incorporated therein as **Appendix "A"**. Included upon the PREMISES shall be an existing transmission tower, building or other improvement, the Antenna Facilities, as defined herein, and

Exhibit "A"

the cabling run to the Antenna Facilities. LICENSEE'S antennas and equipment are hereinafter referred to as "IMPROVEMENTS"). As a part of the SITE PLAN, LICENSEE shall provide to CITY a map that identifies all of LICENSEE'S cell sites within the City of Plano and within a one-mile radius of the boundaries of the City of Plano. As used herein, the term "Equipment Compound" means all equipment, shelters and similar structures located on the PREMISES and identified on **Appendix "A"** of the respective Supplement. The license authorized under the terms of this Agreement shall be a license for the use of that portion of the PREMISES designated for use by LICENSEE on the SITE PLAN.

**1.2. Site Plan.** The SITE PLAN must be approved by CITY prior to the execution of the respective Supplement, with approval or disapproval not to be unreasonably withheld, conditioned or delayed. The SITE PLAN shall describe and illustrate the location of the IMPROVEMENTS under the Supplement. The SITE PLAN shall include a scale drawing and inventory analysis of the proposed installations, as well as an elevation of the PREMISES with the proposed installations. Performance under the Supplement shall be in strict compliance with the SITE PLAN. If LICENSEE'S installation, maintenance and operation of the IMPROVEMENTS fail to comply with the approved SITE PLAN, at any time, as reasonably determined by CITY, then CITY shall have the right to terminate the Supplement upon notice to LICENSEE, who has an opportunity to cure as provided under Section 5 herein. Any proposed material modifications to LICENSEE'S SITE PLAN must be approved in writing by CITY before LICENSEE may make any changes to its SITE PLAN as originally approved by CITY.

**1.3.** LICENSEE shall inspect, examine and investigate the status of the title and condition of the PREMISES to the extent that LICENSEE deems necessary, and LICENSEE understands, acknowledges and agrees that it is entering into each Supplement to acquire a leasehold interest in the PREMISES "AS IS" in reliance solely upon the results of any inspection, examination and investigation of the status of title and condition of the PREMISES that LICENSEE conducts and not as a result of any representation, warranty, assurance, guaranty or promise of CITY or any person purporting to act on behalf of CITY, other than those which may be expressly set forth in this Agreement.

**1.4. LICENSEE UNDERSTANDS, ACKNOWLEDGES AND AGREES THAT NEITHER CITY NOR ANY AGENT, EMPLOYEE OR OTHER PERSON ACTING ON BEHALF OF THE CITY, HAS MADE ANY, AND THE CITY EXPRESSLY DISCLAIMS EVERY, REPRESENTATION, WARRANTY (INCLUDING WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE AND HABITABILITY), ASSURANCE, GUARANTY OR PROMISE, EXPRESS OR IMPLIED, CONCERNING THE STATUS OF THE TITLE OR CONDITION OF THE PREMISES WHICH ARE NOT EXPRESSLY SET FORTH IN THIS AGREEMENT OR THE SUPPLEMENT AND THAT NO AGENT OR EMPLOYEE OF THE CITY OR OTHER PERSON HAS ANY AUTHORITY TO MAKE OR DELIVER ANY REPRESENTATION, WARRANTY, ASSURANCE, GUARANTY OR PROMISE WHICH IS NOT SET FORTH IN THIS AGREEMENT OR THE SUPPLEMENT.**

Exhibit "A"

**2. Use of Premises**

**2.1. Permitted Use.** Pursuant to all of the terms and conditions of this Agreement and the applicable Supplement, CITY agrees to allow installment of LICENSEE'S IMPROVEMENTS, in accordance with the terms of this Agreement. LICENSEE'S use shall be non-exclusive and shall be for the purpose of the installation, operation, and maintenance of its IMPROVEMENTS, for the transmission, reception, and operation of a communications facility and all related purposes thereto. LICENSEE shall obtain the written approval of the City prior to installation of any IMPROVEMENTS on the PREMISES, which approval shall not be unreasonably withheld, conditioned or delayed. LICENSEE understands, acknowledges and agrees that the use of the PREMISES by LICENSEE in conjunction with the terms of this Agreement is to be for the installation, operation and maintenance of communications equipment, in strict compliance with the Agreement and the SITE PLAN attached to the Supplement. LICENSEE shall not use the PREMISES for any other purpose whatsoever, including the storage or placement of debris, storage of replacement IMPROVEMENTS, or any other item, without first obtaining the prior written consent of CITY, which may be given or withheld for any reason or for no reason, in the CITY'S sole, absolute and unrestricted discretion.

**2.2. Prohibited Use.** LICENSEE shall not use the PREMISES in any manner that constitutes waste or nuisance, or that violates any applicable law, ordinance or governmental regulation in any respect. LICENSEE shall neither do nor permit to be done anything that would violate any certificate of occupancy applicable to the PREMISES or would render void or uncollectible any insurance then in force with respect to the PREMISES, or that would in any way increase the premiums payable by CITY for fire, liability or any other insurance coverage on the PREMISES or the contents of any improvements thereon.

**2.3. Subletting of Use Premises or Improvements.** LICENSEE may not sublet to or license others to use the PREMISES or LICENSEE'S IMPROVEMENTS without the prior written consent of CITY. Any such attempt by LICENSEE shall be without effect and may at CITY's option result in the termination of the Supplement.

**2.4. Maintenance, Repair or Replacement of Improvements.** LICENSEE may update, maintain, repair, or replace the IMPROVEMENTS located upon the PREMISES from time to time without CITY's approval, provided that the total of all IMPROVEMENTS do not require more space than the existing IMPROVEMENTS. Any change in the location of improvements on the PREMISES must be satisfactory to CITY, such approval not to be unreasonably withheld, conditioned or delayed. LICENSEE shall submit to CITY for approval, a detailed proposal for any substantial replacement of IMPROVEMENTS and any supplemental materials for CITY's evaluation and written approval, such approval not to be unreasonably withheld, conditioned or delayed. As used herein, substantial replacement shall mean any replacement that (i) involves the parking of a "semi" truck on the premises, or (ii) involves a material change-out or alteration of Licensee's equipment. Notwithstanding the foregoing and any other provision herein to the contrary and further notwithstanding the frequencies set forth elsewhere herein, Licensee shall have the right, at any time during the term of this Agreement as the same might be extended, to change or add additional frequencies without the consent of CITY; provided, however that Licensee shall provide CITY with advance written notice of any such change or addition and provided further that Licensee agrees to comply with the terms and

Exhibit "A"

provisions of Section 9 herein with respect to interference in connection with such change or addition of frequencies. A current and accurate SITE PLAN must be submitted to CITY by LICENSEE and maintained on file with CITY for the entire term of this Agreement and all renewals thereof.

**3. Term**

**3.1.** This Agreement shall be for a term of twenty-five (25) years commencing upon the execution hereof by both Parties. Each Supplement shall be effective as of the date of execution by both Parties (the "Effective Date"), provided, however, the initial term of each Supplement shall be for ten (10) years and shall commence on the first day of the month following the day that LICENSEE commences installation of the equipment on the Premises (the "Effective Date"). For a period not to exceed one hundred eighty (180) days following the Effective Date, LICENSEE shall have the right to terminate the respective Supplement by giving thirty (30) days written notice to CITY of such termination if LICENSEE is unable to obtain all licenses and permits or authorizations required for LICENSEE'S use of the PREMISES from all applicable government and/or regulatory entities (the "Governmental Approvals") for LICENSEE'S intended use of and improvements to the PREMISES.

**3.2.** LICENSEE is granted the option to renew each Supplement for three (3) additional five (5) year terms, after the initial term expires. Unless LICENSEE gives written notice of its decision not to exercise the renewal option within 90 days prior to the expiration of the current term or period, the Supplement will automatically renew for each said renewal term as long as LICENSEE remains in full compliance with all other provisions of this Agreement. All the terms and covenants of this Agreement apply to all extension periods, subject to amendment by the mutual agreement of the Parties, in writing and signed by both Parties. If LICENSEE continues to possess the PREMISES following the expiration of all of the extension periods provided herein, and the Supplement has not been renewed or superseded, the Supplement (1) shall be deemed to be a holdover tenancy at will but shall not itself constitute a renewal or extension of any term, (2) shall continue from month to month under the terms and conditions set forth herein and (3) may be terminated by either party upon at least thirty (30) days written notice to the other party. All the terms and covenants of this Agreement apply to all holdover tenancy periods.

**3.3.** Notwithstanding anything herein, after the expiration of this Agreement, its terms and conditions shall survive and govern with respect to any remaining Supplements in effect until their expiration or termination.

**4. Payment Terms and Conditions**

**4.1. Rent Payment.** In consideration for providing the PREMISES for use by LICENSEE, the LICENSEE shall pay rent to CITY annually, with the first payment being due within thirty (30) days following the Effective Date of the Supplement. Thereafter payment shall be due annually on the anniversary of the Effective Date throughout the initial term and all renewal terms hereof and prorated for any partial term. LICENSEE shall pay rent to CITY annually in advance, without prior notice or demand, without any abatement, setoff, reduction, deduction, counterclaim or recoupment whatsoever, in the amount equal to Two Thousand and

Exhibit "A"

No/100 Dollars (\$2,000.00) per year for each PREMISES subject to a Supplement ("Rent Payment"). Interest on late payments shall accrue at the then prime interest rate. If the Supplement is terminated at a time other than the last day of the calendar year of the term for any reason other than a default by LICENSEE, all Rent Payments shall be prorated as of the date of termination and all prepaid Rent Payments shall be refunded to LICENSEE.

**4.2. Rent Adjustment.** The Rent Payment shall be increased by three percent (3%) at the beginning of each Lease Year (as herein defined) following the first Lease Year of the Lease Term or the first Lease Year. For purposes of this Lease Agreement, the term "Lease Year" shall mean the twelve-month period which commences on the first day of the calendar month in which the Effective Date occurs (if the Effective Date occurs on the first day of a calendar month) or on the first day of the calendar month following the calendar month in which the Effective Date occurs (if the Effective Date occurs on a day other than the first day of a calendar month). The dollar increase in the Rent Payment shall be determined by multiplying the Rent Payment (as previously adjusted) payable during the preceding Lease Year by three percent (3%). The sum of the dollar increase required by this multiplication plus the Rent Payment (as previously adjusted) payable for and on account of the preceding Lease Year (i.e., one hundred three percent (103%) of the prior Lease Year's Rent shall be the Rent Payment for the Lease Year of the adjustment.

**4.3. Holdover Rent.** The Rent Payment, as defined in Section 4.1 above, due during any holdover period shall be equal to one hundred fifty percent (150%) of the Rent Payment due during the immediately preceding Initial term or any renewal term.

**4.4. Additional Fees.** CITY may assess, in addition to the Rent Payment, additional payments by LICENSEE to cover CITY's additional costs ("Additional Fees"), which include but are not limited to: (i) costs of utilities associated with the day-to-day operation and maintenance of the Premises; (ii) costs incurred by CITY for providing access to the Premises outside of normal business hours; and (iii) applicable taxes, including property taxes, or business taxes levied on the PREMISES. CITY shall notify LICENSEE of amounts due in Additional Fees in writing, and LICENSEE shall pay Additional Fees simultaneously with the next monthly Rent Payment due on the Premises, or, if notice of Additional Fees occurs within ten (10) days of the due date of the next monthly Rent Payment, simultaneous with the Rent Payment due for the next month. The foregoing shall be subject to the provisions of Section 16 herein.

**4.5. Payment Address.** Rent Payments and Additional Fees shall be made payable to City of Plano, C/O Intergovernmental Relations Department, PO Box 860358, Plano, Texas 75086.

**4.6. Lawful Currency.** Rent Payments and Additional Fees shall be made according to paragraph 4.5 above in lawful money of the United States of America without any abatement, setoff, reduction, deduction, counterclaim or other recoupment whatsoever. Rent Payments shall be free and clear of any business license tax or fee which is measured upon the size of the PREMISES. In no event will LICENSEE be obligated to pay any general income taxes measured upon the income of the City. In the event any federal, state, county, municipal or other governmental authority hereafter imposes or levies any such business license tax or fee, LICENSEE shall pay to CITY an amount equal to any and all amounts so imposed or levied as a

### Exhibit "A"

component of Additional Fees. This Section does not preclude the assessment of lawful fees pursuant to a franchise or other agreement that the City may have with Licensee or its parent or any subsidiary or affiliate.

**4.7. Dishonored Checks.** Any dishonored check shall incur a service charge of ten percent (10%) of its face amount. Subsequent to the first dishonored check received by CITY for any payment, all subsequent payments, including Rent Payments and Additional Fees, shall be made by cashier's check.

## **5. Termination**

**5.1. Termination for Cause.** Upon the occurrence of any one or more of the events listed below (hereinafter referred to as "Event of Default"), or as provided elsewhere in this Agreement, CITY may, without penalty, at its option and without prejudice to any other remedy to which it may be entitled at law or equity, or otherwise under this Agreement, terminate use or occupancy under the respective Supplement at any time, either in whole or in part, by giving at least sixty (60) days prior written notice thereof to LICENSEE with the understanding that all use of the PREMISES being terminated shall cease upon the date specified on such notice. LICENSEE shall equitably compensate CITY in accordance with the terms of the respective Supplement for the use of the PREMISES prior to the date specified in such notice, following inspection and acceptance of same by CITY. LICENSEE shall not, however, be entitled to any damages, including but not limited to, lost or anticipated profits should CITY choose to exercise its option to terminate.

**5.2. Event of Default.** Any of the following occurrences, conditions, or acts shall be deemed an "Event of Default" under this Agreement:

- (a) if LICENSEE fails to pay amounts due under this Agreement within fifteen (15) days of receipt of written notice that such payments are overdue;
- (b) if either party fails to observe or perform its obligations under this Agreement other than as provided in Section 5.2(a) above and does not cure such failure within thirty (30) days from the party's receipt of written notice of breach or such longer period as may be mutually reasonably agreed upon by the Parties to complete a cure commenced within the 30 day period.

**5.3. Termination by LICENSEE.** This Agreement may be terminated by LICENSEE, without penalty or further liability, as follows:

- (a) upon written notice, if LICENSEE is unable to obtain, or maintain, any required approval(s) or the issuance of a license or permit by any agency, board, court or other governmental authority necessary for the construction or operation of the Communication Facility as now and hereafter intended by LICENSEE; or if LICENSEE determines in its sole

Exhibit "A"

discretion that the cost of obtaining or retaining the same is commercially unreasonable;

- (b) on sixty (60) days written notice for any reason, other than 5.2(a) or (b) above, so long as LICENSEE pays CITY a termination fee equal to six (6) months rent at the current rate or rent at the current rate prorated to the end of CITY'S fiscal year in which the termination occurs, whichever is greater.

**5.4. Notice and Opportunity to Cure.** Upon the occurrence of an Event of Default, CITY shall deliver to LICENSEE a Notice of Intent to Terminate that identifies in detail the Event of Default, if the Event of Default remains uncured for thirty (30) calendar days after delivery of such notice, CITY may terminate the Supplement and the license granted herein by delivering to the LICENSEE a Notice of Termination that identifies the effective date of the termination, which date shall not be less than sixty (60) days after the date of delivery of the Notice of Intent to Terminate; provided, however, that the time periods for notice of termination specified in this Section shall not apply to a default pursuant to Section 5.2(b).

**5.5. Primary Function of PREMISES.** The parties understand and agree that the interests of LICENSEE in the PREMISES are superseded by the public health, safety, and welfare of the citizens of Plano served by the PREMISES. In the event that the Plano City Council or the Plano City Manager declares a public emergency or if there exists a threat to the PREMISES that would detrimentally impact public health, safety and welfare such that immediate action is necessary, LICENSEE shall, within thirty (30) days following receipt of written notice of such emergency and need to relocate and/or remove its IMPROVEMENTS from the PREMISES. In the event that LICENSEE is not able to timely respond, CITY may remove LICENSEE'S IMPROVEMENTS without incurring any liability for damages of any type. Costs of removal and reattachment of IMPROVEMENTS shall be borne by LICENSEE.

**5.6. Removal of Improvements.** If LICENSEE'S IMPROVEMENTS must be removed, whether or not such removal is done pursuant to Section 5.5 above, LICENSEE shall have the right to set up a portable mounted antenna, a cell on wheels (COW), and/or some other similar temporary structure approved by CITY, such approval not to be unreasonably withheld, conditioned or delayed, on CITY premises to allow LICENSEE to continue to provide communications services and all related purposes. LICENSEE may maintain its COW for a period of thirty (30) days past the date of removal of IMPROVEMENTS. To maintain the temporary antenna, COW, or other temporary structure for a period in excess of thirty (30) days, LICENSEE must obtain written approval from CITY, such approval not to be unreasonably withheld, conditioned or delayed. If the PREMISES are not in such condition as to be utilized by LICENSEE at the end of the initial thirty (30) day period, CITY shall provide as many additional thirty (30) day extensions for such temporary structures as are necessary to allow LICENSEE to continue its operations as authorized by this Agreement.

**6. City's Right of Entry Onto Premises**

**6.1.** CITY and CITY'S agents, employees or contractors may enter upon the PREMISES, except LICENSEE'S secured areas, for the purpose of performing repairs and

### Exhibit "A"

maintenance work to the PREMISES. If maintenance work is required, CITY agrees to provide LICENSEE with reasonable notice prior to commencing such work to allow LICENSEE to remove the affected IMPROVEMENTS. Decisions as to the extent to which LICENSEE will be required to remove such IMPROVEMENTS shall be within the reasonable discretion of CITY. If, however, in the reasonable discretion of CITY, repair or maintenance requires immediate action on the part of CITY, CITY will take reasonable efforts to notify LICENSEE, but may enter the PREMISES, except LICENSEE'S secured areas, and take such action as is required, except any action to remove any or all IMPROVEMENTS made by LICENSEE. In no event shall CITY be liable for any expenses associated with LICENSEE'S removal of IMPROVEMENTS or for lost or anticipated profits. LICENSEE, at its expense and exclusive use, may use any and all reasonable and appropriate means of restricting access to the LICENSEE'S equipment shelter, as identified in the SITE PLAN.

## **7. Access**

**7.1.** LICENSEE shall have the non-exclusive right to access the aforementioned PREMISES at any time, by contacting and providing notice to CITY. LICENSEE must be accompanied by CITY personnel at all times when accessing the PREMISES. If CITY is contacted by LICENSEE after the normal business hours of CITY for the purpose of accessing the aforementioned location, LICENSEE agrees to reimburse CITY for the actual cost of any CITY staff involvement necessary for this access.

**7.2.** LICENSEE'S right of access is a contractual right for the benefit of LICENSEE only and nothing contained in this Agreement shall be construed to constitute a dedication or an easement. However, in the event this Agreement is assigned in accordance and in compliance with Section 22.9 herein, such right of access shall inure to the benefit of LICENSEE'S assignee.

## **8. Damages to Property**

**8.1. Damage and Restoration of Property.** LICENSEE shall immediately notify CITY of any and all damages resulting from, arising out of, or caused to, the PREMISES and CITY property surrounding the PREMISES, including but not limited to structural damages, electrical damages, damages to fencing, irrigation systems or landscaping by LICENSEE'S operations, by LICENSEE, its officers, agents, employees and invitees. LICENSEE shall be solely responsible for the costs and the repair of all such damages and such repairs and/or replacements shall be completed within thirty (30) calendar days and shall be completed in a manner reasonably acceptable to CITY.

**8.2. Failure to Restore Property.** If LICENSEE does not make or perform any required maintenance or repairs to the PREMISES within the time period provided in Section 8.1, CITY shall have the right, but not the obligation, to make such repairs and to perform such maintenance, in which event LICENSEE shall pay CITY the cost thereof, plus an administrative fee of ten percent (10%) of the cost of the repairs, within thirty (30) calendar days of demand. Within thirty (30) days following the expiration or earlier termination of this Agreement, LICENSEE shall restore the PREMISES to the condition in which the PREMISES existed on the Effective Date of this Agreement, ordinary wear and tear and loss due to other casualty beyond LICENSEE'S control excepted.

Exhibit "A"

**9. Electrical, Radio and Intermodulation Interference**

**9.1.** LICENSEE shall operate its IMPROVEMENTS in a manner that will not cause radio frequency interference to the CITY or other licensees of the SITE in their use of any equipment or their conduct of any activity on the SITE pursuant to agreements which pre-date the installation and operation of LICENSEE'S IMPROVEMENTS. LICENSEE'S installation and operation of the IMPROVEMENTS shall be in compliance with all FCC requirements.

**9.2.** Prior to installation of any IMPROVEMENTS on the PREMISES, LICENSEE shall conduct bandwidth testing of its IMPROVEMENTS and CITY equipment to check bandwidth conflict between CITY'S monitoring control system and LICENSEE'S system. If such conflict occurs, LICENSEE shall take all steps necessary to resolve the conflict to the reasonable satisfaction of CITY. If the conflict cannot be remedied to the reasonable satisfaction of CITY, CITY may terminate this Agreement upon thirty (30) days written notice to LICENSEE.

**9.3.** LICENSEE shall not cause electrical, radio or intermodulation interference to CITY or to any other licensee who is using the PREMISES prior to or at the time of LICENSEE'S installation of its IMPROVEMENTS. Should such interference occur, LICENSEE will promptly take all steps necessary to correct such interference within ten (10) days notice of the problem and, if such interference cannot be eliminated within thirty (30) days of such notice, LICENSEE shall suspend operations (transmissions) at the site, except for brief periods for testing, while such interference problems are studied and a means to eliminate the problem is determined. Any such method for correction of an interference problem must be reasonably acceptable to both CITY and LICENSEE. If the interference complained of cannot be eliminated after ninety (90) additional days, despite its good faith efforts, LICENSEE will remove the equipment which caused the interference from the PREMISES, or at its option, terminate this Agreement.

**9.4.** LICENSEE shall not cause electrical, radio or intermodulation interference to CITY at anytime during or after installation or operation of LICENSEE'S IMPROVEMENTS. Moreover, LICENSEE'S use will not in any material way adversely affect or interfere with CITY'S signal operation or its communication system. Should such interference occur, LICENSEE will promptly take all steps necessary to correct such interference within ten (10) days notice of the problem and, if such interference cannot be eliminated within thirty (30) days of such notice, LICENSEE shall suspend operations (transmissions) at the site, except for brief periods for testing, while the interference problems are studied and a means to eliminate the problem is found. Any such method for correction of an interference problem must be reasonably acceptable to both CITY and LICENSEE. If the interference complained of cannot be eliminated after ninety (90) additional days, despite its good faith efforts, LICENSEE will remove the equipment which caused the interference from the PREMISES, or at its option, terminate this Agreement.

**9.5.** CITY will not grant a license to any other party for the use of CITY'S PREMISES without including in that license a provision stating that the party's use will not in any way adversely affect or interfere with LICENSEE'S signal operation or its communication system. Such provision shall be similar to the provisions required of LICENSEE herein. Furthermore,

### Exhibit "A"

license agreements with third parties will state that prior to installation of improvements, such third parties shall be required to conduct bandwidth testing of its equipment and the equipment of LICENSEE to check bandwidth conflict between third-party equipment and LICENSEE'S equipment. If such conflict occurs, CITY shall take all steps necessary to resolve the conflict caused by such third-party to the reasonable satisfaction of LICENSEE. If the conflict cannot be remedied to the reasonable satisfaction of LICENSEE, CITY shall terminate such third-party's license upon thirty (30) days written notice to such third-party. LICENSEE shall have the right to terminate this Agreement upon ten (10) days written notice to CITY if another user of the PREMISES causes interference with LICENSEE'S operations, and such interference is not corrected within thirty (30) days following the notice to such third party user causing the interference. In the event that LICENSEE experiences interference caused by a third-party licensee, LICENSEE agrees that it shall seek recourse solely from such third party. No compensation shall be due from CITY for damages, including, but not limited to, lost or anticipated profits.

**9.6.** LICENSEE shall have the sole burden of, and be responsible for all costs associated with, alleging and proving that another user of the PREMISES is causing significant interference. CITY shall not be responsible for the costs associated with the resolution of any dispute between users of the PREMISES, but shall be responsible for the enforcement of any of LICENSEE'S rights provided by Section 9.5 of this Agreement.

**9.7.** Upon report to LICENSEE, and all other third parties with communications equipment on that CITY-owned property, of interference with any CITY-owned/operated radio emergency system, LICENSEE shall, within six (6) hours after such notification, perform an assessment of the source of the interference. In the event such interference results from LICENSEE'S operations, LICENSEE agrees, within twelve (12) hours of first notification, to propose a plan of action to eliminate such interference. CITY and LICENSEE agree to provide a technician or other qualified representative to assist in testing, formulating and coordination of a plan for resolution.

**9.8.** If such interference results from LICENSEE'S operations, LICENSEE must correct such interference within twenty-four (24) hours of CITY'S original notification to LICENSEE or shall discontinue all use of LICENSEE'S IMPROVEMENTS upon the PREMISES. LICENSEE'S IMPROVEMENTS cannot be reactivated until LICENSEE can demonstrate that the cause of such interference has been eliminated.

**9.9.** Each party agrees to provide the other with a telephone number through which that party can contact a representative of the other on a 24-hour per day, 7 days a week basis for the purpose of implementing the requirements of this paragraph.

### **10. Condition of Premises**

**10.1.** CITY shall maintain the PREMISES in compliance with all applicable statutes, ordinances, regulations and rules required for CITY uses of the PREMISES and surrounding property, and in a manner which will not interfere with LICENSEE'S reasonable use of the PREMISES. Upon expiration, cancellation, or termination of this Agreement, LICENSEE will have the right to remove its IMPROVEMENTS from the PREMISES at LICENSEE'S cost and

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expense. Title to all remaining improvements shall belong to CITY. However, upon vacation of the PREMISES, LICENSEE shall surrender the PREMISES in substantially the same condition as received, except for ordinary wear and tear and loss due to other casualty beyond LICENSEE'S control, as determined by CITY. If, as determined by CITY, the PREMISES are not surrendered in satisfactory condition, the LICENSEE shall pay CITY within thirty (30) business days of demand an amount equal to the actual cost to restore the PREMISES to substantially the same condition as received plus an administrative fee of ten percent (10%) of the restoration costs.

**10.2.** LICENSEE shall have sole responsibility for the maintenance, repair, and security of its IMPROVEMENTS, and shall keep same in good repair and condition during the term and all renewals and holdover tenancies of this Agreement.

**10.3.** Intentionally deleted.

**10.4.** LICENSEE shall keep the PREMISES free of debris and anything reasonably determined to be of a dangerous, noxious, or offensive nature or which would create a hazard or undue vibration, heat, noise, or interference.

**10.5.** In the event CITY or any other licensee undertakes painting, construction, or other alterations on the PREMISES, LICENSEE shall take reasonable measures at LICENSEE'S cost to cover all of LICENSEE'S IMPROVEMENTS and protect such from paint and debris fallout which may occur during the painting, construction, or alteration process. CITY shall not be responsible for any damages or costs incurred by LICENSEE due to the actions or omissions of any third-party licensees upon the PREMISES. CITY shall provide thirty (30) business days written notice to all licensees upon the PREMISES prior to CITY undertaking such painting, construction, or other alterations.

**10.6.** By taking possession of the PREMISES, LICENSEE accepts the PREMISES in the condition existing as of the Effective Date. CITY makes no representation or warranty with respect to the condition of the PREMISES and CITY shall not be liable for any latent or patent defect in the PREMISES. CITY agrees to notify LICENSEE of the existence of any latent defects of which the CITY has knowledge.

**11. Construction, Installation and Operation**

**11.1. Construction, Installation and Operation.** LICENSEE may, at its sole cost and expense, construct, install, operate, maintain, monitor, reconfigure and repair its IMPROVEMENTS. Not less than thirty (30) days prior to the date on which LICENSEE intends to commence construction of its IMPROVEMENTS, LICENSEE shall provide to the CITY for its approval, such approval not to be unreasonably withheld, conditioned or delayed, a proposal containing: (i) a written notice and plan describing in reasonable detail, the steps necessary to complete LICENSEE'S construction and installation; (ii) a list and description of all IMPROVEMENTS to be installed on the PREMISES; (iii) a list of all contractors, subcontractors and other entities that will perform LICENSEE'S construction and installation work; and (iv) copies, certificates or other proof that LICENSEE or LICENSEE'S contractors and subcontractors have obtained all necessary permits and licenses for the performance of

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LICENSEE'S work. CITY's failure to respond in writing to LICENSEE'S proposal within twenty (20) days of CITY'S receipt of the proposal shall constitute CITY's rejection of the proposal, and LICENSEE shall not commence LICENSEE'S work. CITY's grant of approval under this Section shall not be construed as an assumption of liability or indemnification; nor shall such approval replace or constitute any approval that LICENSEE is required to obtain from any duly authorized local authorities for any construction, installation or other element of LICENSEE'S work.

**11.2. Marking and Lighting Requirements.** LICENSEE acknowledges that it shall be responsible for compliance with all tower or building marker and lighting requirements which may be required by the Federal Aviation Administration or the Federal Communication Commission in conjunction with LICENSEE'S installation and maintenance of IMPROVEMENTS under this Agreement, as well as any expenses, fees or fines associated with the compliance or the non-compliance of LICENSEE'S installation or maintenance of IMPROVEMENTS under this Agreement. If the LICENSEE does not cure a condition of noncompliance within the time-frame allowed by the citing agency, CITY may thereafter terminate this Agreement upon thirty (30) days written notice to LICENSEE.

**11.3. Inspection and Tests.** Upon the Effective Date and for the term of this Agreement, LICENSEE shall have reasonable access as provided in Section 7 above to the SITE and PREMISES as are necessary and approved by CITY for the purpose of inspection and planning. LICENSEE shall retain, or shall cause to be retained, at its sole cost and expense, certified and insured structural engineers to perform such an inspection and provide a structural report as to the structural integrity of the PREMISES, its maximum load capacity, and other aspects of the PREMISES, as appropriate. LICENSEE shall provide to CITY a copy of the report. LICENSEE shall not conduct construction, installation, operation, maintenance or repair of IMPROVEMENTS in a manner inconsistent with the structural report.

**11.4. Payment, No Mechanics Liens.** LICENSEE shall make full and prompt payment of all sums necessary to pay the costs of all installation, repairs and alterations, improvements, changes and other work done by LICENSEE in or to the PREMISES. Title to the IMPROVEMENTS shall be held by LICENSEE. CITY shall not be responsible for or with respect to the performance of LICENSEE'S Work. LICENSEE shall pay or cause to be paid all costs associated with LICENSEE'S work. LICENSEE shall not suffer or permit to be enforced against any portion of the SITE or PREMISES any (i) mechanic's, materialman's, contractor, subcontractor or other lien or claim arising from or in any way related to LICENSEE'S work, or (ii) any other claim, mortgage, security interest, encumbrance, lien or other charge. Within thirty (30) days after recordation of any lien, encumbrance, judgment or similar item which affects the SITE or PREMISES in any way, LICENSEE shall obtain the complete discharge and release thereof at LICENSEE'S sole expense or expenditure (without any cost being imposed upon CITY.) However, LICENSEE shall have the right to contest, in good faith, any mechanic's or materialman's lien upon the condition that LICENSEE provides a bond or other form of security reasonably acceptable to CITY in an amount sufficient to hold CITY fully and completely harmless from any and all liability therefor or on account thereof.

**11.5. Improvements to Premises; Removal.** All IMPROVEMENTS constructed, installed and operated by or on behalf of LICENSEE shall remain LICENSEE'S personal

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property and are not fixtures. LICENSEE shall remove all IMPROVEMENTS at its sole expense within thirty (30) days following the expiration or earlier termination of this Agreement, and LICENSEE shall repair any damage to the PREMISES or SITE caused by such removal and fully restore the PREMISES or SITE to the same condition as existed prior to such damage at its sole cost and expense. LICENSEE shall provide to CITY in writing, by not later than the end of the prescribed thirty (30)-day period, notice that all IMPROVEMENTS have been removed in accordance with this Section. Failure of LICENSEE to remove any or all IMPROVEMENTS from the PREMISES and SITE within the prescribed thirty (30) days shall be construed as holdover pursuant to this Section, and all obligations and requirements, including payment of Rent Payments, shall continue to apply unless and until LICENSEE removes all IMPROVEMENTS and so notifies CITY.

**11.6. Liability for Damage/Outages.** LICENSEE shall be solely responsible for any damage caused by LICENSEE, its agents and/or contractors on or to the PREMISES or SITE that causes an interruption or outage in the services, operations or utilities of another licensee, and shall indemnify and hold harmless CITY, Signal Sites, Inc., and all of their respective partners, employees, agents, successors and assigns from all claims or actions for damages, including actual, incidental and consequential damages, brought by another licensee as a result of LICENSEE'S, or its employees', contractors', agents', assigns' or licensees', willful, reckless or gross negligence or other conduct.

**12. Intentionally Deleted**

**13. Compliance with Laws**

**13.1. By LICENSEE.** LICENSEE, its employees, agents, designees, contractors, subcontractors, customers, invitees and licensees, shall comply in all respects and at all times with all applicable local, state and federal laws, statutes, ordinances, regulations, rulings, requirements, conditions, orders, licenses, permits, covenants, restrictions, approvals and consents pertaining to LICENSEE'S services, LICENSEE'S construction, installation and operation work, IMPROVEMENTS and LICENSEE'S use of the PREMISES. Without limiting the generality of the preceding sentence, LICENSEE shall fully and timely observe and comply with applicable laws, regulations, policies and requirements concerning health and/or public safety, including standard industry equipment safety regulations (*e.g.*, NEBs, IEEE, Federal Communications Commission ("FCC") and BellCore standards) and shall not use the PREMISES or operate the IMPROVEMENTS in any manner which is inconsistent therewith. LICENSEE shall, at LICENSEE'S sole cost and expense, promptly apply for and use its best efforts to obtain and maintain all necessary licenses, permits, approvals and consents required or necessary for the construction and operation of the IMPROVEMENTS. In the event LICENSEE fails to obtain any required license, permit, approval or consent to construct and operate the IMPROVEMENTS, through no fault of LICENSEE, LICENSEE shall have the right to terminate this Agreement in accordance with Section 5 of this Agreement.

**13.2. By CITY.** CITY shall comply in all material respects, and shall exercise commercially reasonable efforts to cause its employees, agents, designees, contractors, subcontractors, customers, invitees and licensees to comply in all material respects with all laws, ordinances, orders, rules and regulations of all governmental or judicial authorities having

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jurisdiction thereof, whether state, federal or local, relating to CITY'S leasehold interest in the SITE.

**14. Complaint Resolution**

If either LICENSEE or CITY receives a written complaint regarding LICENSEE'S operations and such complaint, if reasonably determined by the City to be valid and if the cause of such complaint would cause LICENSEE to be in default of this Agreement, LICENSEE shall respond within twenty-four (24) hours of receipt of such written complaint. LICENSEE shall respond with a written explanation to each such complaint with detail of its investigation into the incident upon which the complaint was based (the "Incident") and the actions that LICENSEE has taken to resolve the Incident including, when necessary, all future actions LICENSEE will take to fully resolve the Incident or prevent a recurrence of the Incident. If the Incident cannot be resolved to the reasonable satisfaction of the complainant within fifteen (15) days, LICENSEE shall provide a schedule for completion of its plan to resolve or prevent the Incident, such schedule is subject to CITY approval, such approval not to be unreasonably withheld, conditioned or delayed. If future action is necessary, LICENSEE shall include a schedule for completion of its plan to correct or prevent the Incident, such schedule is subject to CITY approval, such approval not to be unreasonably withheld, conditioned or delayed. If CITY must step in and resolve a complaint regarding LICENSEE'S operations, LICENSEE shall reimburse CITY for all reasonable expenses incurred. If CITY imposes upon LICENSEE a resolution to an Incident that does not involve a breach of the Agreement by LICENSEE, the breach by LICENSEE of any federal, state, or local law or ordinance or the commission by LICENSEE of any negligent or intentional act or omission to a person that causes bodily injury or property damage and LICENSEE does not wish to resolve the Incident in the manner directed by CITY, LICENSEE may terminate this Agreement upon thirty (30) days notice without penalty.

**15. Utility Easements and Utility Cost**

**15.1.** LICENSEE shall pay directly to all public utility service companies, before delinquency, all charges for the electricity, water and other utility services that LICENSEE consumes in connection with the installation and operation of LICENSEE'S IMPROVEMENTS and which are separately metered and charged to LICENSEE by any public utility service company, without any expense therefor being imposed upon CITY.

**15.2.** If LICENSEE first obtains CITY's written consent, which may be given or withheld for any reason or no reason in the CITY's sole discretion, LICENSEE shall have the right to obtain electricity and other public utility services from the existing outlets available at the PREMISES. Absent such consent, LICENSEE shall obtain separate public utility services from any company that will provide such services to the PREMISES (which services may include an approved battery-powered or diesel standby power generator located on the PREMISES for LICENSEE'S exclusive use).

**15.3.** LICENSEE shall not permit any charges for public utility services to accumulate or become a lien on the SITE. If LICENSEE fails to pay any such charge required to be paid by LICENSEE pursuant to this Section, CITY may, but shall not be required to, pay such charge on LICENSEE'S behalf. If CITY pays any such charge on behalf of LICENSEE or incurs any cost

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with respect to any grant of any public utility service easement for the benefit of LICENSEE pursuant to this Section, LICENSEE shall reimburse and pay to CITY an amount equal to all such charges so paid and all such easement costs so incurred, within thirty (30) days after receipt of CITY'S demand, as Additional Fees.

**15.4. Additional Utility/Power Equipment.** In the event that LICENSEE is required to or otherwise decides to install, operate and use additional equipment to provide electricity or other utility services required for the operations of LICENSEE'S IMPROVEMENTS, such installation, operation and use shall comply in all respects with the terms and conditions set forth in this Agreement.

**16. Taxes**

**16.1.** LICENSEE agrees to timely reimburse CITY for all taxes that are assessed against CITY, if any, due to the real property taxes attributable to LICENSEE'S IMPROVEMENTS or use of the PREMISES and IMPROVEMENTS constructed or maintained by LICENSEE on or about the PREMISES; provided, however, CITY shall use its best efforts to provide prior notification of any taxes for which LICENSEE is to be charged, so LICENSEE will have the opportunity to appear before the taxing authority and contest any assessment.

**16.2.** If LICENSEE fails to pay any such taxes after such contest of any assessment and for which LICENSEE is obligated, CITY may, but shall not be required to, pay such taxes on LICENSEE'S behalf. If CITY pays any such taxes on behalf of LICENSEE pursuant to the preceding sentence, LICENSEE shall reimburse and pay to CITY an amount equal to any such taxes so paid, plus an administrative fee of ten percent (10%) of the taxes, within thirty (30) days after demand as Additional Rent.

**17. Liability and Indemnification**

**17.1.** LICENSEE shall at all times comply with all laws and ordinances and all applicable rules and regulations of municipal, state and federal government authorities relating to the installation, maintenance, height, location, use, operation, and removal of the IMPROVEMENTS, authorized herein, and, except for the negligence or willful misconduct of CITY, its officers, officials, agents, servants or employees, shall fully release, defend, indemnify and hold harmless CITY, its officers, officials, agents, servants or employees against any and all claims, damages, lawsuits, losses, costs, or expenses which may be sustained or incurred by CITY, its officers, officials, agents, servants or employees as a result of LICENSEE'S installation, operation, or removal of such IMPROVEMENTS.

**17.2.** LICENSEE undertakes and assumes for its officers, agents, employees, servants, affiliates, contractors and subcontractors, all risk of dangerous conditions, if any on or about the PREMISES, and, except for the negligence or willful misconduct of CITY, its officers, officials, agents, servants or employees, LICENSEE hereby agrees to release, defend, indemnify and hold harmless CITY, its officers, officials, agents, servants and employees against and from any claim asserted or liability imposed upon CITY, its officers, officials, agents, servants, and employees for personal injury or property damage to any person arising out of LICENSEE'S installation, operation, maintenance, condition or use of the PREMISES or LICENSEE'S IMPROVEMENTS

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or LICENSEE'S failure to comply with any applicable federal, state, or local statute, ordinance or regulation.

**17.3.** LICENSEE represents and warrants that its use of the PREMISES herein will not generate any hazardous substance, and it will not store or dispose on the PREMISES nor transport to or over the PREMISES any hazardous substance. The storage of acid storage batteries on the Premises as necessary for use in the event of a power outage, and the installation on the premises of a diesel or propane generator for emergency use to provide electricity in the event of a power outage shall not be a violation of this Section 17. LICENSEE further agrees to release, defend, indemnify, and hold CITY, its officers, officials, agents, servants and employees, harmless from and against any damage, loss, or expense or liability resulting from the generating, transporting, storage or disposal of such hazardous substances including all attorneys' fees, costs and penalties incurred as a result thereof. "Hazardous substance" shall be interpreted broadly to mean any substance or material defined or designated as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, or other similar term by any applicable federal, state or local environmental law, regulation or rule presently in effect or promulgated in the future, as such laws regulations or rules may be amended from time to time; and it shall be interpreted to include, but not be limited to, any substance which after release into the environment will or may reasonably be anticipated to cause sickness, death, or disease, including diesel and propane fuel.

**18. Insurance**

**18.1.** LICENSEE shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension or renewal thereof, at LICENSEE'S sole expense, liability insurance and workers' compensation insurance, and a certificate of insurance shall be submitted to and approved by CITY prior to the Effective Date of this Agreement. LICENSEE must provide insurance in compliance with **Appendix "B"** attached hereto and incorporated herein for all purposes. At the time of an extension or renewal of this license agreement, LICENSEE shall provide a certificate of insurance for the added term that shows LICENSEE meets all insurance requirements under Appendix B.

**18.2.** In the event that LICENSEE uses third-party contractors or subcontractors to provide services or to perform work upon the PREMISES, LICENSEE shall include in all contracts, subcontracts, and bid documents with such third parties, the requirement that: (a) each such third party shall provide CITY with separate certificates of insurance or such other documentation as is reasonably required by CITY to evidence that each such third party obtains and maintains insurance coverage consistent with the insurance requirements of this Agreement throughout the term of its contract with LICENSEE; and (b) such third party shall execute the Contractor Agreement, a copy of which is attached hereto and incorporated herein as **Appendix "B-1"**. All such insurance certificates and other documents evidencing coverage shall contain an affirmative statement of the contractor, subcontractor, or other third party that such third party shall notify the City of Plano in the event that the policy lapses or is canceled for any reason.

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**19. Notice**

**19.1.** Any notice or demand required or desired to be given to any Party pursuant to this Agreement shall be in writing, shall be delivered to the address set forth below and shall be deemed validly served, given, delivered or made only if (i) personally delivered (including delivery by a commercially-recognized courier which provides service between the point-of-origin and the point-of-destination); or (ii) deposited in the United States mail, certified or registered, postage prepaid, return receipt requested. Service by United States mail shall be deemed made on the date actually received.

**CITY**

City of Plano  
c/o Intergovernmental Relations  
Department  
PO Box 860358  
Plano, Texas 75086

**LICENSEE**

Dallas MTA, L.P. d/b/a Verizon Wireless  
180 Washington Valley Road  
Bedminster, New Jersey 07921  
Attn: Network Real Estate

CITY or LICENSEE may from time to time designate any other address for this purpose by written notice to the other party.

**20. Remedies**

**20.1.** LICENSEE'S failure to timely remit payments due hereunder three times within a 12-month period shall be a breach of this Agreement for which LICENSEE shall be given fifteen (15) days from receipt of written notice from CITY (that such payment is overdue for the third time within such 12-month period) to cure. If LICENSEE fails to make payment as required; if LICENSEE abandons or vacates the PREMISES; or if LICENSEE becomes insolvent; and has not filed for bankruptcy, CITY shall have the right, at its option, in addition to and not exclusive of any other remedy CITY may have hereunder or by operation of law, with fifteen (15) days notice, require LICENSEE to re-enter the PREMISES and remove the IMPROVEMENTS therefrom. Under no circumstances shall CITY or anyone acting on CITY'S behalf attempt to remove LICENSEE'S communications equipment, except as provide for in Section 5.5 herein. Upon such occurrence, CITY may either (a) declare this Agreement and license granted herein at an end, in which event LICENSEE shall immediately pay CITY a sum of money equal to the total of (i) the amount of Rental Fees accrued through the date of termination; (ii) the amount by which the Rental Fees reserved for the balance of the term exceeds the amount of such rental loss that the LICENSEE proves could be reasonably avoided (net of the costs of such reletting); and (iii) any other reasonable amounts necessary to compensate CITY for all detriment proximately caused by LICENSEE'S failure to perform its obligations under this Agreement, or (b) without terminating this Agreement, relet the PREMISES, or any part thereof, for the account of LICENSEE upon such terms and conditions as CITY may deem advisable, and any moneys received from such reletting shall be applied first to the expenses of such reletting and collection, including reasonable attorneys' fees, any real estate commissions paid; and, thereafter, toward payment of all sums due or to become due to CITY hereunder, and if a sufficient sum shall not be thus realized to pay such sums and other charges, LICENSEE shall pay CITY any deficiency monthly, notwithstanding that CITY may have received Rental Fees in excess of the Rental Fees

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stipulated in this Agreement in previous or subsequent months, and CITY may bring an action therefor as such monthly deficiency shall arise.

**20.2.** No re-entry and taking of possession of the PREMISES by CITY shall be construed as an election on CITY's part to terminate this Agreement, regardless of the extent of renovations and alterations by CITY, unless a written notice of such intention is given to LICENSEE by CITY.

**21. Force Majeure**

**21.1.** Notwithstanding any other provision in this Agreement to the contrary, neither Party will have any liability to the other with respect to its failure to perform its obligations under this Agreement, except for the payment of amounts due, if such failure is due to any of the following events (each a "Force Majeure" event): (i) the failure of any equipment or software under the control of a person, firm or entity not affiliated with such Party; (ii) fire, flood, earthquake, law or government regulation; or (iii) any other cause beyond the reasonable control of such Party. In any such case, the Parties' time for performance under this Agreement and the term hereof, to the extent affected by any of the foregoing, shall be correspondingly extended; provided, however, that if such condition shall continue in effect for more than 180 days, either Party shall have the right to terminate this Agreement upon thirty (30) days notice.

**22. Miscellaneous Provisions**

**22.1. Modifications.** LICENSEE'S operations and all CITY approved modifications to the PREMISES must at all times comply with the terms of this Agreement, all applicable federal, state and local laws and ordinances and all amendments thereto.

**22.2. Entire Agreement.** This Agreement, together with all Appendices attached hereto and incorporated herein constitutes the entire agreement between the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written agreement between the Parties that in any manner relates to the subject matter of this Agreement.

**22.3. Capacity.** Both LICENSEE and CITY represent that they have full capacity and authority to grant all rights and assume all obligations they have granted and assumed under this Agreement.

**22.4. Governing Law.** The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the Parties, shall be governed by the laws of the State of Texas, and exclusive venue for any action concerning this Agreement shall be in a court with jurisdiction over Collin County, Texas.

**22.5. Amendment.** This Agreement may only be amended by the mutual written agreement signed by the parties hereto.

**22.6. Legal Construction; Severability.** In the event that any one or more of the provisions contained in the Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the

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other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

**22.7. Nonwaiver.** No right or remedy granted herein or reserved to the parties is exclusive of any right or remedy herein by law or equity provided or permitted; but each shall be cumulative of every right or remedy given hereunder. No covenant or conditions of this Agreement may be waived without consent of the Parties. It is further agreed that one (1) or more instances of forbearance by a Party in the exercise of its rights herein shall in no way constitute a waiver thereof.

**22.8. Independent Contractor.** LICENSEE covenants and agrees that LICENSEE is an independent contractor and not an officer, agent, servant or employee of CITY; that LICENSEE 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 LICENSEE, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between CITY and LICENSEE.

**22.9. Successors and Assigns.**

- (a) CITY and LICENSEE each bind themselves, their successors, executors, administrators and assigns to the other party to this Agreement. Neither CITY nor LICENSEE will assign, sublet, subcontract or transfer any interest in this Agreement without the written consent of the other party. No assignment, delegation of duties or subcontract under this Agreement will be effective without the written consent of CITY. LICENSEE shall not assign, sublet, subcontract, transfer or allow the use of any interest in the PREMISES or any use of LICENSEE'S IMPROVEMENTS, including but not limited to equipment, lines, channels or frequencies, on the PREMISES without the prior written consent of CITY. CITY'S consent may be conditioned upon LICENSEE successfully obtaining contracts from such third parties wherein those parties agree to directly compensate CITY for all benefits incurred by the use of the PREMISES.
- (b) Notwithstanding anything in Section 22.9(a) to the contrary, LICENSEE may assign this Agreement to any parent, subsidiary or affiliate, or any entity that acquires all or substantially all of LICENSEE'S assets in the market where the Premises are located without CITY'S consent. Notwithstanding any assignment permitted under this Section or otherwise under this Agreement, LICENSEE shall remain absolutely and unconditionally primarily liable to pay and perform each and all of the obligations set forth in this Agreement prior to said assignment and shall be relieved of all future performance, liability and obligations after said assignment.

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- (c) If CITY shall, at any time, relinquish its ownership or otherwise dispose of the PREMISES, CITY shall be automatically released from all obligations under and pursuant to this Agreement that accrue after such disposition; provided, however, that such relinquishment of ownership or disposition of the PREMISES shall be subject to LICENSEE'S rights under this Agreement. If the PREMISES are so disposed of, LICENSEE shall not disavow any of LICENSEE'S obligations pursuant to this Agreement but shall attach to the purchaser or transferee thereof for the performance of CITY's obligations under this Agreement.

**22.10. Applicable Laws.** This Agreement is entered into subject to the charter and ordinances of CITY as they may be amended from time to time, and is subject to and is to be construed, governed and enforced under all applicable federal and state laws.

**22.11. Subordination to Mortgage.** As to any mortgage now or subsequently placed upon any property of which the PREMISES are a part, of which CITY shall notify LICENSEE in writing, shall be deemed to be prior in time and senior to the rights of the LICENSEE under this Agreement. LICENSEE subordinates all of its interest in the Premises created by this Agreement to the lien of any such mortgage. CITY and LICENSEE shall, at the other Party's request, execute any additional documents necessary to indicate this subordination, provided that such mortgage shall not disturb possession of LICENSEE hereunder.

**22.12. Contract Interpretation.** Both parties have participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Agreement.

[The Remainder of this Page Intentionally Left Blank; Signature Page to Follow]

**EXECUTED** on the day of \_\_\_\_\_ Exhibit "A"  
day of \_\_\_\_\_, 201\_\_\_\_.

**LICENSEE:**

**DALLAS MTA, L.P. d/b/a VERIZON  
WIRELESS**

By: Verizon Wireless Texas, LLC,  
its general partner

By: \_\_\_\_\_  
Aparna Khurjekar,  
Area Vice President Network

**CITY:**

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

By: \_\_\_\_\_  
Bruce D. Glasscock  
CITY MANAGER  
1520 Avenue K  
P.O. Box 860358  
Plano, TX 75086-0358

APPROVED AS TO FORM:

\_\_\_\_\_  
Diane C. Wetherbee, CITY ATTORNEY

CITY'S TAX ID#: 75-6000640

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**ACKNOWLEDGMENTS**

STATE OF NORTH CAROLINA §

§

COUNTY OF MECKLENBURG §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2013, by **APARNA KHURJEKAR**, Area Vice President Network of Verizon Wireless Texas, LLC, general partner of Dallas MTA, L.P. d/b/a Verizon Wireless, on behalf of said partnership.

\_\_\_\_\_  
Notary Public in and for

STATE OF TEXAS §

§

COUNTY OF COLLIN §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2013, by **BRUCE D. GLASSCOCK**, City Manager of the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation, on behalf of said corporation.

\_\_\_\_\_  
Notary Public, State of Texas

Exhibit "A"  
**EXHIBIT "A"**

**LEASE SUPPLEMENT**

This Lease Supplement ("Supplement"), is made this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, between the **CITY OF PLANO**, a home rule municipal corporation, whose principal place of business is 1520 Avenue K, Plano, Texas 75074 ("CITY"), and **DALLAS MTA, L.P.**, a Delaware limited partnership, d/b/a Verizon Wireless, whose principal place of business is One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920 ("LICENSEE").

1. **Master Lease Agreement.** This Supplement is a Supplement as referenced in that certain Master Lease Agreement between the City of Plano, Texas and Dallas MTA, L.P. d/b/a Verizon Wireless, dated \_\_\_\_\_, 201\_\_, (the "Agreement"). All of the terms and conditions of the Agreement are incorporated herein by reference and made a part hereof without the necessity of repeating or attaching the Agreement. In the event of a contradiction, modification or inconsistency between the terms of the Agreement and this Supplement, the terms of this Supplement shall govern. Capitalized terms used in this Supplement shall have the same meaning described for them in the Agreement unless otherwise indicated herein.

2. **Premises.** CITY hereby leases to LICENSEE that certain premises on CITY's Property located at INSERT SITE ADDRESS as shown on Exhibit "1" attached hereto and made a part hereof.

3. **Term.** The Commencement Date and the Term of this Supplement shall be as set forth in the Agreement.

4. **Consideration.** Rent under this Supplement shall be as set forth in the Agreement, payable to City as per the Agreement.

5. **Site Specific Terms.** (Include any site-specific terms)

[1. LICENSEE shall supply its own electrical service to the Premises.]

Exhibit "A"

**IN WITNESS WHEREOF**, the Parties hereto have set their hands and affixed their respective seal the day and year first above written.

CITY

**CITY OF PLANO, TEXAS**

By: \_\_\_\_\_

Bruce D. Glasscock  
CITY MANAGER  
1520 Avenue K  
P.O. Box 860358  
Plano, TX 75086-0358

LICENSEE

**DALLAS MTA, L.P. d/b/a VERIZON  
d/b/a VERIZON WIRELESS**

\_\_\_\_\_  
Witness

By: Verizon Wireless Texas, LLC,  
its general partner

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Aparna Khurjekar,  
Area Vice President Network

Date: \_\_\_\_\_

Exhibit "A"

Appendix "A"

**PREMISES**

Exhibit "A"  
**Appendix "B"**

**Insurance Requirements**

Exhibit "A"  
**Appendix "B-1"**

**Contractor Agreement**

**DATE:** November 19, 2013  
**TO:** Honorable Mayor & City Council  
**FROM:** Richard Grady, Chairman, Planning & Zoning Commission  
**SUBJECT:** Results of Planning & Zoning Commission Meeting of November 18, 2013

**AGENDA ITEM NO. 7 - PUBLIC HEARING  
ZONING CASE 2013-30  
APPLICANT: LENNAR HOMES**

Request for a Specific Use Permit for a Private Recreation Facility or Area on 0.6± acre at the northeast corner of Montville Way and Thetford Lane. Zoned Single-Family Residence-6.

**APPROVED:** 6-0 **DENIED:** \_\_\_\_\_ **TABLED:** \_\_\_\_\_

**LETTERS RECEIVED WITHIN 200 FOOT NOTICE AREA:** **SUPPORT:** 0 **OPPOSE:** 0

**LETTERS RECEIVED OUTSIDE 200 FOOT NOTICE AREA:** **SUPPORT:** 0 **OPPOSE:** 0

**PETITION(s) RECEIVED:** N/A **# OF SIGNATURES:** N/A

**STIPULATIONS:**

Recommended for approval as submitted.

**FOR CITY COUNCIL MEETING OF:** December 9, 2013 (To view the agenda for this meeting, see [www.planotx.org](http://www.planotx.org))

**PUBLIC HEARING - ORDINANCE**

RA/dc

xc: David Auginbaugh, Lennar Homes  
Leonard Reeves, Studio 13 Design Group  
Cliff Bormann, Permit Services Manager

<http://goo.gl/maps/R9yQ2>

CITY OF PLANO  
PLANNING & ZONING COMMISSION

November 18, 2013

**Agenda Item No. 7**

**Public Hearing:** Zoning Case 2013-30

**Applicant:** Lennar Homes

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**DESCRIPTION:**

Request for a Specific Use Permit for a Private Recreation Facility or Area on 0.6± acre at the northeast corner of Montville Way and Thetford Lane. Zoned Single-Family Residence-6.

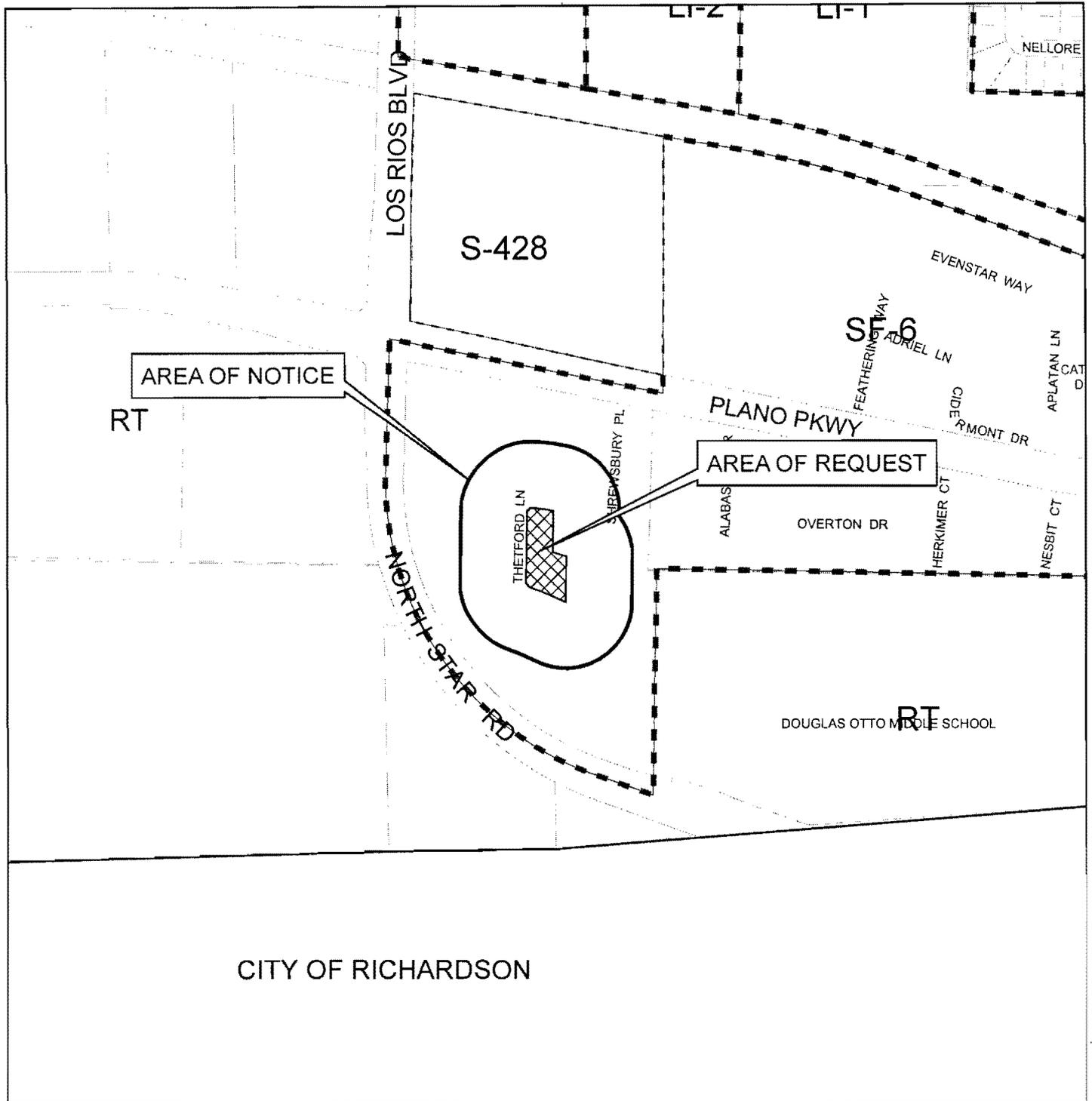
**REMARKS:**

The requested zoning is for a Specific Use Permit (SUP) for Private Recreation Facility or Area. The Zoning Ordinance defines a private recreation facility or area as a facility or area which is owned and/or operated by a nonprofit organization, that provides for sports, leisure, and recreation activities operated for the exclusive use of its members and their guests and not the general public. The current zoning is Single-Family Residence-6 (SF-6). The SF-6 district is primarily intended to provide for small-lot, urban, single-family development protected from excessive noise, illumination, odors, visual clutter, and other objectionable influences to family living. An SUP authorizes and regulates a use not normally permitted in a district which could be a benefit in a particular case to the general welfare, provided adequate development standards and safeguards are established.

The proposed private recreation facility or area is located within Hudson Heights, a three phase, 152 lot subdivision currently being developed at SF-6 standards. A site plan is currently under review showing one building, pool, and play areas located on the 0.6± acre subject site. The site has sufficient access and parking. The proposed private recreation facility or area will be maintained by the neighborhood homeowner association. Should the association not want to maintain the facility in the future, the site could be developed into SF-6 lots.

**RECOMMENDATION:**

Recommended for approval as submitted.

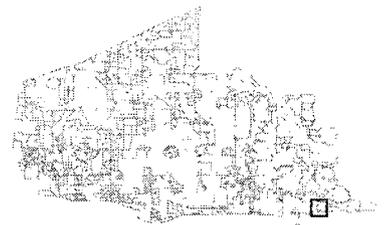


CITY OF RICHARDSON



Zoning Case #: 2013-30

Existing Zoning: SINGLE-FAMILY RESIDENCE-6



○ 200' Notification Buffer





THETFORD LANE

SHREWSBURY PLACE

OVERTON DRIVE

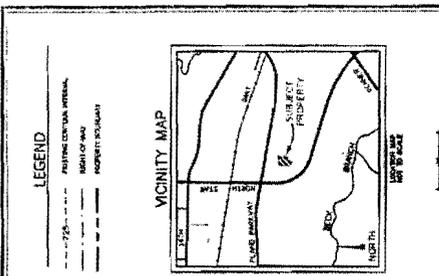
NORTH STAR ROAD

Area of Request



Source: City of Plano, Planning Dept.  
Date: November, 2013

Zoning Case 2013-30



**ZONING EXHIBIT**

APPROVAL OF THE ZONING CASE ASSOCIATED WITH THIS EXHIBIT SHALL NOT IMPLY APPROVAL OF ANY ASSOCIATED SURVEY, PLAT, OR PLAN. APPROVAL OF THE DEVELOPMENT PROCESS, PLANNING & ZONING COMMISSION AND/OR CITY COUNCIL ACTION ON STUDIES, PLATS OR PLANS RELATING TO DEVELOPMENT OF THIS PROPERTY SHALL BE CONSIDERED AS AN ACTION SEPARATE FROM ACTION TAKEN ON THIS ZONING CASE.

**BLOCK B, LOT 2X SITE INFORMATION**

58-4  
 PRIVATE RECREATION FACILITY OR AREA  
 2.5141 AC. OR LAR ACRES

**GENERAL SITE DATA**

ZONING: 58-4  
 PROPOSED USE: PRIVATE RECREATION FACILITY OR AREA  
 LOT AREA: 2.5141 AC. OR LAR ACRES

**LEGAL DESCRIPTION OF PROPERTY**

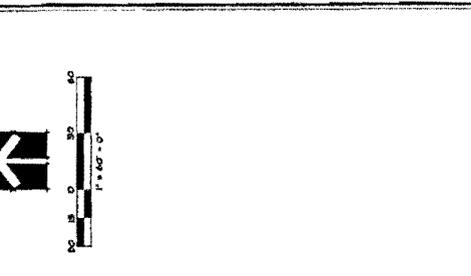
FIELD NOTE DESCRIPTION  
 BEING A CORNER OF LAND SHOWN IN THE T.T. MULLIGAN SURVEY, ABSTRACT NO. 61A, City of Plano, Collin County, Texas and being part of that tract of land described as Lot 2X, Block B, Hudson Heights, Private Recreation Facility or Area, as shown on the plat of said tract of land, recorded in the Public Records of Collin County, Texas and being more particularly described as follows:

COMMENCING at a red iron pin found in the southeast corner of Douglas Otto Maltby School, according to the document filed of record in Book 2009, Page 341, Map Reference of Collin County, Texas.

THENCE over and across the above mentioned Lottens Tracts less the following (five (5)) corners and distances as follows:

North 79° 37' 00" West, a distance of 94.37 feet to a point for a corner;  
 North 19° 12' 27" West, a distance of 53.09 feet to a point for a corner;  
 North 79° 05' 50" West, a distance of 55.98 feet to a point for a corner;  
 North 79° 31' 00" West, a distance of 93.95 feet to a point for a corner;  
 North 79° 30' 00" West, a distance of 83.25 feet to a point for a corner and the POINT OF BEGINNING for the tract of land described herein;

THENCE North 01° 07' 37" West, a distance of 139.88 feet to a point for a corner;  
 THENCE North 64° 30' 51" West, a distance of 64.50 feet to a point for a corner at the beginning of a curve to the right having a radius of 374.09 feet, a central angle of 07° 48' 39", and a chord bearing and distance of North 09° 54' 13" West, 27.46 feet;  
 THENCE with said curve to the right and an arc distance of 73.49 feet to a point for a corner;  
 THENCE North 01° 23' 15" West, a distance of 137.77 feet to a point for a corner;  
 THENCE North 01° 07' 37" West, a distance of 217.11 feet to a point for a corner;  
 THENCE North 49° 05' 40" East, a distance of 14.12 feet to a point for a corner at the beginning of a curve to the right having a radius of 374.09 feet, a central angle of 10° 49' 41", and a chord bearing and distance of South 07° 48' 29" East, 26.71 feet;  
 THENCE with said curve to the right and an arc distance of 70.49 feet to a point for a corner;  
 THENCE South 72° 59' 00" East, a distance of 43.64 feet to the POINT OF BEGINNING and containing 0.59 acres of land, more or less.



**RECEIVED**

OWNED BY: 1-16-2013  
 PLANNING DEPT.

ENGINEER:  
 DORRIT ANDERSON & ASSOC., INC.  
 5225 VILLAGE CREEK DR.  
 PLANO, TEXAS 75093  
 (972) 931-0924  
 CONTACT: CASEY ROUS

LANDSCAPE ARCHITECT/APPLICANT:  
 LANDSCAPE ARCHITECTS GROUP, PLLC  
 119 BRANSETT LANE  
 SUITE 203  
 LEWISVILLE, TX 75057  
 (646) 635-1200  
 119 BRANSETT LANE AND W. REEVES, 434A, RIA  
 lewiscad@landscapergroup.com

**ZONING EXHIBIT**

HUDSON HEIGHTS, PH. 1  
 PRIVATE RECREATION  
 FACILITY OR AREA  
 Lot 2X, Block H

6.98 ACRES SHOWN IN THE  
 T.T. MULLIGAN SURVEY,  
 ABSTRACT NO. 61A  
 CITY OF PLANO,  
 COLLIN COUNTY, TEXAS

Printed by Western Plot Date: 11/15/2013 5:08 PM  
 Drawing: 3 (Project/Block/Phase/Zone) Hudson Heights Block B Lot 2X Block H  
 11/15/2013 5:08 PM

## Zoning Case 2013-30

**An Ordinance of the City of Plano, Texas, amending the Comprehensive Zoning Ordinance of the City, Ordinance No. 2006-4-24, as heretofore amended, granting Specific Use Permit No. 640 so as to allow the additional use of Private Recreation Facility or Area on 0.6± acre of land out of the J.T. McCullough Survey, Abstract No. 633, located at the northeast corner of Montville Way and Thetford Lane, in the City of Plano, Collin County, Texas, presently zoned Single-Family Residence-6; directing a change accordingly in the official zoning map of the City; and providing a penalty clause, a repealer clause, a savings clause, a severability clause, a publication clause, and an effective date.**

**WHEREAS**, the City Secretary of Plano, Texas, directed that notices of a hearing be issued, as required by the Zoning Ordinance of the City of Plano and laws of the State of Texas, at a meeting of the City Council, to be held on the 9th day of December, 2013, for the purpose of considering granting Specific Use Permit No. 640 for the additional use of Private Recreation Facility or Area on 0.6± acre of land out of the J.T. McCullough Survey, Abstract No. 633, located at the northeast corner of Montville Way and Thetford Lane, in the City of Plano, Collin County, Texas, presently zoned Single-Family Residence-6; and

**WHEREAS**, the City Secretary of the said City accordingly caused to be issued and published the notices required by its Zoning Ordinance and laws of the State of Texas applicable thereto, the same having been published in a paper of general circulation in the City of Plano, Texas, at least fifteen (15) days prior to the time set for such hearing; and

**WHEREAS**, the City Council of said City, pursuant to such notice, held its public hearing and heard all persons wishing to be heard both for and against the aforesaid change in the Zoning Ordinance, on the 9th day of December, 2013; and

**WHEREAS**, the City Council is of the opinion and finds that the granting of Specific Use Permit No. 640 so as to allow the additional use of Private Recreation Facility or Area on 0.6± acre of land out of the J.T. McCullough Survey, Abstract No. 633, located at the northeast corner of Montville Way and Thetford Lane, in the City of Plano, Collin County, Texas, presently zoned Single-Family Residence-6, would not be detrimental or injurious to the public health, safety and general welfare, or otherwise offensive to the neighborhood; and

**WHEREAS**, the City Council is of the opinion and finds that such change will promote the best and most orderly development of the properties affected thereby, and to be affected thereby, in the City of Plano, and as well, the owners and occupants thereof, and the City generally.

**IT IS, THEREFORE, ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** The Comprehensive Zoning Ordinance No. 2006-4-24, as the same has been heretofore amended, is hereby further amended so as to grant Specific Use Permit No. 640 so as to allow the additional use of Private Recreation Facility or Area on 0.6± acre of land out of the J.T. McCullough Survey, Abstract No. 633, located at the northeast corner of Montville Way and Thetford Lane, in the City of Plano, Collin County, Texas, presently zoned Single-Family Residence-6, said property being more fully described on the legal description in Exhibit "A" attached hereto.

**Section II.** It is directed that the official zoning map of the City of Plano (which is retained in electronic record format) be changed to reflect the zoning classification established by this Ordinance.

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

**Section IV.** The repeal of any ordinance or part of ordinances affected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinance at the time of passage of this Ordinance.

**Section V.** Any violation of the provisions or terms of this ordinance by any person, firm or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

**Section VI.** It is the intention of the City Council that this Ordinance, and every provision hereof, shall be considered severable, and the invalidity or partial invalidity of any section, clause or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

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

**PASSED AND APPROVED THIS THE 9TH DAY OF DECEMBER, 2013.**

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Harry LaRosiliere, MAYOR

ATTEST:

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Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

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Diane C. Wetherbee, CITY ATTORNEY

Zoning Case 2013-30

BEING a tract of land situation in the J.T. McCullough Survey, Abstract No. 633, City of Plano, Collin County, Texas and being part of that tract of land described in deed to Lennar Homes of Texas Land and Construction, LTD., as recorded under Document Number 20130114000055360, Deed Records, Collin County, Texas said tract being more particularly described as follows:

COMMENCING at a railroad spike found for the northwest corner of Douglas Otto Middle School, according to the document filed of record in Book 2009, Page 345, Map Records of Collin County Texas.

THENCE over and across the above mentioned Lennar Homes tract the following five (5) courses and distances as follows:

North, 88° 57' 03" West, a distance of 94.53 feet to a point for a corner;

North, 85° 37' 27" West, a distance of 55.09 feet to a point for a corner;

North, 78° 08' 30" West, a distance of 55.99 feet to a point for a corner;

North, 70° 35' 00" West, a distance of 57.95 feet to a point for a corner;

North, 72° 59' 09" West, a distance of 13.55 feet to a point for a corner and the POINT OF BEGINNING for the tract of land described herein;

THENCE South, 01° 02' 57" West, a distance of 139.88 feet to a point for a corner;

THENCE North, 65° 59' 53" West, a distance of 84.02 feet to a point for a corner at the beginning of a curve to the right, having a radius of 275.00 feet, a central angle of 07° 48' 39", and a chord bearing and distance of North, 69° 54' 12" West, 37.46 feet;

THENCE with said curve to the right and arc distance of 37.49 feet to a point for a corner;

THENCE North, 36° 52' 56" West, a distance of 15.77 feet to a point for a corner;

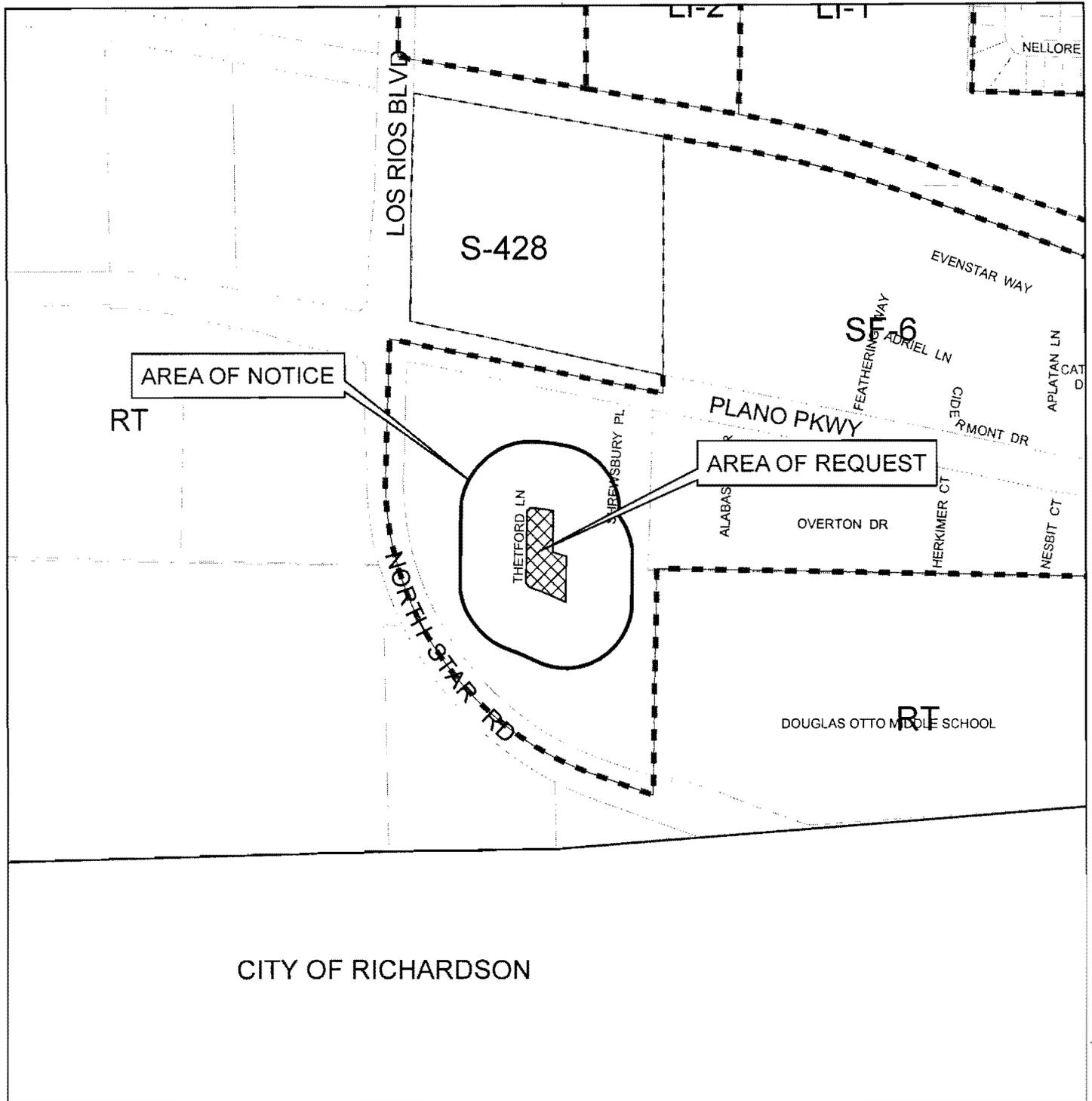
THENCE North, 01° 05' 01" East, a distance of 217.11 feet to a point for a corner;

THENCE North, 46° 09' 40" East, a distance of 14.12 feet to a point for a corner at the beginning of a curve to the right, having a radius of 375.00 feet, a central angle of 10° 49' 43", and a chord bearing and distance of South, 82° 46' 29" East, 70.77 feet;

THENCE with said curve to the right an arc distance of 70.87 feet to a point for a corner;

THENCE South, 01° 02' 57" West, a distance of 125.00 feet to a point for a corner;

THENCE South, 72° 59' 08" East, a distance of 43.66 feet to the POINT OF BEGINNING and CONTAINING 0.59 acres of land, more or less.

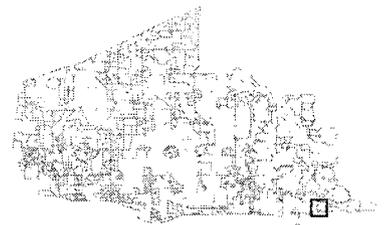


CITY OF RICHARDSON



Zoning Case #: 2013-30

Existing Zoning: SINGLE-FAMILY RESIDENCE-6



○ 200' Notification Buffer



