CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY
☐ Consent ☐ Regular ☐ Statutory

Council Meeting Date:	3/25/2013
Department:	Budget & Research
Department Head	Karen Rhodes
Agenda Coordinator (include phone #):	**Matthew Yager, x5220**

CAPTION

An Ordinance of the City of Plano, Texas, amending Sections 21-1 and 21-2 of Article I, of Chapter 21, Utilities, of the Code of Ordinances of the City of Plano regarding the Municipal Drainage Utility System and related charges; providing a severability clause, a repealer clause, a savings clause, a publication clause and an effective date.

FINANCIAL SUMMARY

☐ NOT APPLICABLE ☐ OPERATING EXPENSE ☒ REVENUE ☐ CIP

FISCAL YEAR: **2012-13**	**Prior Year (CIP Only)**	**Current Year**	**Future Years**	**TOTALS**
Budget	0	5,246,088	0	**5,246,088**
Encumbered/Expended Amount	0	0	0	**0**
This Item	0	873,480	0	**873,480**
BALANCE	0	6,119,568	0	**6,119,568**

FUND(S): MUNICIPAL DRAINAGE FUND

COMMENTS: Approval of this item will increase Municipal Drainage Fees by an estimated $873,480 for the remainder of 2012-13.

STRATEGIC PLAN GOAL: Changes to Municipal Drainage Fees relate to the City's Goal of a Financially Strong City with Service Excellence.

SUMMARY OF ITEM

This item modifies existing drainage rates for both residential and non-residential customers that were last changed in September 2002. The additional revenues will be used to ensure compliance with revenue bond covenants and continued maintenance and expansion of Plano's Municipal Drainage system.

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
Drainage Rate Change Ordinance	

An Ordinance of the City of Plano, Texas, amending Sections 21-1 and 21-2 of Article I, of Chapter 21, Utilities, of the Code of Ordinances of the City of Plano regarding the Municipal Drainage Utility System and related charges; providing a severability clause, a repealer clause, a savings clause, a publication clause and an effective date.

WHEREAS, on July 27, 1992, the City Council of the City of Plano, Texas adopted Ordinance Nos. 92-7-41 and 92-7-42 creating a Municipal Drainage Utility System and establishing monthly drainage charges for developed properties discharging water into the City's storm water drainage system, said ordinances being codified as Section 21-1 and 21-2 of Article I of Chapter 21 of the City Code of Ordinances (the "Code Sections"); and

WHEREAS, the City Council previously revised drainage rates effective October 1, 2002 by Ordinance No. 2002-9-12 and revised the Best Management Practices and associated drainage fee credits by Ordinance No. 2006-4-26 on April 24, 2006; and

WHEREAS, the current revenues generated by the present drainage rates are not sufficient to cover the costs associated with the operation and maintenance of the storm drainage system or satisfy the covenants in its Municipal Drainage Revenue Bonds; and

WHEREAS, additional revisions to the Code Sections are necessary to remove outdated references to state law and to re-codify the affected sections accordingly; and

WHEREAS, the City Council further finds and determines that such modifications to the drainage rates and removal of outdated references to state law are in the best interest of the City and its citizens and that the new rates and revisions to the Code Sections should be adopted with this ordinance.

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

Section I. Section 21-1 of Article I, Chapter 21 Utilities of the Code of Ordinances of the City of Plano is hereby amended, in its entirety, to read as follows:

"**Sec. 21-1. – Municipal Drainage Utility System – Established.**

(a) The city council hereby finds it in the public interest to protect the health, safety and welfare of the City of Plano, and the public at large, from loss of life and property caused by surface water overflows, surface water stagnation, and pollution arising from nonsource runoff within the service area.

(b) The city council further finds:

(1) The city will establish a schedule of drainage charges against all real property in the service area.

(2) The city will provide drainage for all real property in the service area on payment of drainage charges, except real property exempted under State law.

(3) The city will offer drainage service on nondiscriminatory, reasonable and equitable terms.

(c) A Municipal Drainage Utility System is hereby established and declared to be a public utility. The city shall have full authority to operate said Municipal Drainage Utility System.

(d) The city council may, by ordinance, adopt rules for the operation and conduct of this system consistent with its authority and state law.

(e) Prior to the levy of any drainage charges, the city council shall hold a public hearing on the charges pursuant to state law."

Section II. Section 21-2 of Article I, Chapter 21 Utilities of the Code of Ordinances of the City of Plano is hereby amended, in its entirety, to read as follows:

"**Sec. 21-2. – Same-Charges.**

(a) There shall be a charge on each monthly utility statement for the Municipal Drainage Utility System. The city manager or his designee is authorized to collect such charges.

(b) Except as otherwise provided herein, billing, charges and collection procedures, including any delinquencies, shall be consistent with that of the water and sewer services and state and local law.

(c) The drainage fee will be a separate line item on the utility statement and shall be clearly identified as a separate charge.

(d) The following properties shall be exempt from the drainage charges set forth herein:

a. Property with proper construction and maintenance of a wholly sufficient and privately owned drainage system;

b. Property held and maintained in its natural state, until such time that the property is developed and all of the public infrastructure constructed has been accepted by the city for maintenance; and

c. A subdivided lot, until a structure has been built on the lot and a certificate of occupancy has been issued by the city.

(e) The city manager or his designee(s) may, from time to time, adopt rules for the administration of the drainage charge.

(f) The following rates are hereby established and shall be collected through the city's public utility billings, effective for bills rendered on and after April 1, 2013:

Residential Customer Class	Size of Impervious Area (in square feet)*	Monthly Fee
R-1	Less than 4,750	$3.15
R-2	4,750 to 6,450	4.62
R-3	Greater than 6,450	5.95

* Includes footprint of first floor, patio, garage, and a pro rata portion adjustment of three thousand (3,000) square feet for streets, alleys, and sidewalks.

Duplex properties shall have the same monthly fee as R-1, R-2, R-3 (depending on the size of the impervious area), if the duplex is under single ownership. If each side of the duplex is individually metered, the fee for each half shall be one-half, (½) the total fee as calculated for the duplex.

For all other properties including but not limited to apartment, commercial, industrial, offices, churches, schools and quasi-governmental entities, the fees shall be based on sixty-eight hundredths cents ($0.068) per one hundred (100) square feet of total impervious area of each improved property within the city. The total impervious area includes ten (10) percent additional area for the street and sidewalk adjustment. The minimum bill shall be three dollars and fifteen cents ($3.15) per property.

(g) In setting the rates for drainage service, the city has based its calculations on an inventory of impervious areas of all improved properties within the service area. The inventory is the city's property management system which is maintained in the office of the city engineer of the City of Plano.

(h) There shall be a period of time during which the property owner may appeal the assessed drainage fee including the size of the impervious area which was determined by the city. Sufficient documentation must be provided by the owner to verify that the city's impervious calculation is incorrect. Such documentation, in the form of a survey, site plan or other such documents must be presented to the city engineer within sixty (60) days of the owner's request for an appeal. The city engineer shall have thirty (30) days following receipt of the documentation to approve or deny such appeal. During all appeal periods, the property owner shall be responsible for payment of fees. If the appeal warrants a reduction in the impervious area, a credit will be applied to the next month's billing which will be based on the revised impervious area. For new customer accounts, there will be a ninety-day appeal period from the initial billing of the account. When a request for appeal is received later than ninety (90) days after initial billing, approved credits will only be effective forward from the next billing cycle for the property, and will not be allowed for any previous period. The appeal methodology shall be an administrative policy as established by written report maintained in the engineering department of the city.

(i) Those improved nonresidential properties (including apartments) which practice stormwater management are eligible to receive a credit on their monthly billings. The application for such credit shall follow the procedures for appeal as set forth in subsection (h) above. The credit will be only for the impervious area within the area which receives the stormwater management technique.

(1) That area which receives approved street sweeping on a weekly basis will be eligible for up to a five (5) percent credit.

(2) That area which drains into an approved best management practice (BMP) will be eligible for a credit equal to the average pollutant removal efficiency of the BMP used. BMPs shall be designed and constructed in accordance with the NCTCOG iSWM Design Manual for Site Development and approved by the city. The average pollutant removal efficiency of the BMPs for use in calculating fee reductions shall be as follows:

BEST MANAGEMENT PRACTICE (BMP)	AVERAGE POLLUTANT REMOVAL EFFICIENCY
OIL-GRIT SEPARATOR	0.10
GRASS CHANNEL	0.25
FILTER STRIP	0.27
ENHANCED WET SWALE	0.34
POROUS CONCRETE WITH INFILTRATION	0.35
GREEN ROOF	0.43
DRY DETENTION POND	0.44
ENHANCED DRY SWALE	0.45
STORM WATER WETLAND	0.47
SAND FILTER	0.49
STORM WATER POND	0.49
UNDERGROUND SAND FILTER	0.49
MODULAR POROUS PAVEMENT WITH INFILTRATION	0.50
SUBMERGED GRAVEL WETLAND	0.54
BIORETENTION AREA	0.55
PLANTER BOX	0.58
ORGANIC FILTER	0.61
DOWNSPOUT DRYWELL	0.76
INFILTRATION TRENCH	0.76
SOAKAGE TRENCH	0.76
ALUM TREATMENT	0.77

(3) In addition to the credit allowed for installation of BMPs, those improved nonresidential properties (including apartments) that reduce the amount of impervious surface area on their site are eligible to receive a proportionate reduction on their monthly drainage fee billings. The reduction shall be calculated by taking the original impervious surface area minus the revised impervious surface area and using this amount to reduce the revised impervious surface area before calculating the monthly drainage fee.

(4) The credit methodology shall be an administrative policy as established by written report maintained in the engineering department of the city."

Section III. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, or section of this Ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining phrase, clause, sentence, paragraph or section of this Ordinance.

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

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

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

DULY PASSED AND APPROVED this the 25th day of March, 2013.

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Phil Dyer, MAYOR

ATTEST:

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Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

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Diane C. Wetherbee, CITY ATTORNEY