



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY	
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory	
Council Meeting Date:	6/14/10
Department:	Parks and Recreation
Department Head	Amy Fortenberry
Agenda Coordinator (include phone #): Susan Berger (7255)	

CAPTION

A Resolution of the City of Plano, Texas, approving the terms and conditions of a Funding Agreement between the City of Plano, Texas, and the Historic Downtown Plano Association whereby the City will provide funding in part for the 2010 Downtown @ Sundown event; authorizing the City Manager, or his designee, to execute such Agreement; and providing an effective date.

FINANCIAL SUMMARY

NOT APPLICABLE
 OPERATING EXPENSE
 REVENUE
 CIP

FISCAL YEAR: 2009-10	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	7,500	0	7,500
Encumbered/Expended Amount	0	0	0	0
This Item	0	-2,500	0	-2,500
BALANCE	0	5,000	0	5,000

FUND(S): GENERAL FUND

COMMENTS: Funding for this item is included in the approved 2009-10 Budget. The original budget of \$7,500 provided in-kind City Services for (3) Downtown at Sundown events, but has now been modified to only (1) event for fiscal year 2009-10. The remaining balance will be returned to the General Fund Operating Budget.

STRATEGIC PLAN GOAL: Providing in-kind services as grants for special community events relates to the City's Goal of "Exciting Urban Centers - Destination for Residents and Guests" and "Partnering for Community Benefit".

SUMMARY OF ITEM

This resolution establishes a funding agreement between the City of Plano, Texas, and the Historic Downtown Plano Association to provide partial funding for the 2010 Downtown @ Sundown event in the amount of \$2,500 for in-kind services during a September special event.

List of Supporting Documents: Resolution Agreement	Other Departments, Boards, Commissions or Agencies
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A Resolution of the City of Plano, Texas, approving the terms and conditions of a Funding Agreement between the City of Plano, Texas, and the Historic Downtown Plano Association whereby the City will provide funding in part for the 2010 Downtown @ Sundown event; authorizing the City Manager, or his designee, to execute such Agreement; and providing an effective date.

WHEREAS, The Historic Downtown Plano Association holds an annual 2010 Downtown @ Sundown; and

WHEREAS, the City wishes to promote visitors to the City of Plano through the Festival; and

WHEREAS, the City Council finds that a provision of in-kind services, "City Services," to the Historic Downtown Plano Association for the Festival, is in the best interest of the residents of the City of Plano and is a valid public purpose; and

WHEREAS, the City Council desires to enter into the funding agreement with the Historic Downtown Plano Association (hereafter "Agreement") attached hereto as Exhibit "A" which establishes the terms and conditions for funding.

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

Section I. The City Council hereby approves the terms and conditions of the Agreement.

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

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

DULY PASSED AND APPROVED this the 14th day of June, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

EXHIBIT A
FUNDING AGREEMENT BETWEEN CITY OF PLANO
AND
HISTORIC DOWNTOWN PLANO ASSOCIATION
TO PROVIDE IN-KIND CITY SERVICES

The **CITY OF PLANO**, a Texas home rule municipal corporation (hereinafter referred to as “City”), and **HISTORIC DOWNTOWN PLANO ASSOCIATION**, a Texas non-profit corporation, acting herein through its duly authorized representative (hereinafter referred to as “Contractor”), enter into this funding agreement for performance of the **2010 DOWNTOWN@SUNDOWN** event.

WHEREAS, the City Council finds that the provision of in-kind services, “City Services,” to **Historic Downtown Plano Association**, is in the best interest of the residents and the City of Plano; and

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

WHEREAS, the City Council determined that the City should provide City Services in the nature of public safety, parks and recreation, solid waste collection or others for the purposes outlined in the Urban/Town Center Event Grant Application (hereinafter referred to as “Application”); and

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

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

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

1.01 Purpose/Consideration.

This Agreement provides the terms and conditions under which City will make available City Services valued at **TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00)**, to support the **2010 Downtown @ Sundown** event on or about **September 11, 2010** as provided in Exhibit "C" attached hereto. The City's source of funds to pay for these City Services is general revenues derived from collection of property, sales and other taxes, as well as other sources. The City will notify Contractor if Contractor's request for City Services exceeds amount indicated in Exhibit "C". Any City Services requested by Contractor that exceed the Exhibit "C" amount will be billed back to Contractor by City. Payments for those additional City Services are to be paid in full within 30 days of the invoice date.

In consideration of the City of Plano providing the funding specified for the **2009-10** fiscal year, Contractor shall abide by the terms and conditions of this Agreement.

1.02 Priority of Documents.

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

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

2.01 Contractor shall perform all activities under this Agreement for the purposes outlined in the Application, which is made a part hereof by reference and incorporated as Exhibit "A".

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

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

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

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

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

SECTION III NON-ASSIGNMENT

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

SECTION IV INDEPENDENT CONTRACTOR

4.01 The City enters into this Agreement with Contractor for the purposes enumerated in Section I. Contractor asserts and agrees that Contractor is an independent contractor and not an officer, agent, servant or employee of the City. Contractor has exclusive control over the details of the activity, and is responsible for the acts and omissions of its officers, agents,

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

SECTION V

REPORTING REQUIREMENTS

5.01 Within sixty (60) days following the event, Contractor agrees to provide a final written report of its activities and City Services received by Contractor as well as a description of program goals achieved and/or progress toward those goals. These reports shall contain a Certificate of Compliance with notarized signatures of two members of Contractor's executive board or, in the alternative, one member of Contractor's executive board and the executive director. Reports submitted without required notarized signatures will be rejected and considered incomplete.

SECTION VI

AFFIDAVIT OF NO PROHIBITED INTEREST

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

SECTION VII

INSURANCE REQUIREMENTS/INDEMNIFICATION

7.01 **Insurance.**

At its own expense, Contractor agrees to maintain during the term of this Agreement, or any extension thereof, insurance in the type and amounts as shown in Exhibit "E". Additionally,

this insurance must specifically cover any and all activities occurring on City property, including those activities of Contractor's employees, volunteers, vendors, contractors, or subcontractors. Contractor must provide proof of this insurance to the Contract Administrator no less than 120 days prior to the event. A properly executed Certificate of Insurance issued by Contractor's insurance agency is sufficient proof of insurance. Contractor must maintain a current copy of the certificate(s) and provide proof of its current insurance to City throughout the entire term of this Contract.

7.02 Indemnification.

THE CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY AND ITS RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY CONTRACTOR'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE CONTRACTOR IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF THE CITY, AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS. THE CITY DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY OR OTHER DEFENSES AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

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

SECTION VIII TERM

8.01 The term of this Agreement is **April 1, 2010**, through **September 30, 2010**. At the expiration of this Agreement, the Contractor shall have the continuing obligation to complete any unfulfilled terms and conditions of this Agreement, including the submission of a final written report to the City and any other requested written documentation verifying Contractor's compliance with the terms of this Agreement.

SECTION IX TERMINATION

9.01 Each party shall have the right to an early termination of this Agreement by giving the other party written notice thirty (30) days before the desired early termination date.

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

**SECTION X
MISCELLANEOUS**

10.01 Entire Agreement.

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

10.02 Authority

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

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

10.03 Successors and Assigns

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

10.04 Notice.

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

City – Contract Administrator
Karen Williams
Event Supervisor
City of Plano
P O Box 860358
Plano, TX 75086-0358
972-941-7250
972-461-6882 (fax)

Contractor
Historic Downtown Plano Assoc.
Bonnie Shea, President
1000 E. 14th St.
Plano, TX 75074
972-423-1199

10.05 Paragraph Headings.

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

10.06 Interpretation of Contract.

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

10.07 Venue.

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

IN TESTIMONY OF WHICH THE PARTIES HERETO AFFIXED THEIR SIGNATURES ON THIS THE _____ DAY OF _____, 2010.

BY: _____

Name: _____

Title: _____

CITY OF PLANO, TEXAS

BY: _____

Thomas H. Muehlenbeck
CITY MANAGER

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

ACKNOWLEDGMENTS

STATE OF TEXAS)
)
COUNTY OF _____)

This instrument was acknowledged before me on the ____ day of _____,
2010 by _____, _____ of
_____, a non-profit corporation, on behalf of said corporation.

Notary Public in and for the
State of Texas

STATE OF TEXAS)
)
COUNTY OF COLLIN)

This instrument was acknowledged before me on the ____ day of _____,
2010 by **THOMAS H. MUEHLENBECK**, City Manager of the **CITY OF PLANO, TEXAS**, a
home-rule municipal corporation, on behalf of said corporation.

Notary Public in and for the
State of Texas

EXHIBIT "A"

CONTRACTOR'S APPLICATION

This exhibit represents only the Budget portion of the application.

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

Revenue:

	Total Overall Event Budget	City Cash Requested	% of Total Overall Event Budget	City In-Kind Requested
Sponsorships*	302250	15000	85%	9960
Corporate	26250	X	7%	X
Foundations		X		X
Individual		X		X
In-Kind Sponsorships**	276000		77%	
Fees				
Admission	20000	X	6%	X
Vendors (non-sponsor)	12625	X	4%	X
Vendors (sponsor)		X		X
Parking		X		X
Other (specify)		X		X
Equipment	15600	X	4%	X
Grand Total	350475			

* Sponsorship defined as cash-only in keeping with sponsor levels established by event.

** Includes any sponsorships of services balanced against event costs. (i.e. media value, contract services)

Expenses:

	Total Overall Event Budget	City Cash Requested	% of Total Overall Event Budget	City In-Kind Requested
Contracted City Services*	9960	X	26%	9960
Contracted Services other than City	6000	1000	16%	
Rental Expenses	17550		47%	
In-Kind Services other than City		X		X
Advertising & Promotion	27725	4040	74%	
Insurance	1000		2%	
Other				
Grand Total	\$37,685	5040	100%	

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

EXHIBIT "B"

GENERAL CONDITIONS OF AGREEMENT

The Contractor agrees to the following general conditions:

- (1) The Contractor must provide reports of its activities as described in Section V, *Disbursement of Funds*, Paragraph 5.06, *Reporting Requirement*, of the Funding Agreement and as otherwise required by the Special Conditions of the Agreement on a format acceptable to the City. Disbursements may cease if reports are not submitted.
- (2) All of Contractor's procedures, records, and reports of programs and accounts shall be available for inspection by a duly authorized representative of the City. The materials shall be made available during regular business hours and not later than three (3) business days after request to do so. An independent audit of Contractor's financial records, paid for by Contractor, shall be furnished to the City upon request.
- (3) The Contractor agrees to on-site inspection of its facilities and/or programs by the City.
- (4) Improper use of funds provided by City may result in the termination of the Agreement, forfeiture of any outstanding monies to be provided by City, recovery of previous payments, recovery of bond payments, requirement for Contractor to provide an Employee Dishonesty Bond for future participation and/or disqualification of Contractor from future participation in grant programs offered or sponsored by or through City.
- (5) Programs, activities, employment opportunities, and other participatory events funded totally or partially by the City of Plano must be made available to all people regardless of race, color, religion, sex, age, national origin, disability, familial status, or political affiliation.
- (6) The Contractor and any person or organization it contracts with shall comply with all applicable laws, regulations, ordinances, and codes of the United States of America, the State of Texas, and the City of Plano.
- (7) The Contractor shall comply with all Federal, State and Local conflict of interest laws, statutes, and regulations; these laws shall apply to all parties and beneficiaries under this Agreement as well as to all officers, employees, and agents of City.
- (8) None of the funds, materials, property, or services provided directly under this Agreement shall be used for any partisan political activity, to further the election or defeat of any candidate for public office, or for publicity, lobbying and/or propaganda purposes designed to support or defeat legislation pending before the Congress of the United States of America, the Legislature of the State of Texas, the City Council of the City of Plano, or any other political body.

- (9) The City shall have the right to review any and all of Contractor's agreements and contracts prior to execution by the Contractor. City further has the right to require the modification, addition, or deletion of such terms and conditions in Contractor's agreements or contracts as it deems necessary to protect the City's interests.

- (10) For a non-profit corporation in existence for more than one (1) year at the time of the execution of this Agreement, Contractor agrees to provide a sworn statement attesting to the fact that the status of the Contractor is currently valid as a non-profit corporation. All corporations must be in good standing with the Texas Secretary of State.

EXHIBIT “C”

SPECIAL CONDITIONS

The Contractor agrees to the following special conditions:

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

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

Police	\$ 2,200
Parks	\$ 300
<i>TOTAL</i>	\$ 2,500

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

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

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

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

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

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

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

The event shall provide adequate handicapped parking or transportation.

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

EXHIBIT "D"

AFFIDAVIT OF NO PROHIBITED INTEREST

I, the undersigned declare and affirm that no person or officer of _____

_____ (herein "Contractor") is either employed by the City of Plano or is an elected official of the City of Plano and who has a financial interest, direct or indirect, in any contract with the City of Plano or has a financial interest, directly or indirectly, in the sale to the City of Plano of any land, or rights or interest in any land, materials, supplies or service. As per Section 11.02 of the Plano City Charter, interest represented by ownership of stock by a City of Plano employee or official is permitted if the ownership amounts to less than one (1) per cent of the corporation stock.

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

Name of Contractor

By: _____
Signature

Print Name

Title

Date

STATE OF _____ §

COUNTY OF _____ §

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2010.

Notary Public, State of _____

EXHIBIT "E"

INSURANCE REQUIREMENTS FOR SPECIAL EVENTS

Festival/Event shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Festival's operation and use of the leased premises. The cost of such insurance shall be borne by the Festival/ Event.

A. MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage "occurrence" form CG 00 01 (10 01). **"Claims Made" form is unacceptable.**

B. MINIMUM LIMITS OF INSURANCE

Festival/Event shall maintain limits no less than:

1. Commercial General Liability: \$1,000,000 limit per occurrence for bodily injury, personal injury and property damage, \$2,000,000 Aggregate.
NOTE: The aggregate loss limit applies to each event.
2. Participant Liability (where applicable – races, walks, etc.) \$1,000,000 limit per occurrence for bodily injury, personal injury, and property damage, \$2,000,000 aggregate.

C. DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either 1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials and employees, or 2) the Festival/Event shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. OTHER INSURANCE PROVISIONS

The policies are to contain or be endorsed to contain the following provisions:

1. General Liability

- a. The City, its officers, officials, employees and volunteers are to be covered as "additional insured" as respects: liability arising out of premises owned, occupied or used by the Festival/Event. The coverage shall contain no

special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.

- b. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, officials, employees or volunteers.
- c. Coverage shall state that the Festival's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respects to the limits of the insurer's liability.
- d. Festival's insurance shall be primary as respects to the City, its officers, officials, employees or volunteers.

2. All Coverages.

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

E. ACCEPTABILITY OF INSURERS

City prefers that insurance be placed with insurers with a Best's rating of **A-:VI or A or better** by Standard and Poor. This rating requirement may be waived for Workers' Compensation coverage only by the Risk Manager or his designee.

F. VERIFICATION OF COVERAGE

Festival/Event shall furnish the Agency with certificates of insurance affecting coverage required by this clause. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates are to be received and approved by the City before the festival commences. The City reserves the right to require complete, certified copies of all required insurance policies at any time.

G. FOOD AND/OR LIQUOR COVERAGE

If food is being provided to attendees or participants, Festival/Event must provide Product Liability in the amounts listed above. If liquor is being served, Festival must provide Host Liquor Liability, unless Festival is in the business of manufacturing, distributing, selling, serving, or furnishing alcoholic beverages, wherein a minimum \$1,000,000 Liquor Liability Policy will be required.

H. SPECIAL EVENTS

Insurance provided by the Festival/Event must cover all operations of the Special Event including but not limited to; participants, subcontractors, vendors, exhibitors, volunteers, etc. If the policy of the Festival/Event excludes any activity or group involved in the Special Event, the Festival must provide proof of insurance as required by this

agreement. Festival/Event must furnish separate certificates for each group or activity not included or covered by Festival's insurance.

I. HOLD HARMLESS AND INDEMNIFICATION

Festival/Event covenants to save, defend, keep harmless and indemnify the City, its officers, officials, employees or volunteers (collectively the "City") from and against any and all claims, loss, damage, injury, cost (including court costs and attorney fees), charges, liability or exposure, however caused, resulting from or arising out of or in any way connected to Festival's event or activity, including any and all participants, exhibitors, sub-vendors, or otherwise involved in the event or activity.

The other party agrees to investigate, handle, respond to, provide defense for and defend any such claims, demand, or suit at its sole expense, and agrees to bear all other costs and expenses related thereto even if it is groundless, false, or fraudulent.

J. PROOF OF INSURANCE

Festival is required to submit original proof of insurance on a form acceptable to the City of Plano. Certificates of Insurance similar to the ACORD form are acceptable. City will not accept Memorandums of Insurance or Binders as proof of insurance. City, at its own discretion, may require a copy of any policy presented to the City. Endorsement naming City of Plano as additional insured and waiver of subrogation must be submitted with proof of insurance.

Certificates should be submitted to:

City of Plano
Attention: Special Events
P.O. Box 860358
Plano, TX 75086-0358