



**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:		February 13, 2012		
Department:		Public Information		
Department Head		Dana Conklin - 7321		
Agenda Coordinator (include phone #): Kimberly Simmons -7307				
CAPTION				
A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of a corporate sponsorship agreement by and between Texas Health Presbyterian Hospital Plano and the City of Plano; approving its execution by the City Manager or his designee; and providing an effective date.				
FINANCIAL SUMMARY				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input checked="" type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	2011-12, 2012-13, 2013-14, 2014-15, & 2015-16	Prior Year (CIP Only)	Current Year	Future Years
				TOTALS
Budget		0	0	0
Encumbered/Expended Amount		0	0	0
This Item		0	62,926	640,000
BALANCE		0	62,926	640,000
FUND(S): GENERAL FUND				
<p>COMMENTS: Approval of this item will result in annual revenue from a Corporate Sponsorship Agreement with Texas Health Presbyterian Hospital Plano. The Sponsorship Agreement stipulates revenue to be received in the amount of \$200,000 per year for a period of 5 years. However, in the start-up FY 2011-12, the City will receive a net revenue amount of \$62,926. This amount is net after the 20% commission and various start-up supply costs (i.e. signage, ribbons, decals) have been deducted from the initial \$200,000. Thereafter, the annual revenue amount to be received is \$160,000 annually for 4 years for a combined total of \$640,000. This total amount is the net amount after the 20% commission has been deducted for each of the 4 years.</p> <p>STRATEGIC PLAN GOAL: Providing a Corporate Sponsorship with Texas Health Presbyterian Hospital of Plano relates to the City's Goal of a Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
This establishes a five year sponsorship agreement under the Plano Partners program with Texas Health Presbyterian Hospital Plano.				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Corporate Sponsorship Agreement				



Date: January 30, 2012
To: Bruce D. Glasscock, City Manager
From: Dana Conklin, Director of Public Information
Through: Mark Israelson, Director of Policy and Government Relations
Subject: Plano Partners Agreement with Texas Health Presbyterian of Plano

The first Plano Partners agreement has been completed and we are pleased that our first Partner will be Texas Health Presbyterian of Plano (THP). As the first result of the 2010 Management Preparation Program project recommendation, this agreement was generated through CSL Marketing Group after they were contacted by Texas Health Presbyterian in the summer of 2011. Completion of this agreement has involved several departments and the City's bond counsel. Their participation has been accommodating and appreciated in reaching this milestone.

Term

- Five-years for \$1,000,000
- Five annual installments of \$200,000 each year to 2016
- Category exclusivity for health care provider businesses

Recognition

- websites and social media sites by both partners
- City will also recognize this and other partners through the Plano Television Network

Texas Health Presbyterian of Plano Opportunities

- Opportunity to provide periodic health screenings at four recreation centers
- At discretion/expense of THP with scheduling and insurance coverage required
- Collateral material may be made available at the recreation centers after approval by the City

The City of Plano Obligations

(sign examples are attached)

- Purchase, install and maintain signage recognizing all Plano Partners - 14 in publicly visible locations
 - five libraries
 - four recreation centers
 - four parks
 - Amphitheater at Oak Point Park.
- Indoor signs - four recreation centers (basketball/track areas)
- Logo decals on running tracks at the three centers
- Walking bridge signs - Muehlenbeck Center

Facilities Under Agreement

- Should a facility be damaged or destroyed City shall make a good faith effort to provide comparable alternative.

Corporate Name Change

- All costs associated shall be paid by THP

Termination

- For any reason by either party requires 6 months' notice
- If THP cancels, then no refund of any monies already paid
- If City cancels, then no other health care providers as Partners until the date that would end the five year agreement passes

A worksheet is attached outlining the financial impact of this partnership that provides the City with net revenue over the five years of \$702,926. The worksheet includes the 20% annual commission to be paid to CSL Marketing per their contract for services.

I am available to answer any questions you may have.

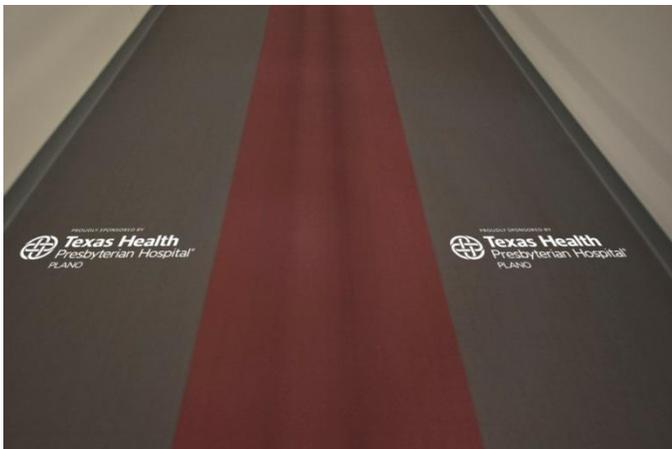
Sign Examples



Ribbons



Indoor Signs



Track Decals



Walking Bridge Sign

**Plano Partners Program
December 2011**

		<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	
City of Plano							
		2012	2013	2014	2015	2016	
<u>Revenue</u>							
	Texas Health Plano	\$ 200,000	\$ 200,000	\$ 200,000	\$ 200,000	\$ 200,000	
	<i>Total Rev</i>	<i>\$ 200,000</i>					
<u>Expense</u>							
	CSL Commission	\$ 40,000	\$ 40,000	\$ 40,000	\$ 40,000	\$ 40,000	
	Ribbons * 14	\$ 76,299					
	Track Decals 15	\$ 5,532					
	Interior Signs 6	\$ 7,605					
	TMC Bridge Signs 4	\$ 7,638					
	<i>Total Exp</i>	<i>\$ 137,074</i>	<i>\$ 40,000</i>	<i>\$ 40,000</i>	<i>\$ 40,000</i>	<i>\$ 40,000</i>	
	Net	\$ 62,926	\$ 160,000	\$ 160,000	\$ 160,000	\$ 160,000	\$ 702,926

* This cost includes the purchase and installation of all 14 signs. Future Partner revenue will pay for each name to be added

A Resolution of the City Council of the City of Plano, Texas, approving the terms and conditions of a corporate sponsorship agreement by and between Texas Health Presbyterian Hospital Plano and the City of Plano; approving its execution by the City Manager or his designee; and providing an effective date.

WHEREAS, the City currently owns and/or operates multiple facilities located in Plano, Texas, and has the ability to provide certain nonexclusive sponsorship rights with respect to the Facilities; and

WHEREAS, the City desires to provide sponsorship rights to Texas Health Presbyterian Hospital Plano (Sponsor) and Sponsor desires to obtain such rights from the City; and

WHEREAS, the City Council has been presented a corporate sponsorship agreement by and between Texas Health Presbyterian Hospital Plano and the City of Plano, 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 Agreement 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 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 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 13th day of February, 2012.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY

**CORPORATE SPONSORSHIP AGREEMENT
TO PROVIDE SPONSORSHIP RIGHTS FOR
CITY OF PLANO FACILITIES**

This Corporate Sponsorship Agreement (hereinafter referred to as "Agreement") is entered into on this the ___ day of _____, 2012, by and between **TEXAS HEALTH PRESBYTERIAN HOSPITAL PLANO**, a duly authorized Texas nonprofit corporation, (hereinafter referred to as "Sponsor") acting by and through its duly authorized representative, and the **CITY OF PLANO, TEXAS**, a home-rule municipal corporation located in Collin County, Texas, (hereinafter referred to as the "City") acting by and through its City Manager or his designee.

RECITALS

WHEREAS, the City currently owns and/or operates multiple facilities located in Plano, Texas (each, a "Facility", and, collectively, the "Facilities").

WHEREAS, the City has the ability and is authorized to provide certain nonexclusive sponsorship rights as set forth below with respect to the Facilities.

WHEREAS, the City desires to provide to Sponsor and Sponsor desires to obtain from the City the Sponsorship Rights as defined herein.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

(1) EFFECTIVE DATE. This Agreement shall become effective on the latest date of signature fully executing the Agreement (the "Effective Date") which date shall be entered above by the last signatory to the Agreement. In the event of an inconsistency between the date entered above and the latest date of signature fully executing the Agreement, the latest date of signature fully executing the Agreement shall control as the effective date of the Agreement.

(2) TERM OF AGREEMENT. This Agreement shall commence as of the Effective Date and shall continue in full force and effect for a period of five (5) years, unless this Agreement is terminated earlier pursuant to the provisions hereof.

(3) SPONSORSHIP. During the term of this Agreement, Sponsor shall be a part of the Plano Partners Program, and shall be subject to the terms and conditions set forth herein. The City shall not enter into any Plano Partners Sponsorship Agreements with other health care provider businesses.

(4) SPONSOR RIGHTS AND RESPONSIBILITIES.

(a) Sponsorship Fee. Sponsor shall pay City the sum of **TWO HUNDRED THOUSAND AND NO/100 DOLLARS (\$200,000.00)** per year during the term of this Agreement. The first payment shall be due and payable on or before February 15, 2012, and all subsequent payments shall be due and payable on or before February 15th of each succeeding year. Annual payments unpaid more than thirty (30) days after their due date shall bear interest at the rate of the prime rate plus one percent (1%).

(b) Sponsor's Website. Sponsor will provide a link on its website and social media page to the City of Plano's website.

(c) Health Screenings. Sponsor shall have the right, but no binding obligation whatsoever, to conduct health screenings, including but not limited to, blood pressure testing, skin cancer screening, or other similar health services for recreation center patrons to each of the four (4) City-owned recreation centers (hereinafter referred to as "Health Screenings"). The costs related to the Health Screening shall be the responsibility of Sponsor and the dates and times of the Health Screenings shall be as mutually agreed upon in writing by the parties. Sponsor shall have the ability to distribute collateral materials to patrons at each of the recreation centers. The specific nature and content of the materials shall be determined by Sponsor and submitted to the City for written approval before distribution at the recreation centers. Sponsor shall also be allowed an area at each of the four (4) recreation centers to leave the materials on display for patrons at times other than during the Health Screenings.

(5) CITY RESPONSIBILITIES.

(a) Plano Television Network. The City shall produce one (1) segment regarding Sponsor's participation in the Plano Partners Program to be aired as determined by the City on the Plano Television Network. Sponsor shall be permitted to review and approve the segment in advance of airing.

(b) City of Plano Website. The City website and social media page will provide a link to Sponsor's website.

(c) Facilities. City agrees to keep all Facilities at which Sponsor's signs are placed open, adequately staffed and in good repair. In the event the Facilities do not meet these standards in Sponsor's sole discretion, Sponsor, at its option, may direct City to move the sign to another Facility at no cost to Sponsor. City shall provide Sponsor with a list of Facilities to which the sign could be moved. In the event there are no acceptable Facilities, this Agreement shall terminate and City shall refund a pro rata portion of the Sponsorship fee, based on the number of days left in the six month period to which the fee relates.

(6) SIGNS.

(a) Signs Required at City Facilities. Sponsor signs shall be placed at the City's facilities as follows:

1. Plano Partners Ribbons. A Plano Partners Ribbon as represented in **Exhibit "A"** with Sponsor's name added to one of the spaces delineated for the partners on the sign shall be placed at each of the following locations:

- a. Gladys Harrington Library
- b. L.E.R. Schimelpfenig Library
- c. W.O. Haggard Jr. Library
- d. Maribelle M. Davis Library
- e. Christopher A. Parr Library
- f. Carpenter Park Recreation Center
- g. Oak Point Recreation Center
- h. Liberty Recreation Center
- i. Tom Muehlenbeck Center
- j. Russell Creek Park
- k. Heritage Yards at Plano
- l. Enfield Park
- m. Arbor Hills Nature Preserve
- n. Amphitheater at Oak Point Park

2. Indoor Signs. Indoor signs as graphically represented in **Exhibit "B"** shall be placed at the following locations:

- a. Carpenter Park Recreation Center – two (2) signs approximately 4 X 14 in size that will be strategically placed in high traffic areas above the basketball and running track court areas.
- b. Oak Point Center - two (2) signs approximately 4 X 14 in size that will be strategically placed in high traffic areas above the basketball and running track court areas.
- c. Tom Muehlenbeck Center- one (1) sign approximately 4 X 14 in size that will be strategically placed at the top of the stairway at the main entrance to the running track.
- d. Liberty Recreation Center – one(1) sign approximately 4 X 14 in size that will be strategically placed as agreed by the parties.

3. Track Decals. A maximum of three logo decals as graphically represented in **Exhibit "C"** shall be placed along the running track surface at the following locations:

- a. Tom Muehlenbeck Center
- b. Carpenter Park Recreation Center
- c. Oak Point Recreation Center

4. Walking Bridge Signs. Four exterior signs, as graphically represented in **Exhibit “D”**, will be placed on the two walking bridges at the Tom Muehlenbeck Center. Each bridge will have one sign for entry and one sign for exit.

(b) Other Sign Requirements. Unless otherwise provided for in this Agreement, the specific design, location, content, number of signs, and size of signs, including decals and logos, shall be submitted by Sponsor to the City for written approval before placement at any of the City facilities. All signs are subject to any restrictions and regulations contained in the City of Plano Code of Ordinances and Zoning Ordinances. The City shall be responsible for the installation of all signs and for obtaining any required permits.

(c) Sign Costs. The City shall pay for the signage costs arising out of this Agreement including repair and replacement of signs as needed.

(d) Ownership and Repair of Signs. The City shall own all rights, title and interest in and to all signs produced as part of this Agreement.

(7) TRADEMARKS AND OTHER INTELLECTUAL PROPERTY. The City and Sponsor acknowledge certain names, trademarks, service marks, copyrights and other intellectual property (“Marks”) are the sole and exclusive property of each of the parties. Therefore, except to the extent required to perform the obligations set forth in this Agreement, the parties shall not have the right to use in any way or reproduce for any purpose the Marks of the other party without their respective prior written consent.

(8) FACILITY REPAIR. In the event a Facility included in this Agreement is damaged or destroyed thereby preventing the performance of obligations of this Agreement related to that facility for more than one year, the City shall make a good faith effort to provide a comparable alternate Facility to perform the Sponsorship rights applicable to the closed Facility. If no comparable alternative exists, performance by the City as to that provision of the Agreement is excused with no further liability to the City and the damage, or destruction of the Facility shall not be deemed to be a default or material breach of this Agreement and shall not be cause for termination of the Agreement. If no comparable Facility exists, Sponsor shall be refunded a portion of the Sponsorship fee, based on the number of calendar days that the Facility was damaged or destroyed in the six month period to which the fee relates.

(9) TERMINATION.

(a) For Any Reason. Either party may, at its option, with or without cause, and without penalty or prejudice to any other remedy it may be entitled to at law or in equity, terminate this Agreement by giving at least six (6) months prior written notice thereof to the opposite party. In the event the Sponsor terminates the Agreement, the Sponsor is not entitled to a refund of any monies paid to the City as of the date of termination. In the event the City terminates this Agreement, the City shall not enter into any Plano Partners Sponsorship Agreements with other health care provider businesses for a period of five (5) years from the effective date of

this Agreement which obligation shall survive the termination of the Agreement by the City pursuant to this Section 9(a) herein.

(b) Upon Default. Either party may terminate this Agreement for failure of the other party to perform any obligation undertaken pursuant to this Agreement by notifying the party in writing of such default allowing thirty (30) days for the defaulting party to cure the default. If the default is not cured within the thirty (30) day period, the non-defaulting party may terminate this Agreement at any time thereafter upon written notice to the other party.

(10) NOTICES. Unless instructed otherwise in writing, Sponsor agrees that all notices or communications to the City permitted or required under this Agreement shall be addressed to the City at the following address:

Director of Public Information
P.O. Box 860358
Plano, Texas 75086-0358

Copy to: City Attorney's Office
P.O. Box 860358
Plano, Texas 75086-0358

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

President
Texas Health Presbyterian Hospital Plano
6200 W. Parker Rd.
Plano, TX 75093

Copy to: Legal Department
Texas Health Resources
612 E. Lamar Blvd, Suite 900
Arlington, Texas 76011
Attention: General Counsel

Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder shall be in writing and shall be considered as having been given to the addressee on the date such notice or communication is posted by the sending party.

(11) RELATIONSHIP OF PARTIES. This Agreement does not create, and shall not be construed by the Parties or any third person as creating, any agency, partnership, joint venture or employment relationship between or among any of the Parties. The relationship of the Parties under this Agreement shall be solely that of independent contractors. Each Party shall be solely responsible for the conduct of its respective agents and employees in connection with that Party's performance of this Agreement. This is not a third party beneficiary contract. No person or entity other than a Party signing this Agreement shall have any rights under this Agreement.

(12) ASSIGNMENT OR CHANGE OF NAME. This Agreement may not be assigned without the express written consent of the non-assigning party, except that Sponsor may assign this Agreement without obtaining the City's consent (a) to one of its wholly owned affiliates, or (b) to any person or entity that directly or indirectly acquires including through merger, purchase or otherwise, all or more than ninety (90) percent of the assets of Sponsor as long as Sponsor gives sixty (60) days prior written notice to the City and the assignee executes an agreement with the City to be bound to all the terms and conditions of this Agreement and be responsible for any default(s) that occurred prior to or after the assignment.

For any assignment not covered by (a) or (b) above, Sponsor must obtain the prior written approval of the City, such approval shall not be unreasonably withheld. The assignee must agree in writing to be bound to all the terms and conditions of this Agreement. In the event the City does not agree to the assignment, this Agreement shall terminate and Sponsor shall be refunded a prorata amount of the Sponsorship fee, based on the number of days from the date of the City's refusal to the end of the six month period for which the payment was made.

Any assignment agreement must be furnished in a form reasonably acceptable to the City and be provided at least thirty days prior to the effective assignment date. The City agrees to notify the potential assignee of any known default, but such notification shall not excuse defaults that are not yet known to the City.

In the event of a change to Sponsor's name during the term of this Agreement, Sponsor shall give sixty (60) days prior written notice to the City of the change.

All work required to reflect any name change pursuant to this section shall be performed by or through the City. All costs and expenses associated with such change, including but not limited to the City project management expenses, sign replacement, design and production of new materials, etc. shall be paid by Sponsor within thirty (30) days after the date of the City's invoice thereof.

(13) SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon the parties hereto, their successors, heirs, personal representatives and assigns.

(14) AFFIDAVIT OF NO PROHIBITED INTEREST. Sponsor acknowledges and represents it is aware of all applicable laws, City Charter, and City Code of Conduct regarding prohibited interests and that the existence of a prohibited interest at any time will render the Agreement voidable. Sponsor has executed the Affidavit of No Prohibited Interest, attached and incorporated herein as **Exhibit " E"**.

(15) ENTIRE AGREEMENT. This Agreement contains the entire Agreement and understanding of the Parties relating to the subject matter of this Agreement, superseding any and all prior or contemporaneous agreements and understandings and may not be modified or amended except by further written agreement duly executed by all Parties. No representations, promises or warranties have been made or relied upon by any Party other than those expressly set forth in this Agreement.

(16) AMENDMENTS. No addition to, deletion from or other modification of any of the provisions hereof shall be valid unless made in writing and signed by an authorized representative of each of the parties hereto.

(17) AGREEMENT COUNTERPARTS. This Agreement may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect and may be delivered by electronic delivery of a digitized signature or by facsimile.

(18) APPLICABLE LAW; VENUE. This Agreement shall be subject and subordinate to all federal, state and local laws and regulations, either presently in existence or as may be enacted, made or enforced from time to time after the effective date of this Agreement. This Agreement shall be construed under the Laws of the State of Texas. The venue for any action brought hereunder shall be in Collin County.

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

(20) 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.

(21) HEADINGS. The headings of this Agreement are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

(22) AUTHORITY TO SIGN. The undersigned officers 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.

(23) INSURANCE. In the event Sponsor provides services under Section 4(c) hereof, Sponsor shall procure and maintain for the duration of this Agreement insurance coverage as set forth in the Insurance Requirements marked **Exhibit "F"** attached hereto and incorporated herein by reference. Sponsor shall provide a signed insurance certificate verifying that they have obtained the required insurance coverage prior to the effective date of this Agreement.

(24) INDEMNIFICATION AND SURVIVAL. In the event Sponsor provides services under Section 4(c) hereof, this Section 24 shall apply.

(a) INDEMNIFICATION.

SPONSOR 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 SPONSOR'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT, VIOLATIONS OF LAW, OR BY ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE SPONSOR, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH SPONSOR IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS AGREEMENT. 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.

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

(b) Survival. Notwithstanding anything to the contrary set forth herein, the indemnification obligations under this section shall survive the termination or expiration of this Agreement for any reason.

IN WITNESS WHEREOF, the parties have executed this Agreement by signing below to be effective on the date of execution by the City.

TEXAS HEALTH PRESBYTERIAN HOSPITAL PLANO

Date: _____

By: _____

Jeffrey Canose, M.D.
PRESIDENT,
TEXAS HEALTH PRESBYTERIAN PLANO

Date: _____

By: _____

Barclay Berdan
SENIOR EXECUTIVE VICE PRESIDENT,
TEXAS HEALTH RESOURCES

APPROVED AS TO FORM:

Paige Fugate
TEXAS HEALTH RESOURCES ATTORNEY

CITY OF PLANO, TEXAS

Date: _____

By: _____

Bruce D. Glasscock
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 _____, 2012 by **JEFF CANOSE**, President, of **TEXAS HEALTH PRESBYTERIAN HOSPITAL PLANO**, a nonprofit Texas corporation, on behalf of said corporation.

Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me on the ___ day of _____, 2012 by **Barclay Berdan**, **SENIOR EXECUTIVE VICE PRESIDENT**, **TEXAS HEALTH RESOURCES**, a nonprofit Texas corporation, on behalf of said corporation.

Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF COLLIN §

This instrument was acknowledged before me on the ___ day of _____, 2012 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"

PLANO PARTNERS RIBBON



EXHIBIT "B"
Indoor Signs



 *A proud sponsor of Carpenter Park Recreation Center*



EXHIBIT "C"

Track Decals

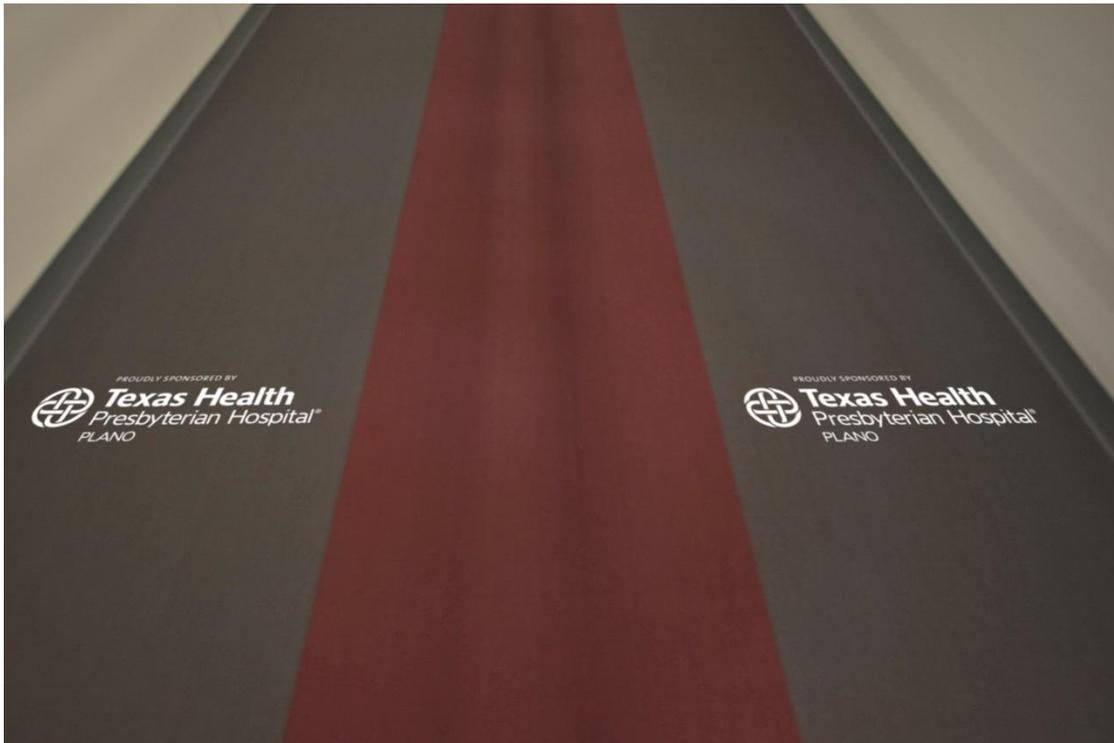


EXHIBIT "D"

Walking Bridge Signs



EXHIBIT "F"
INSURANCE REQUIREMENTS

1.0 General Provisions

- 1.1 Sponsor shall obtain and maintain the minimum insurance coverage set forth in this section. By requiring such minimum insurance, City shall not be deemed or construed to have assessed the risk that may or may not be applicable to the Sponsor. The Sponsor shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. The Sponsor is not relieved of any liability or other obligation assumed or pursuant to the Contract by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. The insurance requirements listed below do not replace any warranty or surety (performance, payment, or maintenance) bonds if required by preceding or subsequent sections of this contract.
- 1.2 Sponsor shall cause each subcontractor employed by Sponsor to purchase and maintain insurance of the type specified herein or cover such subcontractors under its insurance coverage.
- 1.3 Sponsor agrees that the insurance requirements specified in this section do not reduce the liability Sponsor has assumed in any indemnification/hold harmless section of this contract.
- 1.4 City reserves the right to approve the security of the insurance coverage provided pursuant to this section by insurers including terms, conditions and the Certificate of Insurance. Failure of the Sponsor to fully comply with requirements of this section during the term of the contract will be considered a material breach of contract and will be cause for immediate termination of the contract at the option of City.
- 1.5 Insurance coverage required by this section shall:
- 1.5.1 Be on a primary basis, non-contributory with any other insurance coverage and/or self-insurance carried by City
- 1.6 **Subcontractor Insurance.** If the contractor utilizes the services of another company or subcontractor, affiliate or non-affiliate, in order to fulfill the requirements covered under this Agreement, then those other companies or subcontractors must comply with the insurance provisions within this Agreement.

2.0 Minimum Insurance Coverage & Limits

- 2.1 Commercial General Liability.** Sponsor shall maintain commercial general liability and, if necessary commercial umbrella insurance as specified below.

- 2.1.1 Commercial general liability insurance shall be written on an ISO occurrence form CG 00 01 (or a substitute form providing equivalent coverage including self insurance) and shall cover liability arising from premises, operations, independent contractors, product-complete operations, personal and advertising injury and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).
- 2.1.2 City, the City Council and its members, the City's agents, officers, directors and employees shall be included as an additional insured under the commercial general liability using **ISO additional insured endorsement CG 20 10 and CG 20 37** or their equivalent including self insurance, including coverage for City with respect to liability arising out of the completed operations of Sponsor.
- 2.1.3 Limits of Insurance
 - 2.1.3.1 \$1,000,000 Per Occurrence
 - 2.1.3.2 \$1,000,000 Personal/Advertising Injury
 - 2.1.3.3 \$2,000,000 General Aggregate
 - 2.1.3.4 \$2,000,000 Products/Completed Operations Aggregate

2.2 Commercial Automobile Liability. Sponsor shall maintain business automobile liability insurance and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident.

- 2.2.1 Such automobile liability insurance shall cover liability arising out of any auto (including owned, hired, and non-owned automobiles).
- 2.2.2 Commercial automobile coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to the provided ISO form CA 00 01.
- 2.2.3 Sponsor waives all rights against City and its agents, officers, directors and employees for recovery by the commercial automobile liability or commercial umbrella liability insurance obtained by Sponsor pursuant to this section or under any applicable automobile physical damage coverage.

2.3 Workers' Compensation & Employer Liability. Sponsor shall maintain workers' compensation insurance in the amounts required by appropriate state statute. The employers liability limit and, if necessary, commercial umbrella coverage shall not be less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

- 2.3.1 Sponsor waives all rights against City, the City Council and its members, the City's agents, officers, directors and employees for recovery of damages under contractor's workers' compensation and employers

liability or commercial umbrella liability insurance. Sponsor must cause a **waiver of subrogation** to be effected under its workers' compensation coverage using endorsement WC 00 03 13.

2.4 Professional Liability. Sponsor shall maintain professional liability insurance covering allegations of bodily injury and actual bodily injury caused or alleged stemming from actions or errors in carrying out activities. Coverage shall extend to facilities other than the Sponsor's place of business, including but not limited to City of Plano locations and cover:

2.4.1 Direct Employees. Employees directly hired by the Sponsor.

2.4.2 Contract Employees. Individuals who enter into an arrangement with the Sponsor and are given rights or allowed to engage in activities on behalf of the Sponsor.

2.5 Professional Liability limits shall not be less than \$250,000 per occurrence for Direct Employees and Contract Employees, and \$500,000 per occurrence for the Sponsor facilities.

2.6 If coverage required by this section is written on a claims-made basis, the Sponsor warrants that any applicable retroactive date under the policy proceeds the effective date of this Agreement; and that continuous coverage will be maintained or an extended reporting period will be exercised for a period of one (1) year beginning from the time that work under the Agreement is completed.

3.0 Evidence of Insurance

3.1 Prior to commencement of work, and thereafter upon renewal or replacement of coverage required by this section, Sponsor shall furnish City a certificate(s) of insurance, including for subcontractors cited in Section 1.6, executed by a duly authorized representative of each insurer, showing compliance with this section. **Sponsor shall furnish certificates of insurance to insurance policies as required by each section herein to the City.**

3.2 Failure of City to demand such certificate(s) or other evidence of full compliance with these insurance requirements or failure of City to identify a deficiency from evidence that is provided shall not be construed as a waiver of Sponsor's obligation to maintain such insurance.

3.3 City shall have the right, but not the obligation, of prohibiting Sponsor or any subcontractor from entering the project site until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by the City.

3.4 Failure to maintain required insurance may result in termination of this contract at sole option of the City.

- 3.5 The Sponsor shall furnish a Certificate of Insurance (COI) evidencing insurance coverage required by this section ten (10) business days preceding commencement of contracted service(s). The COI shall:
- 3.5.1 List each insurers' NAIC Number or FEIN
 - 3.5.2 List **contract number, project name**/number, name of event, location (building name, building address, etc.), date(s) of event or service being performed
 - 3.5.3 State insurance is on a primary basis and non-contributory with any insurance/or self-insurance carried by City
 - 3.5.4 List the specific number of days cancellation provided pursuant to policy language for notice of cancellation on certificate
 - 3.5.5 List City of Plano, Risk Management Division, 7501 A Independence Parkway, Plano, Texas, 75025 in the Certificate Holder Section