



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:		1/11/16			
Department:		City Manager			
Department Head		P. Jarrell			
Agenda Coordinator (include phone #): M. Martinez - 7122					
CAPTION					
<p>A Resolution of the City of Plano, Texas, approving the terms and conditions of a funding agreement by and between the City of Plano and the Historic Downtown Plano Association, a Texas non-profit corporation, governing the use of funds collected from property owner assessments through the Downtown Plano Public Improvement District in an amount not to exceed \$52,500; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.</p>					
FINANCIAL SUMMARY					
<input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP					
FISCAL YEAR:	2015-2016	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget		0	\$215,614	0	\$215,614
Encumbered/Expended Amount		0	-\$33,822	0	-\$33,822
This Item		0	-\$52,500	0	-\$52,500
BALANCE		0	\$129,292	0	\$129,292
FUND(S): DOWNTOWN PLANO PID					
<p>COMMENTS: Funding is available in the Downtown Plano PID for this item. This funding agreement, in the amount of \$52,500, will leave a current year balance of \$129,292 available for future expenditures to market and improve Downtown Plano.</p> <p>STRATEGIC PLAN GOAL: Partnering with the Historic Downtown Plano association to hire an executive director for the association relates to the City's goals of Exciting Urban Centers - Destination for Residents and Guests and Partnering for Community Benefit.</p>					
SUMMARY OF ITEM					
<p>This funding agreement authorizes the transfer of \$52,500 in funds from the Downtown Plano Public Improvement District (PID) to the Historic Downtown Plano Association (HDPDA), to be used for the salary of an executive director and/or event manager for the association. The public improvement district is funded by special assessments on property owners within the district and an annual \$50,000 contribution from the City. HPDA performs most of the activities and programs funded by the PID.</p>					
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies		
Resolution Funding Agreement					

A Resolution of the City of Plano, Texas, approving the terms and conditions of a funding agreement by and between the City of Plano and the Historic Downtown Plano Association, a Texas non-profit corporation, governing the use of funds collected from property owner assessments through the Downtown Plano Public Improvement District in an amount not to exceed \$52,500; authorizing its execution by the City Manager or his authorized designee; and providing an effective date.

WHEREAS, on October 13, 2014, the City Council of the City of Plano, Texas (the "City") adopted Resolution 2014-10-8(R), which created the Downtown Plano Public Improvement District (the "District") pursuant to Chapter 372 of the Texas Local Government Code (the "Act"); and

WHEREAS, on November 23, 2015, the City Council adopted Resolution 2015-11-14(R), approving annual updates to the service and assessment plans for the District for fiscal year 2015-2016; and

WHEREAS, on December 14, 2015, the City Council adopted Ordinance 2015-12-12, which established the levy of a special assessment on property owners within the District; and

WHEREAS, the City collects the special assessment and then disburses the funds to carry out various programs and activities contained with the approved service plan; and

WHEREAS, the adopted service plan for fiscal year 2015-2016 includes funding budgeted for management of the PID through the services of the Historic Downtown Plano Association ("HDP A"); and

WHEREAS, the City Council has now been presented with a funding agreement between the City and HDP A, a 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 the City Manager or his authorized designee shall be authorized to execute the Agreement on behalf of the City of Plano.

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

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 authorized 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 11TH DAY OF JANUARY, 2016.

Harry LaRosiliere, MAYOR

ATTEST:

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY

**FUNDING AGREEMENT BETWEEN CITY OF PLANO
AND HISTORIC DOWNTOWN PLANO ASSOCIATION
TO HIRE AN EXECUTIVE DIRECTOR**

The **CITY OF PLANO**, a Texas home rule municipal corporation (hereinafter referred to as “City”), and the **HISTORIC DOWNTOWN PLANO ASSOCIATION**, a Texas non-profit corporation, acting herein through its duly authorized representative (hereinafter referred to as “HDP A”), enter into this funding agreement to set out the terms and conditions governing the HDP A’s use of funds collected from property owner assessments through the Downtown Plano Public Improvement District (hereinafter referred to as “PID”) for the purposes set out herein.

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:

**Article I
Term**

The term of this Agreement shall begin on the Effective Date and continue until December 31, 2016, unless sooner terminated as provided herein.

**Article II
Obligations of HDP A**

On or before March 31, 2016, HDP A agrees to hire or renew a contract for services with an Executive Director and/ or an Event Manager who will manage and promote programs and projects as outlined in the Service Plan adopted by City Council in Ordinance No. 2015-12-12. The duties of an Event Manager may be performed by the Executive Director. In no instance shall the Executive Director or the Event Manager devote fewer than sixty-percent (60%) of their time in performance of PID duties during the grant period. HDP A shall maintain a weekly account of the hours worked in administering duties related to the PID and shall provide a copy of the weekly account upon request by the City.

**Article III
Funding**

The City agrees to provide HDP A a cash grant for reimbursement for the Executive Director’s and the Event Manager’s salaries in a total amount not to exceed Fifty Two Thousand and Five Hundred Dollars (\$52,500) to be paid to HDP A within thirty (30) days of submission of annual invoices. In no event shall the grant paid by the City for reimbursement to HDP A exceed that amount.

**Article IV
Default/Termination**

This Agreement terminates upon any one or more of the following:

- (a) By expiration of the term and where no defaults have occurred; or

(b) If a party defaults or breaches any of the terms or conditions of this Agreement and such default or breach is not cured within thirty (30) days after written notice thereof by the non-defaulting party unless a longer period is provided. Any default under this provision and right to recover any claims, refunds, damages and/or expenses shall survive the termination of the Agreement.

The City Manager is authorized on behalf of the City to send notice of default and to terminate this Agreement for any default that is not cured. If the Agreement is terminated pursuant to Article IV(b) above, HDPa shall reimburse the City the full amount of funds paid to HDPa by the City subject to this Agreement within thirty (30) days of termination.

Article V Indemnification

HDPa SHALL RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS CITY AND ITS OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL DAMAGES, INJURIES (INCLUDING DEATH), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING ATTORNEY'S FEES AND EXPENSES, IN ANY WAY ARISING OUT OF, RELATED TO, OR RESULTING FROM THE PERFORMANCE OF THE WORK OR CAUSED BY THE NEGLIGENT ACT OR OMISSION OF HDPa, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, LICENSEES, INVITEES OR ANY OTHER THIRD PARTIES FOR WHOM HDPa IS LEGALLY RESPONSIBLE (HEREINAFTER "CLAIMS"). HDPa MUST DEFEND CITY AGAINST ALL SUCH CLAIMS.

Article VI Miscellaneous

6.01 **No Joint Venture.** It is acknowledged and agreed by the parties that the terms of this Agreement are not intended to and shall not be deemed to create a partnership or joint venture among the parties. Neither party shall have any authority to act on behalf of the other party under any circumstances by virtue of this Agreement.

6.02 **Independent Contractor.** The Parties agree that the Executive Director and Event Manager are independent contractors and are not officers, agents, servants or employees of City; that the doctrine of respondent superior shall not apply as between Parties and the Executive Director and Event Manager, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Executive Director or City and Event Manager.

6.03 **Authorization.** Each party represents that it has full capacity and authority to grant all rights and assume all obligations that are granted and assumed under this Agreement.

6.04 **Notice.** Any notice required or permitted to be delivered hereunder shall be deemed received three (3) days thereafter sent by United States Mail, postage prepaid, certified mail, return

receipt requested, addressed to the party at the address set forth below (or such other address as such party may subsequently designate in writing) or on the day actually received if sent by courier or otherwise hand delivered.

If intended for the City:
City of Plano, Texas
Attention: Mr. Bruce D. Glasscock
City Manager
1520 Avenue K
P.O. Box 860358
Plano, TX 75086-0358

With a copy to:
City of Plano, Texas
Attention: City Attorney
1520 Avenue K
P. O. Box 860358
Plano, TX 75086-0358

If intended for HDP A:
HDP A
c/o Mona Crider
1008 E. 15th Street
Plano, Texas 75074

6.05 **Entire Agreement.** This Agreement is 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

6.06 **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of Texas, without giving effect to any conflicts of law rule or principle that might result in the application of the laws of another jurisdiction. Venue for any action concerning this Agreement, the transactions contemplated hereby or the liabilities or obligations imposed hereunder shall be in the State District Court of Collin County, Texas.

6.07 **Amendment.** This Agreement may only be amended by the mutual written agreement of the parties.

6.08 **Severability.** In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable

and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

6.09 **Authorized to Bind.** The persons who execute their signatures to this Agreement represent and agree that they are authorized to sign and bind their respective parties to all of the terms and conditions contained herein.

This Agreement shall be effective upon the last date on which all parties have executed this agreement.

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

Bruce D. Glasscock, CITY MANAGER
Date: _____

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY

HISTORIC DOWNTOWN PLANO
ASSOCIATION, a Texas non-profit
corporation

By: _____
Name: _____
Title: _____
Date: _____

ACKNOWLEDGMENTS

STATE OF TEXAS)
)
COUNTY OF COLLIN)

This instrument was acknowledged before me on the ____ day of _____, 2016 by _____, _____ of the **HISTORIC DOWNTOWN PLANO ASSOCIATION**, a Texas 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 _____, 2016 by **BRUCE D. GLASSCOCK**, 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